



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

FIRST SECTION

CASE OF INTRANUOVO v. ITALY

(Application no. 46569/19)

JUDGMENT

Art 2 (procedural and substantive) • Life • Domestic authorities' failure to conduct an effective investigation into circumstances of death of a contractual army corporal • Deficiencies impairing the establishment of facts leaving important questions unanswered • Failure to take reasonable and sufficient steps to secure relevant evidence • Impossible to remedy certain essential failings largely owing to the passage of time • Respondent State's failure to provide satisfactory and convincing explanation for death

Prepared by the Registry. Does not bind the Court.

STRASBOURG

11 December 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Intranuovo v. Italy,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Ivana Jelić, *President*,

Erik Wennerström,

Raffaele Sabato,

Davor Derenčinović,

Alain Chablais,

Artūrs Kučs,

Anna Adamska-Gallant, *judges*,

and Ilse Freiwirth, *Section Registrar*,

Having regard to:

the application (no. 46569/19) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Ms Rosaria Intranuovo (“the applicant”), on 26 August 2019;

the decision to give notice to the Italian Government (“the Government”) of the complaints concerning Article 2 of the Convention;

the parties’ observations;

Having deliberated in private on 18 November 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the death of the applicant’s son, A.D., who had been serving as a corporal on a contractual basis in the Italian army, following an alleged fall from a window in the army barracks in which he had been stationed, and the subsequent investigation into the incident. It raises issues under Article 2 of the Convention.

THE FACTS

2. The applicant was born in 1963 and lives in Syracuse. The applicant was represented by Mr D. Riccioli, a lawyer practising in Catania.

3. The Government were represented by their Agent, Mr L. D’Ascia, and Mr A. De Curtis, State Attorney.

4. The facts of the case may be summarised as follows.

I. DEATH OF THE APPLICANT’S SON AND INITIAL INVESTIGATIVE STEPS

5. A.D. had been serving as a corporal on a contractual basis at the Camillo Sabatini military barracks in Rome. At 6.30 a.m. on 6 July 2014 his body was discovered in the courtyard in front of the accommodation building

of the barracks by a sergeant during his rounds. Medical staff at the barracks were alerted and an emergency services doctor arrived on the scene. The doctor determined that A.D.'s death had been caused by multiple traumatic injuries, including the loss of brain matter and blood, and cardiac arrest as a result of a fall (*precipitazione*). The official time of death was recorded as 6.57 a.m.

6. At 9.45 a.m. officers from the *carabinieri* unit with territorial jurisdiction were called to the scene, where two members of the *carabinieri* force who were already posted at the barracks were present. They notified the public prosecutor who called a forensic pathologist to the scene.

7. The officers reported that A.D.'s body had been found in a prone position at a distance of approximately 10 metres from the wall of the accommodation building, under an open window of an unused bathroom on the second floor, and that a chair had been found under the window inside the building.

8. The officers photographed the scene where A.D.'s body was found and took measurements. They also inspected the bathroom and took into evidence a cigarette stub found there.

9. At 11.05 a.m. the forensic pathologist arrived and inspected the body.

10. On 7 July 2014 the officers who had been called to the scene conducted brief interviews with the following individuals: five of A.D.'s fellow soldiers, his former girlfriend and the sergeant who had discovered the body. They subsequently informed the public prosecutor that, based on the initial investigation, they believed that A.D. had acted voluntarily following the end of his romantic relationship.

II. ENSUING CRIMINAL INVESTIGATION

A. Opening of the criminal investigation

11. On 7 July 2014 the public prosecutor's office opened an investigation against unknown persons for the offence of inciting suicide under Article 580 of the Criminal Code and ordered an autopsy and a forensic medical report on A.D.'s body, appointing the doctor who had been called to the scene (see paragraph 9 above). The prosecutor entrusted the investigation to the Investigative Unit of the Provincial Command of the Rome *Carabinieri*. He ordered the seizure of A.D.'s personal belongings (two smartphones, a pen drive and a laptop), the retrieval of documents relating to any complaints or incident reports filed at the barracks after 19 December 2013 and the opening of the locker assigned to A.D.

12. On 14 July 2014 the applicant lodged a request with the prosecutor seeking authorisation to access the barracks and to view footage from the surveillance cameras installed there. The request was granted on 15 July

2014. The applicant stated that the video footage had never been handed over to her.

13. On 23 September 2014 the autopsy report was submitted. The forensic pathologist reported that he was called to the scene at 11 a.m. on 6 July 2014. A.D.'s body was lying face down in what was described as a pool of blood. His legs were extended with external rotation and his arms were positioned in adduction. Both forearms were resting under his chest, palms facing upwards, and were in contact with the ground on the dorsal side. There were abrasions and bruises covering a tattoo on his back, in the suprascapular region, across the trapezius muscle, and bilaterally in the scapular region. His head was turned to the left and there was a lacerated wound in the occipital region, accompanied by a fracture of the underlying bone and exposure of brain matter. Having performed the autopsy, he concluded that A.D.'s death was attributable to multiple severe traumas with fractures to the vault and base of the skull and encephalic failure and closed thoracic-abdominal trauma with multiple rib and spinal fractures and bilateral pulmonary contusions, and that those injuries could be consistent with a fall, possibly suicide by jumping.

14. On 28 February 2015 the *carabinieri* delivered their report on the investigative acts carried out.

B. First discontinuance request

15. On 24 April 2015 the public prosecutor asked the preliminary investigations judge of the Rome District Court to discontinue the case, as he considered that the acts for which the case had been opened had not taken place and the cause of A.D.'s death was suicide by jumping. In particular, he reported on the passages of the expert's report highlighting the position of the body, which had been found face down on the ground with both forearms resting under the chest. He concluded that that position could be consistent with the technique practised by the victim in preparation for a parachute jump and concluded that the act had been voluntary. He added that, on the basis of the information gathered by the investigating police officers, the documents seized and the investigations carried out, there was no evidence to suggest that the victim had been subjected to ill-treatment or violence that could have directly or indirectly caused his death.

C. Objection by the applicant

16. On 16 June 2015 the applicant, along with the other injured parties, lodged an objection against the prosecutor's request to discontinue the proceedings. They argued that the investigative acts carried out up to that point had been defective and inadequate.

17. In particular, the applicant and other parties complained that the autopsy carried out by the public prosecutor's consultant had been superficial

and incomplete; it did not give any reason or even make specific reference to the conditions in which the body had been found and other factual circumstances. It did not address, among other things, the presence of some obvious abrasions on A.D.'s back. The report had also failed to explain the origin of the fractures found on A.D.'s body and whether and to what extent they could be consistent with a frontal fall. It had also failed to analyse the substance found on A.D.'s hands. Moreover, no toxicology tests had been carried out and the results of the histological examinations had not been made available to them.

18. The injured parties had appointed their own forensic expert consultants who had been tasked with carrying out a kinematic reconstruction of the fall, calculating the fall's trajectory and speed, and verifying whether the distance travelled by A.D.'s body and the measurements taken by the investigators were consistent with the authorities' explanation of the circumstances surrounding the incident as an intentional jump from the bathroom window. Based on calculations and a reconstruction experiment, the experts highlighted a series of inconsistencies relating to the position of the body and its distance from the purported launch point, suggesting that, even assuming that A.D.'s death had been caused by jumping, the circumstances would need to be reconstructed differently.

19. The injured parties also cast doubt on the relevance of A.D.'s paratrooper training as an explanation for the circumstances of the alleged jump and the final position of his body. They argued that that explanation was unsubstantiated, as the report on the parachute launch procedure submitted by the investigators did not match the position in which A.D.'s body had been found, and the images it contained were not consistent with that explanation.

20. The injured parties also pointed out that statements had been taken from military personnel who had been on ordinary leave at the time of the incident and not from those who, at the material time, had been in the same accommodation building as A.D. In this connection, they requested that all the soldiers present in the barracks at the relevant time, according to the presence logs, be questioned, including the military officer responsible for the room in which A.D. was living at the time. Moreover, they noted that no follow-up had been given to a letter sent by A.D.'s former girlfriend to the prosecutor, in which she had expressed her willingness to clarify the conditions of her relationship with A.D. They requested that she be questioned, in addition to a friend, with whom A.D. had had numerous telephone calls in the hours preceding his death, and a former fellow soldier who had given a deposition to the injured parties' lawyer to the effect that A.D. had experienced problems with a superior.

21. Furthermore, the injured parties stated that a thorough collection of telephone records and e-mail correspondence related to the e-mail account used by A.D. had not been carried out. Nor had the bathroom from which the supposed jump had taken place been sealed off. The only action carried out

on the scene was the taking into evidence of a cigarette butt which had not, in any event, been sent for testing to establish a connection with A.D..

22. Lastly, given the shortcomings and inconsistencies of the investigation, coupled with the fact that the officers who had conducted some of the investigative acts had been from the *Granatieri di Sardegna*, the internal police force at the barracks, they asked for a further investigation to be conducted by an independent police force outside of the military context.

D. Decision of the preliminary investigations judge to continue the investigation

23. On 15 April 2016 the preliminary investigations judge rejected the request to discontinue the proceedings, stating that she was not persuaded by the conclusions reached by the prosecutor. Examining the evidence, also in the light of the relevant assessments made by the injured parties and their *ex parte* medical expert reports, led the judge to find that a more adequate and complete investigation was essential.

24. The judge found that there was a need for a fresh forensic medical examination assessing “every single factual element” of the case, and that that could not be done by merely supplementing the conclusions of the forensic pathologist who had carried out the autopsy. It would require the exhumation of A.D.’s body and a new autopsy. The examination would have to thoroughly determine the nature and origin of the injuries sustained by the victim, including those to the back, neck and head, as identified by the autopsy. The experts would also need to establish whether the injuries had been sustained simultaneously, whether they could be attributed to a single event and whether they were consistent with falling from a height of 10 metres, taking into account the point at which A.D.’s body had made contact with the ground and its final position.

25. The judge also considered it necessary to proceed with the retrieval of the footage recorded by the video surveillance cameras installed inside the barracks and in the outdoor areas, as well as complete telephone and e-mail records relating to A.D.’s communications and conversations in the days preceding his death. In connection with those steps, the judge acknowledged that the passage of time could negatively affect the availability of such evidence and highlighted the importance of collecting it promptly after the events in question.

E. Continuation of the investigation and opening of new proceedings

26. On 20 May 2016 the public prosecutor requested an evidentiary hearing for the immediate production of evidence (*incidente probatorio* – see paragraph 76 below), asking for a forensic medical examination –following the exhumation of A.D.’s body – and a kinematic analysis to be carried out

in order to ascertain the cause and reconstruct the circumstances surrounding A.D.'s death. He also requested toxicology tests.

27. On 25 May 2016 the preliminary investigations judge rejected the request on the basis that criminal proceedings were pending against unknown persons. That meant that there were no identified suspects who would be able to participate in a hearing concerning the gathering of evidence.

28. On 16 June 2016 the applicant lodged a criminal complaint arguing that A.D.'s death could be attributed to a series of "hazing" episodes to which he had been subjected. She also complained that his superiors had been negligent by failing to ensure the safety of one of their subordinates.

29. On 16 July 2016 the Rome Public Prosecutor's Office registered eight military officers of different ranks as suspects on charges of culpable participation in the offence of incitement to suicide or, alternatively, the offence of voluntary homicide.

30. On 21 July 2016 the public prosecutor made a fresh request for a hearing for the immediate production of evidence, with reference to forensic and kinematic expert reports, as well as a toxicology report.

31. On 2 August 2016 the preliminary investigations judge granted the request and appointed two independent experts: a forensic pathologist and a physicist, who was an expert in crime scene reconstruction, to carry out the expert assessments.

F. Further investigative steps

32. Pursuant to the preliminary investigations judge's order, the prosecutor requested that the telephone communications of a number of individuals of interest to the investigation be wiretapped; statements from A.D.'s fellow soldiers, his roommates and staff on duty on the night of the event; and the obtention of satellite images.

1. The forensic expert report

33. On 14 September 2016 the experts submitted their reports. The forensic medical expert performed an autopsy following the exhumation of A.D.'s body. X-rays, which had not been performed during the first autopsy, did not reveal any fractures in his hands or feet, but showed A.D.'s fingers had been dislocated. A histological examination of the tissues detected the presence of pulmonary emphysema. The toxicology tests came back clear for drugs and alcohol. The physicist specialising in crime scene reconstruction went to the scene and carried out a 3D scan of the area, and created a virtual reconstruction.

34. The experts found that the types of injuries identified could be consistent with the hypothesis of a fall from a height of 11 metres (the window from which it was presumed he fell was at a height of 10.54 metres). However, the overall considerations regarding the circumstances surrounding

the incident did not directly correlate with that hypothesis. In this connection, the crime scene expert's calculations and reconstruction experiments revealed several inconsistencies that cast doubt on the validity of the proposed explanation. They related, amongst other things, to the body's distance from the purported launch point, the possible point of impact, the speed of the fall, the initial momentum needed to achieve the calculated speed and distance, and the body's final position. They also noted that there were no signs of instinctive action to mitigate the fall, as suggested by the absence of fractures to the upper limbs.

35. As to a hypothesis that A.D. had fallen from a greater height, such as the roof of the barracks, some of the data, such as the impact distance, would be rendered less anomalous. A fall that was forced rather than a jump could not be ruled out in such a scenario. However, the final position of A.D.'s body, among other things, cast doubt on the viability of such a hypothesis. In particular as regards the final position of A.D.'s body, they described it as "particularly composed" (outstretched legs, a bent flip-flop on his left foot and the position of his arms), and highlighted it as an aspect that cast possible doubts on the explanation of a fall in general. They stated that the position could also have been consistent with A.D. performing some kind of physical exercise on the ground.

36. The experts stated that while the serious injuries found on A.D., including the type of skull fracture caused by blunt force trauma, 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. However, the fracture of the spine, coupled with the absence of any signs of a struggle or reaction from A.D., rendered that hypothesis anomalous.

37. The blood pattern present on A.D.'s back was deemed to be unrelated to a possible fall: it exhibited characteristics consistent with dripping owing to gravity, suggesting that blood droplets had dripped down from a stationary or very slowly moving surface or object above the body. It was determined that the blood pattern could not, in any way, be attributed to the wounds sustained by A.D.

38. The abrasions on A.D.'s back and the dust streaks observed in the same area were certainly not related to a fall either. Before his death, something had happened to cause the abrasions. The dust streaks appeared to follow the abrasions, and could have been caused by friction or dragging. A blood pattern that did not correspond to dripping, as well as a dusty substance, were also visible on the left calf, both posteriorly and anteriorly.

39. In the expert's view, those considerations gave rise to additional questions regarding the manner of his death and could indicate, amongst other things, that A.D.'s body had been subjected to external manipulation. The statements provided by the first responders and investigators ruled out any

potential actions on their part that could have resulted in manipulation, the projection of blood droplets or the presence of dust.

40. In conclusion, according to the experts all possible hypotheses explored presented inconsistencies. In closing the report, the experts concurred that, based on the information available to them, it was not possible to conclusively determine the manner of A.D.'s death.

2. The expert testimony hearing

41. On 15 March 2017 a hearing was held with a view to examining the forensic experts.

42. The medical expert explained that they had initially operated on the hypothesis that A.D.'s death had been caused by a fall from a window on the second floor of the accommodation building, because that had been indicated in the initial autopsy report; his body had been found under a window and a fall could be consistent with the type of skull fracture identified. However, after having examined all available data to determine how well that hypothesis was supported by evidence, they remained unconvinced by it.

43. The expert in crime scene reconstruction pointed to a number of anomalies, or "red flags", which cast doubt on the plausibility of A.D.'s death being caused by a fall from the prospective height. The first concerned the speed of the fall. The second was that for A.D.'s body to have been in the position in which it had been found would have required him to have changed positions several times – straightening his legs and folding his arms under his chest – during a fall that had lasted one and a half seconds, all of which the expert did not find convincing. Another "red flag" concerned the point of impact on the ground and the distance of A.D.'s body from the wall of the building, which had already been noted as anomalies and addressed in the written report. Considering the position of his body as it had been found, the very short time available to assume that position and all the other elements indicated in the written report, left them unconvinced by the initial hypothesis. The expert then highlighted the presence of unexplained elements such as the blood droplets on A.D.'s back and what was described as dust on his back and calves.

44. The crime scene expert stated that, even taken individually, the "red flags" gave rise to suspicions, which were only confirmed when combined, and made the experts jointly distance themselves from the initial hypothesis. Alternatively, a different type of fall might have occurred, such as from a greater height. For that to be plausible however, his body would have had to have been manipulated afterwards to explain its position.

45. The abrasions on A.D.'s back, which were certainly unrelated to a fall, were described as "very significant", indicating that they had been caused by a prolonged, forceful action. The medical expert highlighted elements indicating that the wounds had been sustained a few hours before A.D.'s death.

46. Given the multiple fractures and abrasions and their type, they also hypothesised that the injuries could have been caused by a different set of circumstances. When asked by the preliminary investigations judge to expand on that alternative hypothesis, the crime scene specialist stated that, among other things, the position in which A.D.'s body had been found could lead one to think that he had been in the process of doing physical exercise on the ground. It could be speculated that the fracture might have been caused by the application of force to the back while A.D.'s body had been in such a state of tension, balanced on his toes and pivoting on his fingers. Once A.D. had found himself in that final position, it could be conceivable that he had further sustained a blow to the head with a wide blunt object, such as a shovel. The forensic medical expert confirmed that they had considered those alternative circumstances, namely an initial injury to the vertebrae by force being applied to the back by a large flat surface and then a large blunt object being struck with force against A.D.'s skull, causing it to fracture.

47. According to the medical expert, the presence of pulmonary emphysema could be considered inconsistent with instantaneous death caused by a fall. This was noted as among the anomalies that could potentially suggest a different explanation than the one initially proposed.

3. *Witness statements*

48. Witness statements were taken between July and October 2016. From the summaries of interviews drafted by the *carabinieri* entrusted with the investigation, the following may be noted.

49. As to the statements made by A.D.'s fellow soldiers, when describing A.D.'s emotional state following the end of the relationship with his girlfriend, A.D. was described as "very sad", "sad and downhearted", with "a serious change for the worse in his mood", "particularly sad and preoccupied", "clearly distressed, but showing no signs of suicidal intent", "anxious and preoccupied by the situation" but "trying to distract himself by going out in the evenings with his fellow soldiers". Some of his fellow soldiers had only learned of the breakup after A.D.'s death.

50. Some of the soldiers who were questioned confirmed that A.D. had failed several competitive examinations; some merely stated the fact, one said it had caused A.D. embarrassment and others referred more generally to A.D.'s feelings of disappointment and dissatisfaction. A.D.'s childhood friend stated that A.D. had told him that he had not passed a competitive examination, but that even though he had been disappointed, he had seemed encouraged by the prospect of retaking it during the annual re-enlistment period.

51. Two fellow soldiers reported that A.D. had experienced trouble sleeping in the period leading up to his death, with one associating that with his breakup.

52. All the military personnel questioned by the investigators stated that they had no knowledge of hazing practices in the barracks, nor of any incidents involving A.D.

53. A.D.'s former girlfriend reported that he had expressed concerns to her about the upcoming physical tests to remain in the army, as he had told her that he had not been sleeping well and his psoriasis had been getting worse. The last time they had met before his death, A.D. had said that he had been feeling particularly sad and had been having trouble sleeping, so she had bought him a natural sleep remedy. Regarding her knowledge of a previous suicide attempt in his childhood years, she stated that A.D.'s mother had told her about what was described as a small cut on his wrist that had not required medical attention. When asked by the interviewers whether she could provide objective evidence to counter the theory that he had committed suicide, she said that she could not, but she felt that, given his personality, she would not accept that he could have committed such an act, especially in the barracks.

54. One of A.D.'s friends was also interviewed and stated that A.D. had reported experiencing difficulties with one of his superiors, allegedly arising from an incident that took place in the showers of the barracks. V.C., employed at a launderette frequented by military personnel and acquainted with A.D., was also questioned. She indicated that A.D. had informed her of an incident involving a superior in the showers, and further alleged that he had told her of having been subjected to pranks and an act of aggression. The officers conducting the interview noted discrepancies in her account during the course of questioning.

55. The barracks' military chaplain stated that he had only known A.D. on a superficial level, and that information about him had only come to his attention in the context of the spiritual assistance he had provided to some of A.D.'s family members and fellow soldiers after his death. The chaplain had been identified by the investigators as having informally mentioned a prior suicide attempt by A.D. in his childhood to the military barracks' police force, which he had reportedly been told about by A.D.'s stepfather. He did not confirm that in the interview, stating that he had nothing to report on the matter. He considered it unlikely that assaults on soldiers could have taken place inside the barracks, describing instead a peaceful and orderly environment. He also ruled out pranks by other soldiers. He stated that he could support the hypothesis that A.D. had committed suicide.

4. Investigative summary and conclusions

56. On 29 December 2016 the investigation unit of the *carabinieri* that had been entrusted with the investigation submitted its summary report and conclusions. It reported on the investigative steps taken including the retrieval of telephone traffic data from A.D.'s phone and those of other individuals deemed relevant to the investigation, as well as soldiers from the barracks around the time of the events. The report also summarised the searches carried

out on A.D.'s email account noting, among other things, that the email records retrieved proved that somebody had used A.D.'s email account after his death, but the users of the IP addresses in question could no longer be identified because the provider only stored such data for twelve months.

57. In its conclusions, the investigation unit underlined that the witness statements collected, despite the number of people interviewed and telephone interception activities, had not provided any evidence to suggest that A.D. had been the victim of abuse or violent acts that had directly or indirectly caused his death. Those interviewed who had contended that the death of A.D. could not be attributed to suicide had not provided any evidence to support their assertions. An individual who had maintained that A.D. had been mistreated in the barracks had turned out to be completely unreliable.

58. In addition, the investigation unit determined that more elements had emerged which, although admittedly circumstantial, further strengthened the suicide hypothesis: an almost unanimously reported state of mental and physical distress resulting mainly from breaking up with his girlfriend but also, in all likelihood, from his failure to pass several competitive exams, as reported not only by his fellow soldiers but also by the former girlfriend herself, who had additionally recalled his increased difficulty sleeping and the worsening of his psoriasis. In addition, the unit referred to a previous suicide attempt at a young age, although it was described as not having been carried out with real conviction.

5. Additional witness statements

59. Additional witness statements were taken between March and April 2017. Some of A.D.'s fellow soldiers were questioned again, as were the medical and paramedical first responders on the scene. They were asked about details such as the position of A.D.'s body, the presence of wounds on him before his death and who had been present at the scene.

G. The second discontinuance request

60. On 22 July 2017 the public prosecutor submitted a new request to discontinue the case, given the absence of elements that could support the investigative hypothesis of culpable participation in the crimes of incitement to suicide or voluntary homicide in a possible trial. As to the latter hypothesis, despite the theoretical possibility of attributing responsibility to individuals within the chain of command, there was no concrete evidence to suggest negligent behaviour on their part. There had been no reported instances of hazing, no record of disregarded service orders pertaining to barracks surveillance.

61. As to the reconstruction of the death, the prosecutor emphasised his role as "*peritus peritorum*" (the expert among experts) and drew his own conclusions which cast doubt on the hypothetical scenarios presented by the

experts in their reports and further clarified at the oral hearing. In his view, the hypothesis of an attack on the ground was made unlikely by the number, extent and severity of the fractures; the absence of haemorrhagic infiltrate on A.D.'s back; the finding that the abrasions on his back had not been inflicted at or around the time of death; and the nature of the skull injuries. He concluded the most plausible hypothesis remained that of A.D. falling in a parachuting position, with his arms crossed over his chest, landing on his chest and face. Making his own assessment of the data provided by the experts, the prosecutor concluded that the second hypothesis would have been consistent with the rib fractures, vertebral dislocation and absence of haematomas on his back as well as the dislocation of the finger phalanges corresponding to haematomas present on A.D.'s chest and, lastly, with the type of skull fracture.

62. While agreeing with the experts' conclusions regarding the abnormal distance of the body from the window, for the prosecutor it could not be ruled out – at least from a hypothetical point of view – that A.D., who was referred to as a paratrooper, had performed a manoeuvre used when jumping from an aircraft, which entailed pushing oneself outwards with both hands to increase one's distance from the aircraft. He conceded that as the pulmonary emphysema detected during the second autopsy remained unexplained, it could have been worth investigating whether hyperventilation could have been induced by A.D. himself in the moments before jumping because of the emotional stress of the situation. The origin of the abrasions on his back remained similarly unknown, but it was noted that A.D. had suffered from psoriasis, a disease that caused serious itching. He also conceded that the blood droplets on A.D.'s back remained unexplained.

63. The prosecutor concluded that despite what he referred to as extensive additional investigations, more uncertainties than certainties remained regarding the circumstances of the event and the existence of hazing, particularly in the light of the possible reluctance of A.D.'s fellow soldiers to speak openly. In conclusion, there were no elements that could support charges against the suspects at a potential trial.

H. The applicant's objection

64. On 12 September 2017 the applicant and another family member objected to the dismissal request. They argued that the investigation had been inadequate, as it had not shed additional light on the circumstances surrounding A.D.'s death.

65. The applicant and her relative argued that the public prosecutor's conclusions were in fact mere conjectures and found it striking that they had disregarded the conclusions submitted by the experts.

66. In the applicant and her relative's view, there were a number of factors that cast serious doubt on the conclusion that A.D.'s death was a result of

suicide by jumping and argued that they rather indicated foul play. In that connection, they relied primarily on the “red flags” identified by the experts which cast serious doubt on the determination of suicide by jumping as the underlying cause of death. Furthermore, at the hearing on 15 March 2017, the forensic experts had been unequivocal in stating that the explanation involving jumping lacked credibility and that A.D.’s body had been manipulated after the event that had caused his death. In an attempt to cast doubt on the scientific reconstruction carried out by the experts, the public prosecutor had made a series of considerations on which the experts had already provided their explanations at the hearing. The public prosecutor’s interpretation of A.D.’s back injuries as resulting from alleged itching caused by psoriasis was deemed particularly contentious, given the lack of supporting evidence. The public prosecutor’s attempts to explain the distance between A.D.’s body and the alleged launch point was devoid of scientific value. Furthermore, the explanation provided by the public prosecutor concerning the presence of emphysema in A.D.’s lungs was not supported by the requisite scientific evidence.

67. As to witness evidence, the applicant and her relative placed particular emphasis on the testimony of a friend of A.D., who, when questioned, had reported that A.D. had had difficulties with one of his superiors, stemming from an incident that had occurred in the showers of the barracks. That assertion was, in their view, further substantiated by the testimony provided by another witness, V.C., who worked in a launderette used by soldiers from the barracks, including A.D. Furthermore, they contested the fact that the investigation files contained unequivocal statements from which it could be inferred that, in the days immediately preceding his death, A.D. had been in a state of depression because his romantic relationship had ended and because he had failed a competitive examination. Those arguments had been exclusively used by the public prosecutor’s office to provide an explanation to support the suicide theory. Moreover, several colleagues had described A.D. as cheerful.

68. The applicant and her relative stated that the public prosecutor’s request for dismissal was both illogical and devoid of scientific rigour, and requested that the investigation be continued.

69. The applicant and her relative also complained of the absence of an intervention protocol within the barracks to prevent incidents similar to the one under investigation.

I. The preliminary investigations judge’s discontinuance decision

70. On 28 March 2019 the preliminary investigations judge issued a decision to discontinue the proceedings. It was concluded that the evidence collected up to that point was insufficient to substantiate the charges in a potential trial, as the precise sequence of events remained unestablished.

71. The judge summarised the experts' conclusions, first focusing on the statement that the distance the body had fallen from the purported launch point raised doubts. While acknowledging that the injuries were consistent with a fall, the judge listed various anomalies identified by the experts. Those included blood droplets and abrasions on A.D.'s back, the location and positioning of his body, which could suggest that A.D. had been performing physical exercise, and skull fractures that could have been caused by a blow from a blunt instrument. During the hearing on 15 March 2017, the judge noted that the experts had further clarified that the incident appeared inconsistent with a fall and had hypothesised that A.D. could first have been struck on the back and then on the head with a flat, broad object. The judge also noted the expert's finding of pulmonary emphysema as inconsistent with suicide by jumping and the instantaneous nature of death resulting from such an act.

72. The judge determined that in the light of the additional investigations carried out by the prosecutor's office following the first order rejecting the request for dismissal, which had highlighted shortcomings in the investigation and raised doubts which had been subsequently confirmed and only partially dispelled by the results of the further investigative acts, there remained "grey areas" (*zone d'ombra*) in the case that had not been clarified and that, given the time that had elapsed since the events, had at that point become difficult to ascertain.

73. The judge noted the failure to obtain the video footage recorded by the video surveillance cameras present in the courtyard of the barracks. That footage, if obtained immediately after the events, could have certainly provided significant evidence to establish the events that had transpired on the night A.D. had died. Furthermore, the judge expressed concern regarding the failure to obtain, in a timely manner, the telephone records of the individuals under investigation and those of A.D.'s roommates, for the days leading up to A.D.'s death. Those records would have facilitated the verification of the contacts between those individuals and corroborated the statements they had made to the public prosecutor.

74. The judge also highlighted a failure to investigate documented instances of access to A.D.'s email account that had occurred after his death and prior to the seizure of his computer.

75. On the basis of the preliminary investigations judge's request to continue the investigation, the public prosecutor questioned those involved in the case, including A.D.'s fellow soldiers, those on duty on the night of the incident and the military chaplain. Satellite images had also been requested and the wiretapping of telephones had been carried out. However, no new elements had emerged, nor had any leads been found that would be useful to the investigation or sufficient to justify its continuation, in all likelihood also owing to the time that had elapsed and the knowledge of the ongoing

investigation. In fact, many of those being wiretapped had warned callers to be cautious because they suspected that they were under surveillance.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

76. Article 392 §§ 1 (f) and 2 of the Code of Criminal Procedure allows the public prosecutor and the accused, among other things, to ask the preliminary investigations judge (*giudice per le indagini preliminari*) to order an expert opinion if the evidence concerns a person, object or place which is subject to unavoidable alteration or where, if ordered during the trial, the examination in question could entail the suspension of the proceedings for a period exceeding 60 days. Under Article 394 of the Code of Criminal Procedure the injured party may ask the public prosecutor to apply for the immediate production of evidence. If the public prosecutor refuses the request, he or she must issue a reasoned decision and notify the injured party.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

77. The applicant complained under the substantive aspect of Article 2 of the Convention that the national authorities had failed to protect the life of her son, A.D., who had been serving as an army corporal and had been found dead in the barracks where he had been stationed, and to adequately account for his death. She further complained under the procedural aspect of Article 2 and Article 6 of the Convention that there had been a failure to conduct an effective investigation into the circumstances of her son's death.

Article 2 reads as follows:

“1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

78. The Court, being master of the characterisation to be given in law to the facts of a case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), considers that the issues raised should be examined solely from the perspective of Article 2 of the Convention.

A. Admissibility

79. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

80. The applicant argued that the Government had failed to provide a convincing explanation concerning the circumstances of A.D.'s death. In particular, the applicant questioned the findings of the criminal investigation that A.D. had committed suicide and alleged that there was clear evidence which suggested foul play, pointing to the conclusion that he had been murdered. In particular, she relied on the findings of the independent experts appointed by the preliminary investigations judge, which indicated that, from a scientific perspective, the cause of death could not be consistent with that of a fall. The multiple inconsistencies, or "red flags" (namely, the speed of launch, the distance of the body from the launch point, the point at which he had landed and the dislocation of his fingers) described by the experts demonstrated, in her view, that the suicide hypothesis was entirely unfounded. She also referred to the experts' hypothesis that the multiple fractures observed on A.D.'s body could be explained by an attack that had occurred in two stages. Initially, he had sustained a blow to the back with a broad, flat surface and subsequently, he had suffered an impact to the skull. No plausible explanation had been provided for the wounds on A.D.'s back, and it had been stated that he had never been diagnosed with psoriasis, which was, in any event, a far-fetched explanation. She also relied on certain elements, which had remained unexplained at the conclusion of the investigation, that could suggest foul play, such as the presence of blood droplets on A.D.'s back which could not be explained as coming from his wounds – and that had dripped onto his back from an object above him – and the presence of pulmonary emphysema which would have been inconsistent with sudden death from a fall. She also noted that, according to the experts, A.D.'s body could have been manipulated shortly after his death. Furthermore, she contradicted the assertion of the prosecutor that A.D. had been an expert paratrooper, as he had only completed a limited number of jumps as part of a training course.

81. The applicant stated that those elements not only raised serious doubt on the authorities' explanation of death by suicide, but led to the conclusion that A.D. had been the victim of a violent attack in the barracks, resulting in his death. The applicant also contended that the alleged attack on A.D. had occurred against a backdrop of hazing in the barracks. In that connection, she

relied, in particular, on two witness statements reporting difficulties experienced by A.D. with a superior.

82. The applicant submitted that the authorities had failed to take a number of crucial steps in their investigation resulting in suspicions surrounding A.D.'s death not being eliminated. She contended that the ineffectiveness of the investigation had stemmed, among other things, from attempts to cover up the real cause of A.D.'s death. She referred to a number of shortcomings in the investigation, which had been confirmed by the preliminary investigations judge in the dismissal of the proceedings. In particular, the judge had referred to the failure to obtain the footage from the surveillance cameras in the courtyard of the barracks, which had previously been requested. The judge had also criticised the failure to obtain the records of the telephones used by the suspects and, in particular, by those housed in A.D.'s dormitory in the days preceding his death. Lastly, the judge had criticised the lack of immediate investigation of the two instances of access to A.D.'s e-mail account that had occurred after his death but before the seizure of his computer. She contended that the preliminary investigations judge had found that the uncertainty surrounding the circumstances of A.D.'s death was a result of the lack of thoroughness in the investigation. Those investigative lacunae had thwarted the possibility of establishing the cause of her son's death and identifying those responsible for it, leading to the conclusion that the investigation had not met the standards required by Article 2 of the Convention.

83. In addition, the applicant also complained that in discontinuing the proceedings the preliminary investigations judge had not provided adequate reasoning and therefore the response given by the authorities to the applicant concerning the death of her son could not be considered satisfactory.

84. The applicant also submitted that the investigation had not been conducted in a timely manner, as it had ended five years after A.D.'s death.

85. Lastly, the applicant questioned the investigation's independence on the grounds that it had been entrusted to the *carabinieri*, a police force which was institutionally part of the Italian army.

(b) The Government

86. The Government were of the opinion that, contrary to the applicant's submissions, the conclusions reached by the authorities regarding the explanation of A.D.'s death appeared to be reasonably consistent with the dynamics of the event. The Government contended that, from a scientific perspective, excluding what they termed "mere abstract hypotheses" formulated by the experts during the evidentiary hearing, there was insufficient evidence to substantiate the theory that A.D. had been attacked on the ground following acts of hazing. They emphasised that such an attack had not been considered in the initial forensic report carried out in the

immediate aftermath of the event and was not expressed in certain terms in subsequent forensic assessments.

87. In contrast, the initial suicide hypothesis was reinforced by the emergence of certain elements, including the testimony of military personnel who had been interviewed by the investigators. Those individuals had attested to the fact that A.D. had experienced mental and physical deterioration following the breakdown of his romantic relationship and his failure in several competitive examinations. Furthermore, it had been reported that A.D.'s psoriasis had been exacerbated and he had increasingly been having problems sleeping. That hypothesis had been further substantiated by the discovery of sleep-inducing medication in his locker. The suicide hypothesis was also consistent with the results of the autopsy, the location of his body and the presence of a chair under the bathroom window on the second floor.

88. Secondly, the Government stated that further investigations had corroborated the view that murder or incitement to suicide was unlikely and had ruled out any evidence of responsibility of the barracks' higher ranking officials. As to the witness V.C., and her statements concerning A.D.'s difficulties with a superior, her credibility had been called into question owing to inconsistencies, and they had not been corroborated in the statements made by A.D.'s fellow soldiers.

89. In conclusion, the information gathered by the investigating police, the interception of telephone communications, the documents obtained and the investigations carried out had not revealed any element that could support the conclusion that A.D. had been subjected to abuse or violent actions that could have directly or indirectly caused his death. The Government concluded that the authorities had furnished, albeit with persistent doubts, a reasonably plausible explanation for A.D.'s death without omitting or overlooking any possible alternative explanation. Accordingly, they discerned nothing in the present case engaging the State's responsibility under the substantive limb of Article 2 of the Convention.

90. As to the procedural aspect, the Government contended that a thorough and effective investigation had been carried out into A.D.'s death.

91. The Government submitted that the investigating authorities had taken all the necessary steps in the immediate aftermath of the incident to carry out a reconstruction of the circumstances of the event and to identify any individuals responsible. In the order rejecting the prosecutor's first discontinuance request, the preliminary investigations judge had considered it necessary to carry out further investigative steps in order to clarify the circumstances of the event, and those steps had been taken.

92. The Government stated that, contrary to the applicant's assertions, the criminal proceedings had not been closed because of the incomplete and inadequate nature of the investigations carried out by the public prosecutor's office. They had been closed because, despite the exhaustive nature of those investigations, no new investigative leads or useful evidence had emerged

which could have justified their continuation. The investigation documents demonstrated the extent and completeness of the investigation carried out by the investigating authorities, as they consisted of inspections, searches, seizures, questioning of all persons involved in the case in various capacities, technical evaluations of electronic material, obtention of satellite images and wiretapping.

93. All the investigative steps requested by the preliminary investigations judge in the order of 15 April 2016, which had still been possible at that time, had been carried out by the public prosecutor's office. However, on the day the order had been issued it had no longer been possible to obtain footage from the surveillance cameras, or the data on A.D.'s telephone or concerning his internet traffic. When the judge requested the retrieval of such evidence, she had already been aware of the time that had elapsed and had noted the importance of carrying out such investigative steps immediately after the event.

94. In sum, the lack of incriminating evidence, the absence of clear elements as to the cause of death and the complete absence of information as to episodes of harassment or violence supported the reasoning of the prosecutor's second discontinuance request and the judge's discontinuance order. As regards the prosecutor's disregard of the findings of the reports of the experts appointed by him, the Government pointed out that, in the Italian legal system, a prosecutor or a judge may depart from the findings of expert reports. In the Government's view, the prosecutor had provided reasoning in that regard, in particular as to why the possible alternative explanations to suicide by jumping – which they had stressed had only been hypothetical in the first place – could not be considered.

95. As to the expediency of the investigation, the Government noted that the investigation had initially involved two separate, albeit related, sets of proceedings. Moreover, the circumstances of A.D.'s death had required an immediate technical assessment and a subsequent medical expert report after the exhumation of his body, which had clearly affected the investigation's length. Nevertheless, the overall duration of the investigation had clearly been reasonable and had not exceeded the maximum periods provided for by Italian law.

2. *The Court's assessment*

(a) **General principles**

96. The Court has found in several cases concerning fatalities during military service that contractual military servicemen are within the exclusive control of the authorities of the State and that the authorities are under a duty to protect them (see, *Hovhannisyan and Nazaryan v. Armenia*, nos. 2169/12 and 29887/14, § 118, 8 November 2022, with further references).

97. The Court refers to the general principles set out in cases under Article 2 concerning suspicious or controversial circumstances of deaths in custody (see, for instance, *Tsintsabadze v. Georgia*, no. 35403/06, §§ 71-76, 15 February 2011; *Saribekyan and Balyan v. Azerbaijan*, no. 35746/11, §§ 59-63, 30 January 2020; and *Shuriyya Zeynalov v. Azerbaijan*, no. 69460/12, §§ 66-71, 10 September 2020). It is incumbent on the State to account for any injuries suffered in custody, an obligation which is particularly stringent when an individual dies (see, for example, *Salman v. Turkey* [GC], no. 21986/93, § 99, ECHR 2000-VII; *Shumkova v. Russia*, no. 9296/06, § 89, 14 February 2012; and *Çoşelav v. Turkey*, no. 1413/07, § 53, 9 October 2012).

98. In assessing evidence, the Court has generally applied the standard of proof “beyond reasonable doubt”. However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody or in the army, strong presumptions of fact will arise in respect of injuries and death occurring during that detention or service. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Hovhannisyan and Nazaryan*, cited above, § 123).

99. The Court’s reliance on evidence obtained as a result of the domestic investigation and on the facts established within the domestic proceedings will largely depend on the quality of the domestic investigative process, its thoroughness and consistency (see *Lapshin v. Azerbaijan*, no. 13527/18, § 95, 20 May 2021, and *Tagayeva and Others v. Russia*, nos. 26562/07 and 6 others, § 586, 13 April 2017).

100. The conduct of the parties when seeking evidence may be taken into account. The Court has attached significant weight to situations in which the police or investigating authorities behaved in a suspect manner or accepted the credibility of certain evidence despite the existence of serious indications pointing to the need for caution (see *Anguelova v. Bulgaria*, no. 38361/97, § 120, ECHR 2002-IV).

101. The Court also reiterates that it must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case (*Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 180, ECHR 2011 (extracts)). In this connection, the Court finds it important to stress that the evidence which the parties put before it, and their diverging views on the circumstances of the impugned incident, are normally a matter to be examined in the domestic proceedings. Though the Court is not bound by the domestic findings and remains free to make its own appreciation in the light of all the material before it, in normal circumstances it has to work on the relevant findings reached by the domestic authorities, or

a lack thereof, and draw the necessary inferences (see *Lapshin*, cited above, §§ 112 and 119).

102. The obligation to carry out an effective investigation into unlawful or suspicious deaths is well established in the Court's case-law. In particular, where it is not clearly established from the outset that the death has resulted from an accident or another unintentional act, and where the hypothesis of unlawful killing is at least arguable on the facts, the Convention requires that an investigation which satisfies the minimum threshold of effectiveness be conducted in order to shed light on the circumstances of the death (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 133, 14 April 2015, and *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 161, 25 June 2019).

103. In order to comply with the requirements of Article 2 of the Convention, the investigation must be effective in the sense that it is capable of leading to the establishment of the relevant facts and to the identification and, if appropriate, punishment of those responsible. This is an obligation which concerns the means to be employed and not the results to be achieved. The authorities must take reasonable steps available to them to secure the evidence concerning an incident, including, *inter alia*, eyewitness testimony and forensic evidence (see, as a recent authority, *Vazagashvili and Shanava v. Georgia*, no. 50375/07, § 81, 18 July 2019, with further references).

104. Furthermore, the investigation's conclusions must be based on a thorough, objective and impartial analysis of all relevant elements. Failing to follow an obvious line of inquiry undermines to a decisive extent the investigation's ability to establish the circumstances of the case and, where appropriate, the identity of those responsible. The authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 183, ECHR 2012, and *Mustafa Tunç and Fecire Tunç*, cited above, § 175).

(b) Application to the present case

105. The Court considers it appropriate to begin its examination of the merits of the application by first addressing the procedural limb of the applicant's complaint under Article 2, namely whether or not the domestic investigation into the circumstances was effective, and then turning to the substantive limb, namely the question of whether the State can be held responsible for A.D.'s death.

(i) The procedural limb

106. While the Court notes at the outset that an official investigation into the circumstances of A.D.'s death was initiated promptly, as required by its case-law (see *Mustafa Tunç and Fecire Tunç*, cited above, § 178), the Court

discerns a number of deficiencies in the manner in which it was carried out, which impaired its effectiveness in terms of its ability to establish the facts surrounding A.D.'s death, leaving important questions unanswered.

107. As regards the first phase of the investigation, for the reasons set out below the Court is not satisfied that the investigative authorities took reasonable, sufficient steps to secure relevant evidence concerning the incident, or that they made a serious attempt to establish the full circumstances thereof.

108. Firstly, the Court notes the failure to obtain footage from video surveillance cameras that were present in the barracks, including the courtyard (see paragraph 73 above). The Court has previously found that footage of video surveillance may be critical evidence to establish the circumstances of the relevant events (see *Lapshin*, cited above, § 105, and *Magnitskiy and Others v. Russia*, nos. 32631/09 and 53799/12, § 269, 27 August 2019, with further references). There is no indication that the initial investigators sought to obtain the recordings of the video surveillance, which could have provided important evidence on what actually occurred at the time of the incident and in the identification of individuals present. No explanation emerges from the material before the Court, and in particular in the decisions of the investigative authorities as to why that evidence was not obtained in the immediate aftermath of the incident. The applicant herself had requested access to a copy of the footage shortly after the event and the request was granted by the public prosecutor (see paragraph 12 above), but she stated that it had never been handed over to her.

109. Secondly, it emerges from the decisions of the investigative authorities that 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 (see paragraph 25 above). There was also an unexplained failure to investigate the documented instances of access to and use of A.D.'s email account after his death and before the authorities seized his computer (see paragraph 74 above), entailing that a line of inquiry into the circumstances of the case and possible involvement of any other individuals was not followed up.

110. Thirdly, the Court notes the applicant's submissions that the second-floor bathroom, from which the purported jump had taken place, had not been sealed off, and that the cigarette stub found there that was taken into evidence had not been tested to establish if it had belonged to A.D. (see paragraph 21 above). The Court notes that this allegation raised by the applicant in the domestic proceedings was never addressed in the decisions by the investigative authorities. The Court further notes that no reconstruction of the crime scene, the events, or their dynamics was conducted during this stage of the investigation.

111. Lastly, the Court observes that the six witness statements that were taken during the first phase of the investigation were those of A.D.'s former

girlfriend and five fellow soldiers. However, as pointed out by the applicant and not contested by the Government, all but one of those witnesses had been on ordinary leave on the night of the incident. The Court also notes that none of the officials with supervisory roles in the barracks were questioned. Indeed, when challenging the first request for discontinuance, the applicant asked for all the soldiers present in the barracks at the relevant time, according to the presence logs, to be questioned, including the military officer responsible for the room in which A.D. was living at the time (see paragraph 20 above).

112. Turning to the second phase of the investigation, the Court observes that on 15 April 2016 the preliminary investigations judge rejected the prosecutor's request to discontinue the proceedings, finding that the investigation was incomplete, the circumstances of A.D.'s death had not been fully investigated and that the prosecutor's reasons underpinning the request had not been persuasive (see paragraph 23 above). The Court cannot fail to note that by the time that decision was issued, nearly two years had passed since A.D.'s death. The Court reiterates, in this connection, that the mere passage of time can work to the detriment of the investigation, and even fatally jeopardise its chances of success (see *Nicolaou v. Cyprus*, no. 29068/10, § 150, 28 January 2020).

113. Although the second phase of the investigation would appear to have been more thorough, at least in terms of the additional steps that were ordered and implemented (see paragraphs 24 and 25 above), the Court cannot but rely on the preliminary investigations judge's findings to the effect that certain essential failings from the first part of the investigation could no longer be remedied, largely owing to the passage of time (see paragraph 72 above). This was a concern that the same judge had already anticipated in the refusal to close the investigation (see paragraph 25 above). In turn, this led, in the preliminary investigations judge's view, to unanswered questions regarding the incident (see paragraph 72 above). Reference was made, once again, to the failure to obtain the video footage from the surveillance cameras in the courtyard of the barracks, which had not been requested immediately after the incident and in the judge's view could have shed light on what had happened on the night of the events (see paragraph 73 above). It was also stressed that the IP address pertaining to the suspicious access to A.D.'s email shortly after his death could not be retrieved as the records had no longer been available by the time they were requested (see paragraphs 56 and 74 above).

114. The Court also notes that the interception of telephone communications was ordered and executed over two years subsequent to the incident. Witness statements from individuals who had not been heard in the first phase, which included soldiers present in the barracks on the night of the events, A.D.'s fellow soldiers and the emergency first responders, were taken for the first time between two and three years after the incident (see paragraphs 48 and 59 above).

115. The Court once again refers to the preliminary investigations judge's conclusion to the effect that the above-mentioned investigative measures did not reveal any new leads or other useful information for the investigation, in her view also in light of the passage of time and the fact that knowledge of the ongoing investigation was already available by then (see paragraph 75 above). With regard to the interception of telephone communications in particular, the judge pointed out that, by that point in time, some of those under surveillance had actually suspected that their phones were being tapped and had warned their interlocutors (*ibid.*).

116. The foregoing considerations are sufficient for the Court to conclude that the investigation into A.D.'s death was ineffective and in breach of the respondent State's procedural obligations under Article 2 of the Convention.

117. Having made the above findings, the Court does not consider it necessary to examine the other shortcomings of the investigation as alleged by the applicant.

(ii) *The substantive limb*

118. At the outset, the Court reiterates that A.D. was found dead in army barracks and the incident in question may therefore be viewed as laying wholly, or in large part, within the exclusive knowledge of the authorities. It follows from this that the State bears the burden of providing a plausible explanation for A.D.'s death (see *Hovhannisyan and Nazaryan*, cited above, § 123).

119. The Court notes the Government's submission to the effect that the most plausible explanation for A.D.'s death remained that of suicide by jumping from the window of the accommodation building, as it had emerged from the investigation into the incident. The applicant, on the other hand, argued that that was not at all a persuasive explanation and that there was evidence leading, rather, to the conclusion that her son had been murdered by means of a violent attack. To support her assertions she relied primarily on the reports submitted and statements made by the independent forensic experts appointed by the preliminary investigations judge indicating that the authorities' hypothesis of jumping was riddled with inconsistencies and therefore unconvincing, and that A.D. could have been the victim of an attack. She also relied on certain elements, which had remained unexplained, that could be indicative of foul play, such as the presence of blood droplets on A.D.'s back, abrasions on his back pre-dating the time of his death, and the presence of pulmonary emphysema which would have been inconsistent with sudden death from a fall. She also noted the experts' findings that A.D.'s body could have been manipulated after his death. The foregoing elements, based on the findings of the independent forensic experts, suffice for the Court to conclude that the applicant put forward elements that, at the very least, are capable of casting doubt on the conclusion that A.D.'s death occurred in the manner set out by the authorities (compare and contrast *Nana*

Muradyan v. Armenia, no. 69517/11, § 130, 5 April 2022, and *Ataman v. Turkey*, no. 46252/99, § 53, 27 April 2006).

120. Turning to the elements put forward by the Government in support of the suicide explanation, the Court first notes their reliance on the findings of the initial forensic medical report to that effect. However, the Court observes that the conclusion of that report is expressed in terms of probability rather than certainty (see paragraph 13 above). Moreover, and most significantly, the Court notes that the report at issue was deemed insufficient by the preliminary investigations judge, who requested that a fresh forensic medical examination be performed (see paragraph 24 above).

121. Secondly, the Court observes the Government's attempt to support the suicide explanation by arguing that it may have been motivated by A.D.'s emotional distress arising from the end of a romantic relationship, his failure to pass several competitive examinations, the exacerbation of his psoriasis and a disturbed sleep cycle. Those elements are stated to have come to light through witness statements taken during the second phase of the investigation and were relied on in the conclusions of the investigative summary (see paragraphs 49, 50, 51, 53, 55, and 58 above). The Court cannot fail to note that the investigators themselves conceded the circumstantial nature of the elements supporting the possible motivation for A.D.'s suicide (see paragraph 58 above). In any event, even assuming that the listed elements could be considered as providing evidence of a suicidal motive, the Court notes that the preliminary investigations judge did not address their weight or relevance or rely on them in any way when closing the investigation.

122. Thirdly, the Government emphasised what they considered to be the merely hypothetical nature of possible alternatives to suicide by jumping provided by the forensic medical experts, with particular reference to the possibility that A.D. had been attacked while on the ground and had been hit with a large, blunt object. The Court accepts that argument, and also agrees with the Government that, contrary to the applicant's submission, it cannot be stated that this is what actually happened, the same experts having voiced doubts regarding that explanation (see paragraphs 36 and 46 above). That being said, the Court notes that alternatives were explored by the experts, on the basis of the evidence available to them, following their not being persuaded by the explanation of a jump from the bathroom window – which they also referred to as a hypothesis – because of several inconsistencies and anomalies that they had set out in their report and further clarified orally during their examination in the production of evidence hearing (see paragraphs 34-37 and 42-45 above). Indeed, the experts were unambiguous in their conclusion that, while the injuries could be in principle consistent with the suspected jump, that was not supported by the overall circumstances of A.D.'s death (see paragraphs 34 and 42 above). Furthermore, the Court notes that some of the inconsistencies identified by the independent experts had previously been raised by the applicant's privately hired experts (see

paragraph 18 above). In any event, owing to the fact that all possible explanations for A.D.'s death assessed by the experts presented incongruities and anomalies, and in the absence of other factual evidence that could assist in establishing the circumstances of the event, the conclusion remained that the manner of A.D.'s death could not be ascertained with certainty (see paragraph 40 above).

123. Fourthly, the Government emphasised that, in the second discontinuance request, the prosecutor had set out what they considered to be several compelling arguments as to why the attack hypothesis was implausible and the suicide hypothesis was more convincing (see paragraph 61 above). The Court notes that the prosecutor framed his conclusions as hypotheticals as well, and ultimately conceded that there remained "more uncertainties than certainties" regarding the manner in which the incident occurred (see paragraph 63 above). The Court further notes that, upon closing the investigation, the preliminary investigations judge did not engage with the prosecutor's assessment of the plausibility of the various explanations and his arguments on that matter, nor did the judge take a stance on which hypothesis appeared more convincing, simply concluding that the circumstances surrounding the incident could not be determined with certainty (see paragraph 75 above). It is therefore difficult to accept the findings of the investigative authorities at the closing of the investigation as providing a sufficient explanation for the dynamics of the incident in question.

124. Lastly, the Court cannot but point out that no explanation emerged as to the presence of pulmonary emphysema, or for the blood droplets that the experts excluded as being related to A.D.'s injuries, or for the abrasions on his back. With regard to the abrasions, which the Government attributed to possible scratching as a result of his psoriasis, the Court notes that there was no evidence in the forensic examination that A.D. had suffered from the condition, and a statement by his former girlfriend is the only one that made a reference to that condition (see paragraph 53 above). In any case, the experts' description of the abrasions as very significant and resulting from prolonged, forceful action could raise additional doubts on the persuasiveness of the Government's contention on this aspect (see paragraph 45 above).

125. Bearing in mind the shortcomings that affected the investigation in terms of its ability to shed light on the impugned events (see paragraphs 107-116 above), and having regard to the above findings, the Court cannot conclude that the explanation that A.D.'s death was a result of suicide by jumping from the window of the accommodation building may be regarded as sufficiently persuasive. This finding is in no way to be interpreted as indicating that the Court itself is engaging in an assessment of the dynamics of the incident and the causes of A.D.'s death and taking a position thereon. Similarly, it cannot be interpreted as implying any form of agreement with the applicant's allegations that her son was murdered in the context of hazing

practices. Rather, in accordance with its case-law (see paragraphs 96-100 above), the Court limits itself to concluding that the respondent State has 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.

126. This suffices for the Court to find a violation of Article 2 of the Convention under its substantive limb.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

127. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

128. The applicant claimed a total sum of 2 million euros (EUR) in respect of pecuniary and non-pecuniary damage.

129. The Government found the claim excessive.

130. The Court does not discern any causal link between the violation found and the pecuniary damage alleged in very general terms; it therefore rejects this claim. However, it awards the applicant EUR 42,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

131. The applicant also claimed EUR 200,000 for costs and expenses, without specifying whether they related to both those incurred before the domestic courts and those incurred before the Court.

132. The Government argued that the applicant had not provided any documentation in support of her claim.

133. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, the Court notes that the applicant has failed to particularise and submit supporting documents in respect of her claim. In such circumstances, the Court makes no award.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 2 of the Convention in its procedural aspect;
3. *Holds* that there has been a violation of Article 2 of the Convention in its substantive aspect;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amount of EUR 42,000 (forty-two thousand euros) in respect of non-pecuniary damage plus any tax that may be chargeable;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 December 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth
Registrar

Ivana Jelić
President