



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

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FOURTH SECTION

Application no. 20366/17
Rino ROCCELLI and Others against Russia and Ukraine
lodged on 9 March 2017 and 20 August 2018
communicated on 29 September 2026

SUBJECT MATTER OF THE CASE

The complaints in the present application emanate from the armed conflict in the east of Ukraine.

The application was brought in respect of the killings of two media workers – Andrea Rocchelli, an Italian citizen and Andrey Mironov, a Russian citizen – during a shelling which took place in Andriivka, the Donetsk region of Ukraine, on 24 May 2014. The information about the applicants and their degree of kinship with the deceased is provided in the table below.

At around 4.30 p.m. on 24 May 2014, Mr Rocchelli and Mr Mironov, accompanied by a French journalist, Mr William Roguelon, and a driver, arrived at a railroad crossing in Andriivka, allegedly to collect photo and video material. Mr Rocchelli and Mr Mironov were allegedly dressed in civilian clothing and did not clearly identify themselves as journalists. Approximately ten minutes after their arrival, they found themselves under heavy shellfire and tried to hide in a ditch. Mr Roguelon sustained non-life-threatening injuries to his thigh, and Mr Rocchelli and Mr Mironov were killed. Their bodies were discovered the following morning.

The applicants attribute the shelling to the Ukrainian armed forces and refer to the statements of three witnesses – civilians living in or near Andriivka who allegedly had firsthand knowledge of the military positions held by the Ukrainian forces and the “Donetsk People’s Republic” (“DPR”) at the material time. The applicants contend that control over Andriivka was

taken by the “DPR” on 12 April 2014, and that the Ukrainian forces liberated Andriivka on 5 July 2014.

A. Resort to domestic legal remedies in Ukraine

On 24 May 2014 the Ukrainian authorities initiated an investigation into the killing of Mr Rocchelli and Mr Mironov and interviewed a number of witnesses. In October and November 2014 they inspected the scene of the events.

On 1 June 2016 Mr Aleksandr Mironov (“the fifth applicant”), lodged a complaint with a criminal court in the Government-controlled part of the Donetsk region with regard to alleged delays in the course of the investigation. On 6 July 2016 the criminal court granted the complaint in part, ruling that there had been a number of delays during the investigation.

On 9 March 2018 the fifth applicant lodged a similar complaint with a criminal court in the Government-controlled part of the Donetsk region with regard to delays in the course of the investigation. On 13 March 2018 a criminal court and 7 May 2018 an appellate court rejected the complaint, stating that under the Ukrainian law, the inaction of investigators could not be challenged in court.

According to the latest information available to the Court, the criminal proceedings in Ukraine were ongoing.

B. Resort to domestic legal remedies in Russia

On an unknown date the Russian authorities initiated a criminal investigation into the killing of Mr Rocchelli and Mr Mironov. On 4 December 2015 the fifth applicant was granted victim status in those proceedings.

On 22 December 2017 the fifth applicant’s representative lodged a complaint with a criminal court in Moscow with regard to the lack of access to the case records and delays in the investigation carried out by the Russian authorities. On 16 January and 2 April 2018 Russian courts rejected the complaint, stating that under the Russian law, procedural decisions of an investigator were not subject to appeal.

According to the latest information available to the Court, the criminal proceedings in Russia were ongoing.

C. Criminal proceedings in Italy

On 17 May 2018 an Italian trial court started hearing a criminal case against Mr Vitaliy Markiv, a dual citizen of Italy and Ukraine, accused of killing Mr Rocchelli on 24 May 2014 while serving in the National Guard of Ukraine.

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On 12 July 2019 Mr Markiv was found guilty and sentenced to 24 years of imprisonment. On 3 November 2020 the sentence was overturned on appeal and Mr Markiv was acquitted. On an unknown date the relatives of Mr Rocchelli and the prosecution appealed against the acquittal.

The applicants have not informed the Court about the outcome of these proceedings.

COMPLAINTS

A. Complaints against Ukraine lodged by all applicants on 9 March 2017

The applicants complain under the substantive limb of Article 2 of the Convention in respect of the killing of Mr Rocchelli and Mr Mironov. According to the applicants, although Mr Rocchelli and Mr Mironov did not clearly identify themselves as journalists, they were nevertheless dressed in civilian clothes and could not therefore have been considered military targets. The applicants also complain under the procedural limb of Article 2 of the Convention, stating that the criminal investigation undertaken by the Ukrainian authorities was short of the requirements of promptness and adequacy.

B. Complaints against the Russian Federation lodged by the fifth applicant on 20 August 2018

The fifth applicant complains under the procedural limb of Article 2 of the Convention that the investigation into Mr Mironov's killing in the Russian Federation did not comply with the requirement of adequacy, promptness and the next-of-kin participation, contrary to the requirements of Article 2.

QUESTIONS TO THE PARTIES

1. Have the applicants complied with the admissibility requirements set forth in Article 35 § 1 of the Convention?

In this connection, have the applicants exhausted the available and effective domestic remedies in relation to their complaints brought before the Court, as required by Article 35 § 1 of the Convention?

Also in this connection, have the applicants complied with the time-limit laid down in Article 35 § 1 of the Convention as in force on the date of introduction of their application? In particular, have they complied with the

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requirements of diligence and expedition in pursuing domestic remedies in the Respondent States and in bringing their case to the Court (*Melnichuk and Others v. Romania*, nos. 35279/10 and 34782/10, §§ 80-83, 5 May 2015, *Akhvlediani and Others v. Georgia* (dec.), 22026/10 and 9 others, §§ 23-29, 9 April 2013, *M.K. and Others v. Georgia and Russia* [Committee], (dec.), no. 16053/10 and 19 others, §§ 17-23, 12 March 2024)?

2. What investigative actions have been conducted by the authorities of the respondent States to establish the perpetrators of the attack in question? The parties are requested to provide documentary evidence in support of their replies to this question.

**QUESTIONS TO THE APPLICANTS AND THE UKRAINIAN
GOVERNMENT**

1. Were Mr Andrea Rocchelli and Mr Andrey Mironov, as of 24 May 2014, civilian journalists engaged in a professional mission not taking a direct part in hostilities?

2. Has the right to life of Mr Rocchelli and Mr Mironov, ensured by Article 2 of the Convention, been breached by the Ukrainian authorities? In particular, has the use of lethal force been “absolutely necessary” for the achievement of one or more of the purposes set out in sub-paragraphs (a) to (c) of Article 2 of the Convention, and has it been strictly proportionate to the achievement of the permitted aims (*Isayeva v. Russia*, no. 57950/00, § 173, 24 February 2005)? Have the Ukrainian authorities taken all feasible precautions in the choice of means and methods of military action in order to avoid or at least minimise incidental loss of civilian life (*ibid.*, § 176)?

3. Have the Ukrainian authorities complied with their procedural obligations to carry out an effective investigation under Article 2 of the Convention (see *Georgia v. Russia (II)* [GC], no. 38263/08, §§ 326-37, 21 January 2021; *Güzelyurtlu and Others v. Cyprus and Turkey* [GC], no. 36925/07, §§ 229-38, 29 January 2019; *Stomatii v. the Republic of Moldova and Russia*, no. 69528/10, §§ 69-73, 18 September 2018)?

**QUESTIONS TO THE FIFTH APPLICANT AND THE RUSSIAN
GOVERNMENT**

Have the Russian authorities complied with their procedural obligations to carry out an effective investigation under Article 2 of the Convention (see *Georgia v. Russia (II)* [GC], no. 38263/08, §§ 326-37, 21 January 2021; *Güzelyurtlu and Others v. Cyprus and Turkey* [GC], no. 36925/07, §§ 229-38, 29 January 2019; *Stomatii v. the Republic of Moldova and Russia*, no. 69528/10, §§ 69-73, 18 September 2018) in respect of the killing of Mr Andrey Mironov?

All parties are requested to support their responses with legible documentary evidence.

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APPENDIX

List of applicants:

No.	Applicant Nationality	Referred to as	Degree of kinship with the deceased	The nature of complaints	Lodged on	Represented by
1.	Rino Rocchelli Italian	The first applicant	Father of deceased Andrea Rocchelli	The procedural and substantive limbs of Article 2 of the Convention against Ukraine	9 March 2017	Egbert WESSELINK
2.	Elisa Signori Italian	The second applicant	Mother of deceased Andrea Rocchelli			Egbert WESSELINK
3.	Lucia Anna Rocchelli Italian	The third applicant	Wife of deceased Andrea Rocchelli			Egbert WESSELINK
4.	Maria Chiara Ferrari Italian	The fourth applicant	Sister of deceased Andrea Rocchelli			Egbert WESSELINK
5.	Aleksandr Mironov Russian	The fifth applicant	Brother of deceased Andrey Mironov	The procedural and substantive limbs of Article 2 of the Convention against Ukraine	9 March 2017	Egbert WESSELINK
				The procedural limb of Article 2 of the Convention against Russia	20 August 2018	