



November 2022

This Factsheet does not bind the Court and is not exhaustive

# Domestic violence

“... [T]he issue of domestic violence, which can take various forms ranging from physical to psychological violence or verbal abuse ... is a general problem which concerns all member States and which does not always surface since it often takes place within personal relationships or closed circuits and it is not only women who are affected. The [European] Court [of Human Rights] acknowledges that men may also be the victims of domestic violence and, indeed, that children, too, are often casualties of the phenomenon, whether directly or indirectly. ...” (*Opuz v. Turkey*, judgment of 9 June 2009, § 132).

## Right to life (Article 2 of the European Convention on Human Rights)

### Kontrovà v. Slovakia

31 May 2007

On 2 November 2002 the applicant filed a criminal complaint against her husband for assaulting her and beating her with an electric cable. Accompanied by her husband, she later tried to withdraw her criminal complaint. She consequently modified the complaint such that her husband’s alleged actions were treated as a minor offence which called for no further action. On 31 December 2002 her husband shot dead their daughter and son, born in 1997 and 2001. Before the European Court of Human Rights, the applicant alleged that the police, aware of her husband’s abusive and threatening behaviour, had failed to take appropriate action to protect her children’s lives. She further complained that it had not been possible for her to obtain compensation.

The European Court of Human Rights held that there had been a **violation of Article 2** (right to life) of the European Convention on Human Rights, concerning the authorities’ failure to protect the applicant’s children’s lives. It observed that the situation in the applicant’s family had been known to the local police given the criminal complaint of November 2002 and the emergency phone calls of December 2002. In response, under the applicable law, the police had been obliged to: register the applicant’s criminal complaint; launch a criminal investigation and criminal proceedings against the applicant’s husband immediately; keep a proper record of the emergency calls and advise the next shift of the situation; and, take action concerning the allegation that the applicant’s husband had a shotgun and had threatened to use it. However, one of the officers involved had even assisted the applicant and her husband in modifying her criminal complaint of November 2002 so that it could be treated as a minor offence calling for no further action. In conclusion, as the domestic courts had established and the Slovakian Government had acknowledged, the police had failed in its obligations and the direct consequence of those failures had been the death of the applicant’s children. The Court further held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention, as the applicant should have been able to apply for compensation for non-pecuniary damage, but no such remedy had been available to her.

### **Branko Tomašić and Others v. Croatia**

15 January 2009

The applicants were the relatives of a baby and his mother whose husband/father had killed both them and himself one month after being released from prison, where he had been held for making those same death threats. He was originally ordered to undergo compulsory psychiatric treatment while in prison and after his release, as necessary, but the appeal court ordered that his treatment be stopped on his release. The applicants complained, in particular that the Croatian State had failed to take adequate measures to protect the child and his mother and had not conducted an effective investigation into the possible responsibility of the State for their deaths.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention, on account of the Croatian authorities' lack of appropriate steps to prevent the deaths of the child and his mother. It observed in particular that the findings of the domestic courts and the conclusions of the psychiatric examination undoubtedly showed that the authorities had been aware that the threats made against the lives of the mother and the child were serious and that all reasonable steps should have been taken to protect them. The Court further noted several shortcomings in the authorities' conduct: although the psychiatric report drawn up for the purposes of the criminal proceedings had stressed the need for the husband's continued psychiatric treatment, the Croatian Government had failed to prove that such treatment had actually and properly been administered; the documents submitted showed that the husband's treatment in prison had consisted of conversational sessions with prison staff, none of whom was a psychiatrist; neither the relevant regulations nor the court's judgment ordering compulsory psychiatric treatment had provided sufficient details on how the treatment was to be administered; and, lastly, the husband had not been examined prior to his release from prison in order to assess whether he still posed a risk to the child and his mother. The Court therefore concluded that the relevant domestic authorities had failed to take adequate measures to protect their lives.

### **Opuz v. Turkey**

9 June 2009

See below, under "Prohibition of discrimination".

### **Durmaz v. Turkey**

13 November 2014

The applicant's daughter died in hospital after her husband had taken her to the emergency department, informing the doctors that she had taken an overdose of medicines. When questioned by the police, he also stated that the couple had had a row on the same day and he had hit her. The deceased's father subsequently lodged a complaint with the prosecutor, stating that she had not been suicidal, and alleging that her husband was responsible for her death. The investigation by the prosecutor concluded that she had committed suicide. An objection by the applicant was dismissed by the domestic courts. Before the Court, the applicant complained that the investigation into the death of her daughter had been ineffective.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention in its procedural aspect on account of the Turkish authorities' failure to carry out an effective investigation into the death of the applicant's daughter. Like in the *Opuz* case (see above), it noted in particular that domestic violence affected mainly women and that the general and discriminatory judicial passivity in Turkey created a climate that was conducive to domestic violence.

### **Civek v. Turkey**

23 February 2016

This case concerned the murder of the applicants' mother by their father. The applicants complained in particular that the Turkish authorities had failed in their obligation to protect their mother's life.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention. It found, in particular, that even though the Turkish authorities had been informed of the genuine and serious threat to the applicants' mother's life and despite her continued complaints of threats and harassment, they had failed to take the measures reasonably available to them in order to prevent her being murdered by her husband.

### **Halime Kılıç v. Turkey**

28 June 2016

See below, under "Prohibition of discrimination".

### **Talpis v. Italy**

2 March 2017

This case concerned the conjugal violence suffered by the applicant, which resulted in the murder of her son and her own attempted murder.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention on account of the murder of the applicant's son and her own attempted murder. It found, in particular, that by failing to take prompt action on the complaint lodged by the applicant, the Italian authorities had deprived that complaint of any effect, creating a situation of impunity conducive to the recurrence of the acts of violence, which had then led to the attempted murder of the applicant and the death of her son. The authorities had therefore failed in their obligation to protect the lives of the persons concerned. The Court also held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of the failure of the authorities in their obligation to protect the applicant against acts of domestic violence. In this respect, it noted in particular that the applicant had lived with her children in a climate of violence serious enough to qualify as ill-treatment, and that the manner in which the authorities had conducted the criminal proceedings pointed to judicial passivity, which was incompatible with Article 3. Lastly, the Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Articles 2 and 3**, finding that the applicant had been the victim of discrimination as a woman on account of the inaction of the authorities, which had underestimated the violence in question and thus essentially endorsed it.

### **Tërshana v. Albania**

4 August 2020

This case concerned an acid attack on the applicant in 2009. The applicant suspected that her former husband, whom she accused of domestic violence, was behind the attack. She alleged in particular that the Albanian authorities had failed to take measures to protect her from the acid attack and to conduct a prompt and effective investigation for the identification, prosecution and punishment of her assailant.

The Court held that there had been **no violation of Article 2** (right to life) of the Convention in its substantial aspect, finding that the Albanian State could not be held responsible for the attack. It noted in particular that, if the State had been aware of a risk to the applicant, it would have been its duty to take preventive measures. In the present case, however, the national authorities had only found out about the violent behaviour of the applicant's former husband after the incident. On the other hand, the Court held that there had been a **violation of Article 2** in its procedural aspect, finding that the authorities' response to the acid attack had been ineffective. In this respect, it noted in particular that the investigation into the attack, which had had the hallmarks of gender-based violence and therefore should have incited the authorities to react with special diligence, had not even been able to identify the substance thrown over her. The investigation was moreover stayed in 2010, without identifying the person responsible, and the applicant had not been given any information about its progress since, despite her repeated enquiries.

### Kurt v. Austria

15 June 2021 (Grand Chamber)

This case concerned the applicant's complaint that the Austrian authorities had failed to protect her and her children from her violent husband, which had resulted in his murdering their son. She maintained in particular that she had specifically informed the police that she feared for her children's lives.

The Court held that there had been **no violation of Article 2** (right to life) of the Convention in the present case. It found that the Austrian authorities had displayed the required special diligence in responding swiftly to the applicant's allegations of domestic violence and in taking due account of the specific domestic violence context of the case. They had conducted an autonomous, proactive and comprehensive risk assessment and had issued a barring and protection order. That risk assessment had not indicated a real and immediate lethality risk to the applicant's son. Consequently, no obligation had been triggered for the authorities to take preventive operational measures in that regard.

### Tkheldize v. Georgia

8 July 2021

See below, under "Prohibition of discrimination".

### A and B v. Georgia (no. 73975/16)

10 February 2022

See below, under "Prohibition of discrimination".

### Y and Others v. Bulgaria (no. 9077/18)

22 March 2022

The applicants in this case were the mother and daughters of a woman who was shot dead in a café in Sofia by her husband just after leaving the district prosecutor's office to complain that he owned a handgun and she feared for her life. She had made several similar complaints in the years and months leading up to the killing concerning her husband's angry, violent and obsessive attitude towards her. The applicants alleged in particular that the Bulgarian authorities had not taken their close relative's complaints about her husband seriously and had failed to take measures to avert the risk to her life.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention. It found, in particular, that the authorities had failed to respond promptly to the credible complaints of the applicants' close relative and to carry out a proper assessment of the risk to her in view of the specific context and dynamics of domestic violence. Had they done so, they would have appreciated that her husband had posed a real and immediate risk to her life and they could have seized his handgun, arrested him for breaching a restraining order and/or placed the applicants' relative under police protection. All such steps to counter the risk to her would have been possible under Bulgarian domestic law. The Court held, however, that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 2**, finding no evidence of complacency towards violence against women either generally in Bulgaria or in the police's handling of the applicants' close relative's case.

### Landi v. Italy

7 April 2022

The applicant in the present case alleged that the Italian State had failed to take the requisite action to protect her and her two children from the domestic violence inflicted by her partner, which had led to the murder of her one-year-old son and her own attempted murder in 2018. She also considered that the lack of legal protection and of an adequate response from the authorities to her allegations of domestic violence amounted to discriminatory treatment on grounds of sex.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention in the present case, finding that the Italian authorities could not be deemed to have shown the requisite diligence and that they had therefore failed in their positive

obligation to protect the applicant's and her son's lives. The Court noted, in particular, that the national authorities had failed in their duty to conduct an immediate and proactive assessment of the risk of a repetition of the violent acts committed against the applicant and her children, and to adopt operational and preventive measures to mitigate the risk and to protect those concerned. In particular, the authorities had remained passive in the face of the serious risk of ill-treatment of the applicant, and their inaction had enabled the applicant's partner to continue to threaten, harass and attack her unhindered and with impunity. The authorities ought to have assessed the risk of renewed violence and adopted appropriate and adequate measures. Such measures could have been adopted by the authorities, pursuant to Italian legislation, whether or not there had been a complaint or any change in the victim's perception of the risk. In the present case, the Court did not, however, consider that the impugned shortcomings could be considered, per se, as pointing to any discriminatory attitude on the authorities' part. It therefore declared **inadmissible**, as being manifestly ill-founded, the applicant's complaint concerning **Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 2**.

## Prohibition of torture and inhuman or degrading treatment (Article 3 of the Convention)

---

Obligation on authorities to provide adequate protection  
against domestic violence

### **E.S. and Others v. Slovakia (no. 8227/04)**

15 September 2009

In 2001 the first applicant left her husband and lodged a criminal complaint against him for ill-treating her and her children (born in 1986, 1988 and 1989) and sexually abusing one of their daughters. He was convicted of violence and sexual abuse two years later. Her request for her husband to be ordered to leave their home was dismissed, however; the court finding that it did not have the power to restrict her husband's access to the property (she could only end the tenancy when divorced). The first applicant and her children were therefore forced to move away from their friends and family and two of the children had to change schools. They complained that the authorities had failed to protect them adequately from domestic violence.

The Court held that Slovakia had failed to provide the first applicant and her children with the immediate protection required against her husband's violence, in **violation of Article 3** (prohibition of inhuman or degrading treatment) **and Article 8** (right to private and family life) of the Convention. It observed that, given the nature and severity of the allegations, the first applicant and the children had required protection immediately, not one or two years later. The first applicant had further been unable to apply to sever the tenancy until her divorce was finalised in May 2002, or to apply for an order excluding her former husband from the matrimonial home until after the law was amended in January 2003. She had therefore been without effective protection for herself and the children during the interim.

### **Eremia and Others v. the Republic of Moldova**

28 May 2013

See below, under "Prohibition of discrimination".

See also: **Munteanu v. the Republic of Moldova**, judgment of 26 May 2020.

### **Rumor v. Italy**

27 May 2014

See below, under "Prohibition of discrimination".

**M.G. v. Turkey (no. 646/10)**

22 March 2016

See below, under “Prohibition of discrimination”.

**N.P. and N.I. v. Bulgaria (no. 72226/11)**

3 May 2016 (decision on the admissibility)

The applicants, a woman and her minor son, complained that they were victims of domestic violence and about the Bulgarian authorities’ failure to take the necessary measures to protect them from the violent actions of their companion and father.

The Court declared the application **inadmissible**, as being manifestly ill-founded, finding no appearance of a violation of the State’s positive obligations under Article 3 (prohibition of inhuman or degrading treatment), Article 13 (right to an effective remedy) or Article 14 (prohibition of discrimination) of the Convention. It noted in particular that the Bulgarian authorities had, at appropriate times, taken several types of adequate steps to protect the applicants’ physical integrity.

**Talpis v. Italy**

2 March 2017

See above, under “Right to life”.

**Bălșan v. Romania**

23 May 2017

See below, under “Prohibition of discrimination”.

**Volodina v. Russia**<sup>1</sup>

9 July 2019

See below, under “Prohibition of discrimination”.

See also: **Barsova v. Russia**<sup>2</sup>, judgment (Committee) of 22 October 2019.

**Galović v. Croatia**

31 August 2021

This case concerned the applicant’s convictions for domestic violence in several sets of minor-offence proceedings and in criminal proceedings on indictment. The applicant complained, in particular, that he had been tried and convicted twice of the same offence.

The Court held that there had been **no violation of Article 4** (right not to be tried or punished twice) **of Protocol No. 7** to the Convention in respect of the applicant. Noting, in particular, that the two sets of proceedings in the applicant’s case had been part of an integrated and coherent approach to domestic violence under Croatian law, it found that such an integrated system had allowed the applicant’s punishment for individual acts of violence via a less severe response in the minor-offence proceedings, followed by a more serious criminal response for his pattern of behaviour.

**Tunikova and Others v. Russia**<sup>3</sup>

14 December 2021

This case concerned acts of domestic violence, including death threats, bodily injuries and one case of severe mutilation, which the four applicants sustained at the hands of their former partners or husbands. The applicants complained, in particular, of a failure on the part of the Russian State to protect them from domestic violence, of a lack of remedies in that regard, and that the general failure to combat gender violence had amounted to discrimination against women.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the Russian authorities had failed

---

<sup>1</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the European Convention on Human Rights (“the Convention”).

<sup>2</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

<sup>3</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.



to establish a legal framework to combat domestic violence effectively, that they had not assessed the risks of recurrent violence, and that they had not carried out an effective investigation into the domestic violence the applicants had suffered. It also held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 3**, finding it established that as regards protection against the risk of domestic violence, women in Russia were in a situation of de facto discrimination. In this regard, it noted in particular that the failure of the Government to pass legislation to address the staggering scale of domestic violence against women in Russia, and the systematic problems in securing prosecutions and convictions, had led to a continuing climate that was conducive to domestic violence. As a structural bias had been shown to exist, the applicants had not needed to prove any individual prejudice. Lastly, under **Article 46** (binding force and execution of judgments) of the Convention, the Court recommended that urgent changes to domestic law and practice to prevent similar violations from occurring be made.

### **De Giorgio v. Italy**

16 June 2022

The applicant in this case complained that despite the filing of several criminal complaints the Italian authorities had failed to afford her protection and assistance after she suffered domestic violence at the hands of her husband from whom she had been separated since 2013. She submitted that the authorities had been alerted several times to her husband's violent behaviour but had not taken adequate and appropriate steps to protect her and her children from what she regarded as the real and known danger which her husband posed, and that they had failed to prevent further episodes of domestic violence.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention under its substantive and procedural limbs. It found in particular that the Italian authorities had not conducted an assessment of the risk of ill treatment focused specifically on the context of domestic violence and in particular the situation of the applicant and her children, an assessment which would have warranted concrete preventive measures to protect them from such risk. The authorities had therefore breached their duty to protect the applicant and her children from the husband's acts of domestic violence. The Court determined that the Italian authorities had taken no action in response to the serious risk of ill treatment faced by the applicant and her children and had, by their failure to act, created a situation of impunity, with the husband yet to be tried for the injuries inflicted on the applicant in the assault of 20 November 2015 and the investigation into the applicant's other complaints remaining pending since 2016. The Court also held that the State had breached its duty to investigate the ill-treatment of the applicant and her children, and that the manner in which the domestic authorities had conducted the criminal prosecution in the case also qualified as judicial inaction and could not be regarded as meeting the requirements of Article 3 of the Convention.

### **M.S. v. Italy (no. 32715/19)**

7 July 2022

This case concerned the domestic violence to which the applicant was subjected by her husband. The applicant complained, in particular, that the respondent State had failed to protect and assist her, and that the Italian authorities had not acted with the requisite diligence and promptness, as the prosecution of several offences had become time-barred. She submitted, in particular, that the authorities, despite being alerted on several occasions to her husband's violent behaviour, had not taken the necessary and appropriate steps to protect her against a real and known danger and had not prevented further domestic violence from occurring. She further argued that several sets of proceedings had been terminated as being time-barred on account of their length and that some were still pending.

The Court observed at the outset that, from an overall point of view, the Italian legal framework was adequate to afford protection against acts of violence by private

individuals. In the applicant's case, having noted, in particular, that the police had responded without delay to the complaints lodged by the applicant from January 2007 onwards and had intervened during the violent incidents, the Court considered that a distinction had to be made between two separate periods: it held that there had been a **violation** of the substantive aspect **of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in relation to the period from 19 January 2007 to 21 October 2008, finding that, during that period, the Italian authorities had failed in their positive obligation to protect the applicant against the domestic violence committed by her husband; the Court held, however, that there had been **no violation** of the substantive aspect **of Article 3** in relation to the period from 21 October 2008 to 5 January 2018, finding that, during that second period, the authorities had complied with their positive obligation to protect the applicant against the domestic violence committed by her husband. The Court further held that there had been a violation of the procedural aspect of Article 3 of the Convention in the present case. In this respect, it noted in particular that it could not accept that the purpose of effective protection against acts of ill-treatment, including domestic violence, was achieved where the criminal proceedings were discontinued on the grounds that the prosecution had become time-barred, where this occurred as a result of failings on the part of the authorities. The Court added that offences linked to domestic violence should be classified among the most serious offences, and it reiterated that, according to its case-law, it was incompatible with the procedural obligations arising out of Article 3 for investigations into these offences to be terminated through statutory limitation resulting from the authorities' inactivity. In the present case the Court considered that a situation in which the domestic authorities, firstly – on the basis of the mechanisms governing limitation periods in the national legal framework – had upheld a system in which statutory limitation was closely linked to the judicial action even after proceedings had commenced and, secondly, had prosecuted the case with a degree of judicial passivity incompatible with that framework, could not be deemed to satisfy the requirements of Article 3 of the Convention

## Effectiveness of investigations into complaints of domestic violence

### **E.M. v. Romania (n° 43994/05)**

30 October 2012

The applicant alleged in particular that the investigation into her criminal complaint of domestic violence committed in the presence of her daughter, aged one and a half, had not been effective. The Romanian courts had dismissed the applicant's complaints on the ground that her allegations that she had been subjected to violence by her husband had not been proven.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention under its procedural limb, finding that the manner in which the investigation had been conducted had not afforded the applicant the effective protection required by Article 3. It observed in particular that, when making the first of her complaints, the applicant had requested assistance and protection from the authorities for herself and her daughter against her husband's aggressive conduct. Despite the fact that the statutory framework provided for cooperation between the various authorities and for non-judicial measures to identify and ensure action was taken in respect of domestic violence, and although the medical certificate provided *prima facie* evidence of the applicant's allegations, it did not appear from the case file that any steps had been taken to that end.



### **Valiulienė v. Lithuania**

26 March 2013

This case concerned the complaint by a woman who was a victim of domestic violence about the authorities' failure to investigate her allegations of ill-treatment and to bring her partner to account.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the practices at issue in the instant case and the manner in which the criminal-law mechanisms had been implemented had not provided the applicant adequate protection against acts of domestic violence. In particular, there had been delays in the criminal investigation and the public prosecutor had decided to discontinue the investigation.

### **D.P. v. Lithuania (no. 27920/08)**

22 October 2013 (strike-out decision)

The applicant married in 1989 and the couple divorced in 2001. They had four children (born in 1988, 1990, 1992 and 2000 respectively). The applicant complained in particular that the criminal proceedings in respect of her former husband for intentional and systematic beatings inflicted on her and their three older children had been protracted and the case had not been examined within a reasonable time. As a result, she submitted, the prosecution had become time-barred and her former husband had not received appropriate punishment by a court.

After the failure of attempts to reach a friendly settlement, the Lithuanian Government informed the Court in September 2012 that they proposed to make a unilateral declaration with a view to resolving the issue of the State's accountability for failure to prevent domestic violence, raised by the application. In the light of the Court's case-law and the circumstances of the present case, the Government notably acknowledged that the manner in which the criminal-law mechanisms had been implemented in the instant case was defective as far as the proceedings were concerned, to the point of constituting a violation of the State's positive obligations under Article 3 (prohibition of inhuman or degrading treatment) of the Convention. Taking note of the terms of the Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein, the Court decided to **strike the application out of its list of cases** in accordance with Article 37 (striking out applications) of the Convention.

### **D.M.D. v. Romania (no. 23022/13)**

3 October 2017

See below, under "Right to a fair trial".

### **Buturuță v. Romania**

11 February 2020

See below, under "Right to respect for private and family life and correspondence".

Risk of being subjected to domestic violence in case of deportation

### **N. v. Sweden (no. 23505/09)**

20 July 2010

The applicant, an Afghan national, arrived in Sweden with her husband in 2004. Their requests for asylum were refused several times. In 2005 the applicant separated from her husband. In 2008 her request for a divorce was refused by the Swedish courts as they had no authority to dissolve the marriage as long as the applicant did not reside legally in the country. Her husband informed the court that he opposed a divorce. In the meantime, the applicant unsuccessfully requested the Swedish Migration Board to re-evaluate her case and stop her deportation, claiming that she risked the death penalty in Afghanistan as she had committed adultery by starting a relationship with a Swedish man and that her family had rejected her.

The Court held that the applicant's **deportation** from Sweden to Afghanistan **would constitute a violation of Article 3** (prohibition of inhuman or degrading treatment or punishment) of the Convention finding that, in the special circumstances of the present case, there were substantial grounds for believing that if deported to Afghanistan, she would face various cumulative risks of reprisals from her husband, his family, her own family and from the Afghan society which fell under Article 3. The Court noted in particular that the fact that the applicant wanted to divorce her husband, and did not want to live with him any longer, might result in serious life-threatening repercussions. Indeed, the Shiite Personal Status Act of April 2009 required women to obey their husbands' sexual demands and not to leave home without permission. Reports had further shown that around 80 % of Afghani women were affected by domestic violence, acts which the authorities saw as legitimate and therefore did not prosecute. Lastly, to approach the police or a court, a woman had to overcome the public opprobrium affecting women who left their houses without a male guardian. The general risk indicated by statistics and international reports could not be ignored.

## Right to a fair trial (Article 6 of the Convention)

---

### Wasiewska v. Poland

2 December 2014 (decision on the admissibility)

In 1997 the applicant and her husband divorced. Prior to the divorce the applicant's former husband had thrown her out of their flat. He changed the locks and prevented the applicant from entering it to take personal items belonging to her, their daughter and granddaughter. The applicant complains in particular about the authorities' failure to enforce their own judgments ordering the eviction of her former husband from the flat she owns. She further complains that it is impossible for her to initiate a criminal investigation against her former husband, who made it impossible for her to have access to her belongings left in the flat and the flat itself.

The Court considered that the applicant's complaint about the authorities' failure to enforce the eviction order against her former husband from the flat should be examined under Article 6 (right to a fair trial) of the Convention. Finding that the applicant had failed to exhaust domestic remedies in this respect, it declared that complaint **inadmissible**, in accordance with Article 35 (admissibility criteria) of the Convention. The Court also held the remainder of the application **inadmissible**, as being manifestly ill-founded.

### D.M.D. v. Romania (no. 23022/13)

3 October 2017

This case concerned the proceedings brought by the applicant against his father for domestic abuse. The proceedings in question had lasted over eight years and ended in the father's conviction of physically and mentally abusing his child. The applicant complained that those proceedings had been ineffective and that he had not been awarded damages. In particular, the domestic courts had found at last instance that they did not have to examine the issue of compensation as neither he nor the prosecutor had made such a request before the lower courts.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention because the investigation into the allegations of abuse had lasted too long and had been marred by other serious shortcomings. In this respect, it recalled in particular that Contracting States should strive to protect children's dignity and that, in practice, this required an adequate legal framework to protect children against domestic violence. In this judgment the Court also held that there had been a **violation of Article 6 § 1** (right to a fair trial) of the Convention because the domestic courts had not examined the merits of the applicant's complaint about the failure to award him compensation, despite it being clearly worded in domestic law that

they were under an obligation to rule on the matter of compensation in a case concerning a minor, even without a formal request from the victim.

## Right to respect for private and family life and correspondence (Article 8 of the Convention)

---

### State's duty to protect physical and psychological integrity of individuals

#### **Bevacqua and S. v. Bulgaria**

12 June 2008

The first applicant, who claimed she was regularly battered by her husband, left him and filed for divorce, taking their three-year-old son (the second applicant) with her. However, she maintained that her husband continued to beat her. She spent four days in a shelter for abused women with her son but was allegedly warned that she could face prosecution for abducting the boy, leading to a court order for shared custody, which, she stated, her husband did not respect. Pressing charges against her husband for assault allegedly provoked further violence. Her requests for interim custody measures were not treated as priority and she finally obtained custody only when her divorce was pronounced more than a year later. The following year she was again battered by her ex-husband and her requests for a criminal prosecution were rejected on the ground that it was a "private matter" requiring a private prosecution.

The Court held that there had been a **violation of Article 8** (right to respect for family life) of the Convention, given the cumulative effects of the domestic courts' failure to adopt interim custody measures without delay in a situation which had affected adversely the applicants and, above all, the well-being of the second applicant and the lack of sufficient measures by the authorities during the same period in reaction to the behaviour of the first applicant's former husband. In the Court's view, this amounted to a failure to assist the applicants contrary to the State positive obligations under Article 8 of the Convention to secure respect for their private and family life. The Court stressed in particular that considering the dispute to be a "private matter" was incompatible with the authorities' obligation to protect the applicants' family life.

#### **E.S. and Others v. Slovakia (no. 8227/04)**

15 September 2009

See above, under "Prohibition of torture and inhuman or degrading treatment".

#### **A. v. Croatia (no. 55164/08)**

14 October 2010

The applicant's now ex-husband (suffering from post-traumatic stress disorder, paranoia, anxiety and epilepsy) allegedly subjected her to repeated physical violence causing bodily injury and death threats over many years and also regularly abused her in front of their young daughter. After going into hiding, the applicant requested a court order preventing her ex-husband from stalking or harassing her. It was refused on the ground that she had not shown an immediate risk to her life.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention in that the Croatian authorities had failed to implement many of the measures ordered by the courts to protect the applicant or deal with her ex-husband's psychiatric problems, which appeared to be at the root of his violent behaviour. It was also unclear whether he had undergone any psychiatric treatment. The Court further declared the applicant's **complaint under Article 14** (prohibition of discrimination) of the Convention **inadmissible**, on the ground, in particular, that she had not given sufficient evidence (such as reports or statistics) to prove that the measures or practices adopted in Croatia against domestic violence, or the effects of such measures or practices, were discriminatory.

See also: [Ž.B. v. Croatia \(no. 47666/13\)](#), judgment of 11 July 2017.

### [Hajduová v. Slovakia](#)

30 November 2010

The applicant complained in particular that the domestic authorities had failed to comply with their statutory obligation to order that her former husband be detained in an institution for psychiatric treatment, following his criminal conviction for having abused and threatened her.

The Court held that the lack of sufficient measures in response to the applicant's former husband's behaviour, and in particular the domestic courts' failure to order his detention for psychiatric treatment following his conviction, had amounted to a **breach of the State's positive obligations under Article 8** (right to respect for private and family life) of the Convention. It observed in particular that, even though her former husband's repeated threats had never materialised, they were enough to affect the applicant's psychological integrity and well-being, so as to give rise to the State's positive obligations under Article 8.

### [Y.C. v. the United Kingdom \(no. 4547/10\)](#)

13 March 2012

The applicant and her partner of several years had a son in 2001. In 2003 the family came to the attention of social services as a result of an "alcohol fuelled" incident between the parents. There were subsequent incidents of domestic violence and alcohol abuse which escalated from the end of 2007 with the police being called to the family home on numerous occasions. In June 2008 the local authority obtained an emergency protection order after the boy was injured during a further violent altercation between the parents. Childcare proceedings resulted in an order authorising the child to be placed for adoption. The applicant complained that the courts' refusal to order an assessment of her as a sole carer for her son and their failure to have regard to all relevant considerations when making the placement order had violated her rights under Article 8 (right to respect for private and family life) of the Convention.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention, finding that the reasons for the decision to make a placement order had been relevant and sufficient, and that the applicant had been given every opportunity to present her case and had been fully involved in the decision-making process. The Court found in particular that, in the light of the history of the case and the reports, the County Court judge's view that a resumption of the applicant's relationship with the father was likely and entailed a risk to the child's well-being did not appear unreasonable. Accordingly, while it was in a child's best interests that his or her family ties be maintained where possible, it was clear that in the instant case this consideration had been outweighed by the need to ensure the child's development in a safe and secure environment. In this regard the Court observed in particular that attempts had been made to rebuild the family through the provision of support for alcohol abuse and opportunities for parenting assistance. When the applicant indicated that she had separated from the child's father, she had further been given details of domestic violence support that she could access. It appeared, however, that she had not accessed such support and had ultimately reconciled with the child's father.

### [Kaluczka v. Hungary](#)

24 April 2012

The applicant unwillingly shared her apartment with her violent common-law husband pending numerous civil disputes concerning the ownership of the flat. She alleged in particular that the Hungarian authorities had failed to protect her from constant physical and psychological abuse in her home.

The Court concluded that the Hungarian authorities had failed to fulfil their positive obligations, in **violation of Article 8** (right to respect for private and family life) of the Convention. It found in particular that, even though the applicant had lodged criminal complaints against her partner for assault, had repeatedly requested restraining orders

to be brought against him and had brought civil proceedings to order his eviction from the flat, the authorities had not taken sufficient measures for her effective protection.

### **Kowal v. Poland**

18 September 2012 (decision on admissibility)

The applicant in this case complained that Poland had failed to fulfil its positive obligation to protect him, his younger brother and their mother from domestic violence by failing to take any steps in order to enforce the judicial decision ordering his father to leave the family apartment. The applicant further alleged that, as a result, he and his family had remained exposed to the father's violent behaviour despite the judicial injunction ordering him to leave the apartment.

The Court declared the application **inadmissible**, as being manifestly ill-founded. Having regard to the circumstances of the case seen as whole, it considered that it could not be said that the authorities' response to the conduct of the applicant's father had been manifestly inadequate with respect to the gravity of the offences in question. Nor could it be said that the decisions given in the case had not been capable of having a preventive or deterrent effect on the perpetrator's conduct. Similarly, it had not been found that the authorities had failed to view the applicant's situation and the domestic violence caused by his father as a whole and to respond adequately to the situation seen in its entirety, by, for instance, conducting numerous sets of proceedings dealing with separate instances of domestic violence.

### **Irene Wilson v. the United Kingdom**

23 October 2012 (decision on the admissibility)

This case concerned the complaint by a victim of domestic violence about the authorities' handling of the criminal proceedings against her husband for grievous bodily harm and her allegation that the suspended sentence given to him was too lenient.

The Court declared the application **inadmissible**, as being manifestly ill-founded, finding that the Northern Irish authorities had not failed in their duty to protect the applicant's rights under Article 8 (right to respect for private and family life) of the Convention. It observed in particular that the applicant only brought one complaint to the attention of the authorities: that incident was then promptly investigated, her husband arrested and charged and the ensuing criminal proceedings conducted with due expedition. The applicant had not made any other specific allegations of violence to the Court.

### **Eremia and Others v. the Republic of Moldova**

28 May 2013

See below, under "Prohibition of discrimination".

### **O.C.I. and Others v. Romania (no. 49450/17)**

21 May 2019 (Committee judgment)

After spending the summer holidays in Romania in 2015, the first applicant, a Romanian national, decided not to go back to her husband in Italy with their two children. Before the Court, the first applicant and her children complained about the order to return the children to Italy. They alleged in particular that the Romanian courts had failed to take into account the grave risk of mistreatment they faced at the hands of their father, which was one of the exceptions under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction to the principle that children should be returned to their habitual place of residence.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding that the Romanian courts had failed to give enough consideration to the grave risk of the applicant children being subjected to domestic violence when ordering their return to their father in Italy, which was one of the exceptions to the principle under international law that children should be returned to their habitual place of residence. The Court noted in particular that, even if there was mutual trust between Romania and Italy's child-protection authorities under EU law, that did not mean that Romania had been obliged to send the children back to

an environment where they were at risk, leaving it up to Italy to deal with any abuse if it reoccurred.

### **Levchuk v. Ukraine**

3 September 2020

This case concerned the applicant's complaint that the dismissal of an eviction claim against her ex-husband had exposed her and her children to the risk of domestic violence and harassment. She alleged that the domestic courts had been excessively formalistic in their decisions and had given her ex-husband a sense of impunity which had exposed her and her children to an even greater risk of psychological harassment and assault.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding that the response of the civil courts to the applicant's eviction claim against her former husband had not been in compliance with the State's positive obligation to ensure the applicant's effective protection from domestic violence. The Court considered in particular that the domestic judicial authorities had not conducted a comprehensive analysis of the situation and the risk of future psychological and physical violence faced by the applicant and her children. Furthermore, the proceedings had lasted over two years at three levels of jurisdiction, during which the applicant and her children remained at risk of further violence. The fair balance between all the competing private interests at stake had therefore not been struck.

### **I.M. and Others v. Italy (no. 25426/20)**

10 November 2022<sup>4</sup>

The applicants in this case, a mother and her two children, alleged that they had been the victims of domestic violence. They submitted in particular that the Italian State had failed in its duty to protect and assist them during contact sessions with the children's father, a drug addict and alcoholic accused of ill-treatment and threatening behaviour during the sessions. The mother also complained of being characterised as an "uncooperative parent" and of having her parental responsibility suspended accordingly, for the sole reason that she had sought to protect her children by highlighting the risk to their safety.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention in respect of both children, finding that they had been forced since 2015 to meet their father in conditions that did not provide a protective environment and that, despite the authorities' efforts to maintain the contact between them and their father, their best interest in not being compelled to meet in such conditions had been disregarded. The Court held that there had also been a **violation of Article 8** in respect of the children's mother. In that regard, it noted in particular that the domestic courts had failed to examine her situation with care and had decided to suspend her parental responsibility on the basis of her allegedly hostile attitude to contact and to shared parenting with the children's father, without taking into consideration all the relevant factors in the case. Hence, the Court found that the Youth Court and the Court of Appeal had not provided relevant and sufficient reasons to justify their decision to suspend the applicant's parental responsibility between May 2016 and May 2019.

### **Malagić v. Croatia**

17 November 2022

This case concerns the termination of precautionary measures imposed on the applicant's former husband, a police officer, who had allegedly committed acts of domestic violence or abuse against her and their children. The applicant submitted in particular that, by terminating the precautionary measures, the domestic authorities had

---

<sup>4</sup>. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the [European Convention on Human Rights](#).



failed to protect her without assessing whether her ex-husband still posed a danger to her and their children.

In the present case, the Court did not discern any failure on the part of the relevant authorities to fulfill their positive obligation to protect the applicant's physical integrity. In particular, they were aware of serious accusations against her former husband and had taken various types of appropriate measures at the appropriate times to protect the applicant's physical integrity, taking due account of the recurring nature of domestic violence. The Court therefore held that there had been **no violation of Article 8** (right to respect for private life) of the Convention in respect of the applicant.

## Confidentiality of correspondence and cyberbullying

### **Buturuță v. Romania**

11 February 2020

This case concerned allegations of domestic violence and of violation of the confidentiality of electronic correspondence by the former husband of the applicant, who complained of shortcomings in the system for protecting victims of this type of violence. The applicant complained in particular of the ineffectiveness of the criminal investigation into the domestic violence which she claimed to have suffered. She also complained that her personal safety had not been adequately secured, and criticised the authorities' refusal to consider her complaint concerning her former husband's breach of the confidentiality of her correspondence.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) **and Article 8** (right to respect for private life and correspondence) of the Convention on account of the State's failure to fulfil its positive obligations under those provisions. It found in particular that the national authorities had not addressed the criminal investigation as raising the specific issue of domestic violence, and that they had thereby failed to provide an appropriate response to the seriousness of the facts complained of by the applicant. The investigation into the acts of violence had been defective, and no consideration had been given to the merits of the complaint regarding violation of the confidentiality of correspondence, which was closely linked to the complaint of violence. On that occasion the Court lastly pointed out that cyberbullying was currently recognised as an aspect of violence against women and girls, and that it could take on a variety of forms, including cyber breaches of privacy, intrusion into the victim's computer and the capture, sharing and manipulation of data and images, including private data.

### **Volodina v. Russia (no. 2)**<sup>5</sup>

14 September 2021

This case concerned the applicant's allegation that the Russian authorities had failed to protect her against repeated acts of cyberharassment. She submitted, in particular, that her former partner had used her name, personal details and intimate photographs to create fake social media profiles, that he had planted a GPS tracker in her handbag, that he had sent her death threats via social media; and that the authorities had failed to effectively investigate these allegations.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention, finding that the Russian authorities had failed to comply with their obligations under that provision to protect the applicant from severe abuse. It noted, in particular, that, despite having the legal tools available to prosecute the applicant's partner, the authorities had not carried out an effective investigation and had not considered at any point in time what could and should have been done to protect the applicant from recurrent online harassment. The Court also observed that these findings mirrored those of a previous judgment concerning the same applicant, *Volodina v. Russia* (see below, under "Prohibition of discrimination"), in which the Court held that

<sup>5</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

the Russian authorities' response to the repeated acts of domestic violence had been manifestly inadequate.

## Protection of property (Article 1 of Protocol No. 1 to the Convention)

---

### **J.D. and A v. the United Kingdom (nos. 32949/17 and 34614/17)**

24 October 2019

See below, under "Prohibition of discrimination".

## Prohibition of discrimination (Article 14 of the Convention)

---

### **Opuz v. Turkey**

9 June 2009

The applicant and her mother were assaulted and threatened over many years by the applicant's husband, at various points leaving both women with life-threatening injuries. With only one exception, no prosecution was brought against him on the grounds that both women had withdrawn their complaints, despite their explanations that the husband had harassed them into doing so, threatening to kill them. He subsequently stabbed his wife seven times and was given a fine equivalent to about 385 euros, payable in instalments. The two women filed numerous complaints, claiming their lives were in danger. The husband was questioned and released. Finally, when the two women were trying to move away, the husband shot dead his mother-in-law, arguing that his honour had been at stake. He was convicted for murder and sentenced to life imprisonment but released pending his appeal, whereupon his wife claimed he continued to threaten her.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention concerning the murder of the applicant's mother and a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention concerning the State's failure to protect the applicant. It found that Turkey had failed to set up and implement a system for punishing domestic violence and protecting victims. The authorities had not even used the protective measures available and had discontinued proceedings as a "family matter" ignoring why the complaints had been withdrawn. There should have been a legal framework allowing criminal proceedings to be brought irrespective of whether the complaints had been withdrawn.

The Court also held – for the first time in a domestic violence case – that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention, **in conjunction with Articles 2 and 3**: it observed that domestic violence affected mainly women, while the general and discriminatory judicial passivity in Turkey created a climate that was conducive to it. The violence suffered by the applicant and her mother could therefore be regarded as having been gender-based and discriminatory against women. Despite the reforms carried out by the Turkish Government in recent years, the overall unresponsiveness of the judicial system and the impunity enjoyed by aggressors, as in the applicant's case, indicated an insufficient commitment on the part of the authorities to take appropriate action to address domestic violence.

### **A. v. Croatia (no. 55164/08)**

14 October 2010

See above, under "Right to respect for private and family life".

### **Eremia and Others v. the Republic of Moldova**

28 May 2013

The first applicant and her two daughters complained about the Moldovan authorities' failure to protect them from the violent and abusive behaviour of their husband and father, a police officer.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman and degrading treatment) of the Convention in respect of the first applicant in that, despite their knowledge of the abuse, the authorities had failed to take effective measures against her husband and to protect her from further domestic violence. It further held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention in respect of the daughters, considering that, despite the detrimental psychological effects of them witnessing their father's violence against their mother in the family home, little or no action had been taken to prevent the recurrence of such behaviour. Lastly, the Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 3** in respect of the first applicant, finding that the authorities' actions had not been a simple failure or delay in dealing with violence against her, but had amounted to repeatedly condoning such violence and reflected a discriminatory attitude towards the first applicant as a woman. In this respect, the Court observed that the findings of the United Nations Special Rapporteur on violence against women, its causes and consequences only went to support the impression that the authorities did not fully appreciate the seriousness and extent of the problem of domestic violence in the Republic of Moldova and its discriminatory effect on women.

See also: **B. v. the Republic of Moldova (no. 61382/09)** and **Mudric v. the Republic of Moldova**, judgments of 16 July 2013; **N.A. v. the Republic of Moldova (no. 13424/06)**, judgment of 24 September 2013; **T.M. and C.M. v. the Republic of Moldova**, judgment of 28 January 2014; **Munteanu v. the Republic of Moldova**, judgment of 26 May 2020.

### **Rumor v. Italy**

27 May 2014

The applicant complained that the authorities had failed to support her following the serious incident of domestic violence against her in November 2008 or to protect her from further violence. She alleged in particular that her former partner had not been obliged to have psychological treatment and continued to represent a threat to both her and her children. She further claimed that the reception centre chosen for his house arrest, situated just 15km from her home, had been inadequate, submitting that she had been intimidated twice by employees of the reception centre which was in breach of a court order prohibiting any form of contact with her former partner. Lastly, she alleged that these failings had been the result of the inadequacy of the legislative framework in Italy in the field of the fight against domestic violence, and that this discriminated against her as a woman.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman and degrading treatment) **alone and in conjunction with Article 14** (prohibition of discrimination) of the Convention. It found that the Italian authorities had put in place a legislative framework allowing them to take measures against persons accused of domestic violence and that that framework had been effective in punishing the perpetrator of the crime of which the applicant was victim and preventing the recurrence of violent attacks against her physical integrity.

### **M.G. v. Turkey (no. 646/10)**

22 March 2016

This case concerned the domestic violence experienced by the applicant during her marriage, the threats made against her following her divorce and the subsequent proceedings. In particular the applicant criticised the domestic authorities for failing to prevent the violence to which she had been subjected. She also complained of

permanent and systematic discrimination with regard to violence against women in Turkey.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the manner in which the Turkish authorities had conducted the criminal proceedings could not be considered as satisfying the requirements of Article 3. It noted in particular that the authorities had taken a passive attitude, in that the criminal proceedings had been opened more than five years and six months after the applicant had lodged a complaint against her husband and that the proceedings were apparently still pending. In this case, the Court also held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 3**, finding that after the divorce was pronounced (on 24 September 2007) and until the entry into force of a new Law (no. 6284) on 20 March 2012, the legislative framework in place did not guarantee that the applicant, a divorcée, could benefit from protection measures, and noted that for many years after applying to the national courts, she had been forced to live in fear of her ex-husband's conduct.

### **Halime Kılıç v. Turkey**

28 June 2016

This case concerned the death of the applicant's daughter, who was killed by her husband despite having lodged four complaints and obtained three protection orders and injunctions.

The Court held there had been a **violation of Article 2** (right to life) and a **violation of Article 14** (prohibition of discrimination) **taken together with Article 2** of the Convention. It found in particular that the domestic proceedings had failed to meet the requirements of Article 2 of the Convention by providing protection for the applicant's daughter. By failing to punish the failure by the latter's husband to comply with the orders issued against him, the national authorities had deprived the orders of any effectiveness, thus creating a context of impunity enabling him to repeatedly assault his wife without being called to account. The Court also found it unacceptable that the applicant's daughter had been left without resources or protection when faced with her husband's violent behaviour and that in turning a blind eye to the repeated acts of violence and death threats against the victim, the authorities had created a climate that was conducive to domestic violence.

### **Talpis v. Italy**

2 March 2017

See above, under "Right to life".

See also: **M.S. v. Italy (no. 32715/19)**, judgment of 7 July 2022, where the Court, taking note in particular of the fact that since 2017 and the adoption of the judgment in *Talpis*, Italy had taken steps to implement the Istanbul Convention, thereby demonstrating a genuine political commitment to preventing and tackling violence against women, concluded that the failings complained of in the present case stemming from the authorities' failure to act, while undoubtedly reprehensible and contrary to Article 3 of the Convention, could not be deemed in themselves to disclose a discriminatory attitude on the part of the authorities, and therefore declared inadmissible, as being manifestly ill-founded, the applicant's complaint under Article 14 (prohibition of discrimination) of the Convention taken in conjunction with Article 3.

### **Bălşan v. Romania**

23 May 2017

The applicant alleged that the authorities had failed to protect her from repeated domestic violence and to hold her husband accountable, despite her numerous complaints. She also submitted that the authorities' tolerance of such acts of violence had made her feel debased and helpless.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention because of the authorities' failure to adequately

protect the applicant against her husband's violence, and a **violation Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 3** because the violence had been gender-based. The Court noted in particular that the applicant's husband had subjected her to violence and that the authorities had to have been well aware of that abuse, given her repeated calls for assistance to both the police as well as the courts. Furthermore, although there was a legal framework in Romania with which to complain about domestic violence and to seek the authorities' protection, which the applicant had made full use of, the authorities had failed to apply the relevant legal provisions in her case. The authorities even found that the applicant had provoked the domestic violence against her and considered that it was not serious enough to fall within the scope of the criminal law. Such an approach had deprived the national legal framework of its purpose and was inconsistent with international standards on violence against women. Indeed, the authorities' passivity in the current case had reflected a discriminatory attitude towards the applicant as a woman and had shown a lack of commitment to address domestic violence in general in Romania.

### **Volodina v. Russia**<sup>6</sup>

9 July 2019

This case concerned the applicant's complaint that the Russian authorities had failed to protect her from repeated domestic violence, including assaults, kidnapping, stalking and threats. She also alleged that the current legal regime in Russia was inadequate for dealing with such violence and discriminatory against women.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the applicant had been both physically and psychologically ill-treated by her former partner and that the Russian authorities had failed to comply with their obligations under the Convention to protect her from his abuse. It also held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 3**. In this respect, the Court noted in particular that domestic violence was not recognised in Russian law and that there was no such thing as restraining or protection orders. Those failings clearly demonstrated that the authorities were reluctant to acknowledge the gravity of the problem of domestic violence in Russia and its discriminatory effect on women.

### **J.D. and A v. the United Kingdom (nos. 32949/17 and 34614/17)**

24 October 2019

The second applicant in this case, being at risk of extreme domestic violence, was included in a "Sanctuary Scheme", which also meant that there were some adaptations to her property (including the installation of a "panic room" in the attic for herself and her son with whom she lived in a three bedroom house). She submitted that new rules on housing benefit in the social housing sector (informally known as "the bedroom tax") discriminated against her because of her particular situation as a victim of gender based violence.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 1** (protection of property) **of Protocol No. 1** in respect of the second applicant. It noted in particular that the regulation's aim to encourage people to move was in conflict with the Sanctuary Scheme's goal of allowing victims of gender based violence to stay in their homes. The impact of treating the second applicant in the same way as others subject to the new housing benefit rules was therefore disproportionate as it did not correspond to the legitimate aim of the measure. Moreover, the UK Government had not provided any weighty reasons to justify prioritising the aim of the scheme over that of enabling victims of domestic violence to remain in their homes.

---

<sup>6</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

### **Tkheldze v. Georgia**

8 July 2021

This case concerned the Georgian authorities' alleged failure to protect the applicant's daughter from domestic violence and to conduct an effective investigation into the matter. The applicant submitted that the police had been aware of the danger posed to her daughter's life, but had failed to take the necessary preventive measures. In particular, their response to the numerous complaints she and her daughter had made had been inappropriate and discriminatory.

The Court held that there had been a **violation of Article 2** (right to life) **taken in conjunction with Article 14** (prohibition of discrimination) of the Convention, finding that the Georgian State had failed to comply with its obligations to protect the life of the applicant's daughter and to carry out an effective investigation into her death. It noted, in particular, that the police had to have been aware that the applicant's daughter had been in danger. Despite the various protective measures that they could have implemented, they had failed to prevent gender-based violence against her, which culminated in her death. The Court found that the police inaction could be considered a systemic failure. There was a pressing need to conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had been behind the police's lack of action.

### **Tunikova and Others v. Russia**<sup>7</sup>

14 December 2021

See above, under "Prohibition of inhuman or degrading treatment".

### **A and B v. Georgia (no. 73975/16)**

10 February 2022

This case concerned the murder of the daughter and mother, respectively, of the two applicants, by the second applicant's father, a police officer, following a troubled relationship. It also concerned the ensuing investigation. The applicants complained, in particular, of a failure on the part of the authorities to protect their relative from domestic violence and to conduct an effective investigation.

The Court held that there had been a **violation of Article 2** (right to life) **taken in conjunction with Article 14** (prohibition of discrimination) of the Convention in the present case. It found that, overall, the case could be seen as yet another vivid example of how general and discriminatory passivity of the law-enforcement authorities in the face of allegations of domestic violence could create a climate conducive to a further proliferation of violence committed against victims, merely because they were women. The Court noted in particular that, despite the various protective measures available, the authorities had not prevented gender-based violence against the applicants' next-of-kin, which had culminated in her death, and they had compounded that failure with an attitude of passivity, even accommodation, as regards the alleged perpetrator, later convicted of the victim's murder.

## Further reading

---

See also the Council of Europe **"Action Against Violence Against Women and Domestic Violence"** webpage.

---

### **Media Contact:**

Tel.: + 33 (0)3 90 21 42 08

---

<sup>7</sup>. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.