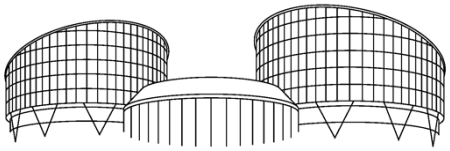

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

# CASE OF MUNTEANU v. THE REPUBLIC OF MOLDOVA

*(Application no. 34168/11)*

JUDGMENT

Art 3 (substantive) • Domestic violence • Article 3 applicable in respect of both severely injured victim and her child (who witnessed the attacks and was also assaulted) • Lack of prompt reaction by authorities, especially as regards enforcement of protection orders Art 14 (+3) • Discrimination • Condonation of domestic violence by domestic authorities reflecting a discriminatory attitude towards first applicant as a woman

STRASBOURG

26 May 2020

**FINAL**

26/08/2020

*This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.*

**In the case of Munteanu v. the Republic of Moldova,**

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

Robert Spano, *President,*
Marko Bošnjak,
Valeriu Griţco,
Ivana Jelić,
Arnfinn Bårdsen,
Saadet Yüksel,
Peeter Roosma, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 24 March 2020,

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

# PROCEDURE

1. The case originated in an application (no. 34168/11) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Moldovan nationals, Ms Rodica Munteanu and Mr Cristian Munteanu ("the applicants"), on 1 June 2011.

2. The applicants, who had been granted legal aid, were represented by Ms D. Străisteanu, a lawyer practising in Chișinău. The Moldovan Government ("the Government") were represented successively by their Agents, Mr L. Apostol and R. Revencu.

3. The applicants alleged, in particular, that the authorities had condoned the domestic violence against them, and that the first applicant had been subjected to discrimination.

4. On 3 January 2012 the Government were given notice of the application.

# THE FACTS

## I. THE CIRCUMSTANCES OF THE CASE

5. The first applicant was born in 1971. The second applicant was born in 1998 and is the first applicant's son. They both live in Durlești.

6. The facts of the case, as submitted by the parties, may be summarised as follows.

7. At the time of the events the first applicant was married to I.M. After I.M. lost his job, he started drinking heavily, became violent towards the applicants and sold items from the family home in order to purchase alcohol.

### A. Domestic violence against the applicants and the measures taken in response to their complaints

8. On 27 August 2007 I.M. severely beat the first applicant, which resulted in her being in hospital for three weeks. The violence, both verbal and physical – she was punched and hit with various objects – continued thereafter. The second applicant was allegedly also regularly beaten and insulted, and would often go to his friends' houses to prepare for school or simply stay away from the trouble at home and avoid further violence being used against him.

9. On 18 April 2011 the first applicant asked the police to take action against I.M., who had assaulted her. The police instead fined her, because I.M. had already called the police that weekend to complain that she had verbally and physically attacked him. The first applicant explained that she had been out of the city over the weekend. She added that, in any event, it was difficult for anyone to imagine that she could assault a man weighing 120 kilograms.

10. After being beaten again on 19 April 2011, the first applicant called the police and an officer spoke to I.M.

11. On 21 April 2011 the first applicant applied for a protection order. On 3 May 2011 the Buiucani District Court ("the District Court") issued an order requiring I.M. to leave the family home for ninety days and not approach the applicants. On the same day the order was forwarded to the local police, the Buiucani Social Welfare Agency and the Buiucani Agency for the Protection of the Rights of Children.

12. On 11 May 2011 the police officer responsible for the case informed the applicants that he had informed I.M. of the protection order on 6 May 2011 and warned him against any further abuse. I.M. left the same day.

13. However, I.M. returned home the next day and refused to move out. The first applicant made several calls to the police, who spoke to I.M. but did nothing to remove him from the house.

14. On 19 May 2011 the applicants' lawyer asked the Buiucani prosecutor's office to launch a criminal investigation against I.M. for domestic violence and to ensure that the protection order was enforced.

15. On 20 May 2011 the applicants' lawyer asked the Buiucani Social Welfare Agency to assess I.M. in order to verify whether he had an alcohol problem.

16. On 24 May 2011 the first applicant was again insulted and pushed by I.M. When she called the local police, she was allegedly told by an officer that he was tired of the applicants' family's problems and would not be giving her any assistance.

17. On 25 May 2011 the first applicant was invited to the Buiucani Social Welfare Agency, where two social workers allegedly told her to "be nice" to her husband to keep their family together.

18. On 26 May 2011 the first applicant made a complaint against the two social workers for victimising a victim of domestic violence. She made a further complaint the same day to the Ministry of Internal Affairs about the behaviour of the officer who had refused her assistance on 24 May 2011.

19. On 26 June 2011 I.M. beat the first applicant again. A forensic report of 27 June 2011 concluded that she had injuries on her torso, left shoulder and left leg. She called the police, but the officer who came did not take any measures and only took notes, asking the two of them to calm down and stop causing trouble. There was no reaction when she reminded the officer that the protection order of 3 May 2011 was still in force and that I.M. was still in the family home. She made a complaint about the behaviour of the police officer on 28 June 2011. On 6 July 2011 the Buiucani police replied that they could not take a decision concerning a complaint of domestic violence pending a court decision on the matter.

20. On 2 and 3 July 2011 I.M. again beat the first applicant and lightly cut her right arm with a knife. A medical report of 5 July 2011 concluded that she had injuries on the left side of her torso, her right arm and her head, including a knife wound. She called the police, but the officer who came only took notes and left. She submitted a complaint on 6 July 2011 about the officer's attitude. She also asked the police to initiate a criminal investigation for domestic violence.

21. On 21 July 2011 the first applicant applied to the District Court for another protection order, this time within the criminal proceedings started on 14 July 2011 (see paragraph 41 below). Since the court did not adopt a decision within twenty-four hours as prescribed by law, she sent it again. On 29 July 2011 the District Court rejected the request, stating that since the case file was with the prosecutor's office, the applicants had to ask it to make the relevant request to the court.

22. On 3 August 2011 the first applicant lodged another request for a protection order with the District Court. The request was allowed the same day, and I.M. was ordered to leave the family home and not approach or contact the applicants.

23. On the same date the applicants' lawyer asked for criminal proceedings to be initiated against two prosecutors (M.P. and C.V.) who, in her opinion, were responsible for failing to enforce the protection order of 3 May 2011 and inform the applicants of the measures taken to date.

24. On the same date the applicants' lawyer was informed, further to a request by her, that from March to July 2011 ten calls had been made from the family home to the local police. On the same day the Buiucani police were informed by a specialist medical facility that I.M. had been registered with them since 2010 as a chronic alcoholic.

25. On 5 August 2011 the first applicant asked the Buiucani police to inform her how the protection order of 3 August 2011 was being enforced, notably who was responsible for its enforcement and what action had been

taken in that regard. On 7 September 2011 she was informed that on 11 August 2011 the local police had gone to the family home and informed I.M. of the protection order of 3 August 2011. They had also warned him not to breach the order and evicted him.

26. On 7 October 2011 the District Court fined I.M. 1,000 Moldovan lei (MDL – approximately 62 euros (EUR)) for failing to abide by the protection order.

27. On 31 October 2011 the District Court issued a new protection order in favour of the applicants. The first applicant complained about the non-enforcement of the order on 27 and 29 December 2011, as well as on 4 and 11 January 2012.

28. On 5 December 2011 the divorce between the first applicant and I.M. was pronounced by the District Court. It was decided that the second applicant would live with his mother, the first applicant.

29. On 2 February 2012 the first applicant applied for a new protection order. The District Court allowed the request the same day.

30. On 8 February 2012 Amicul (part of the National Centre for the Prevention of Child Abuse) issued a psychological report concerning the second applicant, finding that he suffered from post-traumatic stress disorder.

31. On 19 March 2012 the first applicant applied for a new protection order. She submitted copies of her complaints of domestic violence after I.M.'s conviction on 2 March 2012 (see paragraph 46 below). The District Court issued a protection order the same day, and the judge recommended that the first applicant look for alternative accommodation until the division of the couple's property had taken place.

32. On 8 May 2012 I.M. came home drunk and beat up the first applicant. She called the police, but the officers were allegedly unable to do anything. That evening I.M. called the police and complained that he had been beaten by the first applicant. They both had bruises confirmed by medical reports.

33. On 18 May 2012 the first applicant applied for and obtained a new protection order for ninety days ordering I.M. to leave the family home and not approach the applicants. That evening I.M. hit the applicant in the face, fracturing her lower jaw, as subsequently established in a medical report filed between 21 and 25 May 2012. According to the first applicant, this happened right after the police had left without doing anything. She screamed and the officers then returned and took I.M. to the police station.

34. In response to a request by I.M., on 29 May 2012 the District Court issued a protection order in his favour, valid for thirty days. The judge referred to the fact that a criminal investigation had been opened against the first applicant for causing bodily harm to I.M. on 8 May 2012. The protection order was extended by another thirty days on 12 July 2012. On

14 August 2012 the first applicant was charged, but on 28 December 2012 the charges were dropped.

35. On 30 May 2012 the first applicant complained about the inaction of the police officers in allowing I.M. to remain in the family home on 18 May 2012.

36. On 15 July 2012 I.M. beat up the first applicant, as confirmed by a medical report of 27 July 2012.

37. During the criminal proceedings against I.M., on 23 July 2012 the first applicant applied for and obtained a court order changing the preventive measure against I.M. into custody.

38. Following a request by the first applicant, on 5 December 2012 the District Court deprived I.M. of his parental rights over the second applicant. The court referred to the second applicant's statements that his father had been violent and insulting and had driven him out of his own home. His statements were supported by the local social services and a psychologist, who established that the second applicant was suffering emotional stress and a high level of anxiety and fear, provoked by his powerlessness against his father's violent behaviour. Specific examples were given, such as an incident when I.M. had hit the second applicant on the head with a hammer, stabbed him with a fork and jammed his fingers in the door.

39. On 11 December 2014 and on 5 August 2015 the District Court issued two new protection orders, valid for ninety days, ordering I.M. not to approach the applicants.

### B. Criminal proceedings against I.M. and subsequent violence

40. On 2 and 16 June 2011 the first applicant asked for criminal proceedings to be initiated against I.M. for domestic violence. She updated her request on 6 July 2011, referring to new instances of abuse by I.M. on 26 June, 2 and 3 July 2011.

41. On 14 July 2011 a prosecutor initiated criminal proceedings against I.M. for causing bodily harm (medium gravity injuries) to the first applicant on 27 August 2007.

42. On 17 July 2011 the prosecutor refused to open an investigation against I.M. for domestic violence. That decision was upheld by a higher-ranking prosecutor on 11 August 2011. On 23 September 2011 the District Court annulled both decisions and sent the case back to the prosecutor's office.

43. On 21 July 2011 the first applicant complained that criminal proceedings should not only have been brought against I.M. for causing bodily harm, as there was ample evidence of systematic abuse on his part amounting to domestic violence. She asked that I.M. be prosecuted for domestic violence in addition to causing bodily harm. She also complained that on 13 and 15 May 2011 proceedings had been initiated against I.M. for

administrative offences for not observing the protection order but that the courts had not yet taken a decision. On 2 August 2011 the prosecutor's office replied that because I.M.'s actions had been properly assessed as causing bodily harm, there was no need to reclassify his actions. It added that since the case was already with the first-instance court, all requests had to be addressed there.

44. On 4 August 2011 the first applicant again asked that a criminal investigation be initiated against I.M. for domestic violence. She repeated her request on 22 August 2011.

45. On 26 October 2011 the prosecutor's office initiated criminal proceedings against I.M. for domestic violence.

46. On 2 March 2012 the District Court convicted I.M. of causing bodily harm to the first applicant and sentenced him to one year's imprisonment, suspended for one year. It also ordered him to pay the first applicant compensation of MDL 500 (EUR 32).

47. On 15 March 2012 the prosecutor charged I.M. with several counts of domestic violence, relating to incidents occurring on 26 June and 2, 3 and 6 July 2011.

48. On 22 February 2013 the District Court convicted I.M. of domestic violence and making death threats to the first applicant, as well as for failing to abide by the court orders. He was sentenced to one year and two months' imprisonment and ordered to pay the first applicant MDL 7,000 (EUR 437) and the second applicant MDL 3,000 (EUR 187) in compensation. The court held that it was an aggravating factor that I.M. had already been convicted for bodily harm against the first applicant and had not changed his behaviour. It also held that "the immorality of the victim's actions, who [had] provoked the offence" was a mitigating factor. In determining the amount of damages to be paid by I.M., the court noted that the first applicant was also responsible for victimising the second applicant.

49. The applicants appealed, disagreeing with the imposition of the minimum sentence on I.M. and the court's reference to the first applicant's "immoral actions".

50. On 15 April 2013 the Chișinău Court of Appeal quashed the judgment of 22 February 2013 in part. It found I.M. guilty and sentenced him to two years' imprisonment, ordering him to pay each of the applicants MDL 10,000 (EUR 620) in compensation. The court stated in its decision, *inter alia*, that the first applicant had provoked I.M.'s violence, including by her failure to leave the family home after the protection order was adopted in favour of I.M.

51. In July 2014 I.M. was released from prison.

52. On 14 September 2015 a prosecutor initiated a criminal investigation against I.M. for violence against the first applicant on 23 July 2015, referring to an ecchymosis and skin abrasion documented in a medical report dated 25 July 2015. In rejecting the investigator's proposal not to

initiate a criminal investigation, the prosecutor stated that the information gathered to date indicated that there was evidence of domestic violence. He added that "in order to ensure an efficient investigation and thus establish the objective truth, it is necessary to use all the evidentiary means provided by the Code of Criminal Procedure, something which can be done only within a criminal investigation." The investigation was eventually discontinued on 31 October 2016.

53. On 15 December 2016 I.M. died.

## II. RELEVANT MATERIALS

54. The relevant provisions of domestic law and international materials are summarised in *Eremia v. the Republic of Moldova* (no. 3564/11, §§ 29-37, 28 May 2013) and *Volodina v. Russia* (no. 41261/17, §§ 54-59, 9 July 2019).

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

55. The applicants complained that the authorities had ignored the domestic abuse to which they had been subjected, and had failed to enforce the binding court orders designed to offer them protection. They relied on Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

### A. Admissibility

56. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

#### *1. The parties' submissions*

##### (a) The applicants

57. The applicants argued that the State had failed to discharge its positive obligation under Article 3 of the Convention to protect them from domestic violence and prevent its recurrence. They argued that the authorities had been fully aware of the numerous instances of violence by I.M. against the first applicant, as evidenced by the numerous complaints supported by medical reports. Despite that knowledge, the authorities had

allowed the repeated instances of domestic violence to occur, notably by not taking effective steps to enforce the protection orders issued by the courts. They had also taken no steps to shield the second applicant from the psychological harm of witnessing his mother being ill-treated.

**(b) The Government**

58. The Government submitted that domestic violence was a punishable offence, and that protection centres had been set up for victims. In the present case, the authorities had taken all reasonable measures to protect the applicants from the risk of violence and prevent it from recurring. In particular, social services and the local police had periodically monitored the situation in the troubled family, the courts had issued a number of protection orders and the police had enforced them. When it had been established that I.M. had refused to abide by some of the protection orders, he had received an administrative fine (see paragraph 26 above). The authorities could not be held responsible for violence which they could not have foreseen. Notably, before 3 May 2011 there had been no information available to the authorities to show that the applicants were at risk of violence. The authorities had reacted promptly to the applicants' complaints when violence had taken place, and had thus taken all possible and reasonable measures.

59. They argued that the applicant had not been subjected to treatment contrary to Article 3 of the Convention. She had not sustained serious repeated ill-treatment as had been the case in other cases in which the Court had found a breach of the positive obligation to prevent violence between private individuals.

*2. The Court's assessment*

**(a) General principles**

60. The Court reiterates that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim (see *Z.A. and Others v. Russia* [GC], no. 61411/15 and 3 others, § 181, 21 November 2019).

61. Once it has been shown that treatment reached the threshold of severity triggering the protection of Article 3 of the Convention, the Court has to examine whether the State authorities have discharged their positive obligations under Article 1 of the Convention, read in conjunction with Article 3, to ensure that individuals within their jurisdiction are protected against all forms of ill-treatment, including where such treatment is administered by private individuals (see *Volodina*, cited above, § 76).

62. These positive obligations, which are interlinked, include:

(a) the obligation to establish and apply in practice an adequate legal framework affording protection against ill-treatment by private individuals;

(b) the obligation to take reasonable measures that might have been expected in order to avert a real and immediate risk of ill-treatment of which the authorities knew or ought to have known; and

(c) the obligation to conduct an effective investigation when an arguable claim of ill-treatment has been raised (see *Bevacqua and S. v. Bulgaria,* no. 71127/01, § 65, 12 June 2008; *Opuz v. Turkey*, no. 33401/02, § 144-55 and 162-65, ECHR 2009; *Eremia*, cited above, §§ 49-52 and 56; *Talpis v. Italy*, no. 41237/14, §§ 100-106, 2 March 2017; *Bălşan v. Romania*, no. 49645/09, § 57, 23 May 2017; and *Volodina*, cited above, §§ 76 and 77).

63. Interference by the authorities with private and family life may become necessary in order to protect the health and rights of a person or to prevent criminal acts in certain circumstances (see *Opuz*, cited above, § 144). This requires States to maintain and apply in practice an adequate legal framework affording protection against acts of violence by private individuals (see *M.C. v. Bulgaria*, cited above, §§ 150 and 152, ECHR 2003-XII; *Bevacqua*, cited above; § 65, *Sandra Janković v. Croatia*, no. 38478/05, § 45, 5 March 2009, and *Nicolae Virgiliu Tănase*, cited above, § 127).

**(b) Application of these principles in the present case**

*(i) Whether the applicants were subjected to treatment contrary to Article 3 of the Convention*

64. In the present case, it is apparent from the material in the case file that the first applicant suffered a number of assaults at the hands of her former husband (see paragraphs 8-10, 16, 19, 20, 32, 33, 36 and 52 above). Some of her injuries were quite serious, such as a knife wound and a broken jaw (see paragraphs 20 and 33 above), while others were caused with such frequency as to represent, in the Court's view, systematic ill-treatment that was interrupted only while I.M. was in prison.

65. Moreover, the fear of further assaults was sufficiently serious to cause the first applicant to experience suffering and anxiety amounting to inhuman treatment within the meaning of Article 3 of the Convention (see *Gäfgen v. Germany* [GC], no. 22978/05, § 108, ECHR 2010, and *Eremia*, cited above, § 54).

66. It is also apparent that the second applicant not only suffered as a result of witnessing the violence against his mother, but was himself also physically assaulted by his father (see paragraphs 30 and 38 above).

67. In such circumstances, the Court finds that Article 3 of the Convention is applicable to the present case. It must therefore determine

whether the authorities' actions in response to the applicants' complaints complied with the requirements of that provision.

*(ii) Whether the authorities complied with their positive obligations under Article 3 of the Convention*

68. As mentioned above (see paragraphs 60-63 above), the States' positive obligations under Article 3 include, on the one hand, setting up a legislative framework aimed at preventing and punishing ill-treatment by private individuals and, on the other hand, when aware of an imminent risk of ill-treatment of an identified individual or when ill-treatment has already occurred, applying the relevant laws in practice, thus affording protection to the victims and punishing those responsible for ill-treatment.

69. As to the first obligation, the Court notes its previous finding that the authorities have put in place a legislative framework allowing them to take measures against persons accused of domestic violence (see *Eremia*, cited above, § 57; *Mudric v. the Republic of Moldova*, no. 74839/10, § 48, 16 July 2013; *B. v. the Republic of Moldova*, no. 61382/09, § 50, 16 July 2013; and *T.M. and C.M. v. the Republic of Moldova*, no. 26608/11, § 44, 28 January 2014).

70. The Court reiterates that the State authorities have a responsibility to take protective measures in the form of effective deterrence against serious breaches of an individual's personal integrity by a member of her family or by a partner (see *M. and Others v. Italy and Bulgaria*, no. 40020/03, § 105, 31 July 2012, and *Opuz*, cited above, § 176). Interference by the authorities with private and family life may become necessary in order to protect the health and rights of a victim or to prevent criminal acts in certain circumstances (see *Opuz*, § 144, and *Eremia*, § 52, both cited above). The risk of a real and immediate threat must be assessed, taking due account of the particular context of domestic violence. In such a situation, it is not only a question of an obligation to afford general protection to society, but above all to take account of the recurrence of successive episodes of violence within a family (see *Talpis*, cited above, § 122, and *Volodina*, cited above, § 86). The Court has found in many cases that, even when the authorities did not remain totally passive, they still failed to discharge their obligations under Article 3 of the Convention because the measures they had taken had not stopped the abuser from perpetrating further violence against the victim (see *Bevacqua and S.*, cited above, § 83; *Opuz*, cited above, §§ 166-67; *Eremia,* cited above, §§ 62-66; and *B. v. the Republic of Moldova*, no. 61382/09, § 53, 16 July 2013).

71. The Court considers that the authorities were well aware of I.M.'s violent behaviour owing to the numerous complaints made by the first applicant, supported in some cases by medical evidence, as well as the protection orders issued by the courts. In this latter connection, it appears that none of the protection orders was fully enforced, because I.M. returned

home after a while every time and the police more often than not did nothing to remove him (see, for instance, paragraphs 13, 16, 19, 20, 27, 32 and 33 above).

72. It also notes an instance where the first applicant asked for police assistance and reminded the officer that I.M. was still under an obligation to leave the family home following a protection order adopted earlier. Nonetheless, the officer did nothing to remove I.M. and thus prevent the risk of further violence (see paragraph 19 above). Moreover, one of the most serious instances of violence occurred on 18 May 2012 immediately after the police had left and while they were still nearby (see paragraph 33 above). This incident not only resulted in the first applicant being seriously injured but also showed I.M.'s particular disregard for the ordinary measures taken by the police such as preventive discussions or the ban on approaching the applicants. Nevertheless, it took the authorities more than two months to adopt more decisive actions against I.M. (his arrest on 23 July 2012, at the applicant's request, see paragraph 37 above). This allowed I.M. to commit further violence on 15 July 2012 (see paragraph 36 above).

73. It is apparent that despite the numerous complaints and protection orders adopted, the authorities did very little to effectively protect the applicants from the constant risk of violence, as became increasingly clear after each instance of ill-treatment and breach of the protection orders (see *Eremia*, cited above, § 59). The fine imposed for breaching one of the protection orders (see paragraph 26 above) and the preventive discussions with I.M. clearly had no effect on his behaviour. Moreover, it is striking that, against the background of I.M.'s repeated domestic violence against the applicants, the authorities adopted an order to protect I.M. and ordered the first applicant to leave home, while later partly blaming her for provoking violence against herself by failing to leave home (see paragraph 34 above).

74. The above is sufficient for the Court to conclude that the authorities did not properly discharge their positive obligation to prevent the real and immediate threat of domestic violence against the applicants. There has, accordingly, been a breach of Article 3 of the Convention in the present case.

## II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION READ IN CONJUNCTION WITH ARTICLE 3 OF THE CONVENTION

75. The first applicant also complained under Article 14 of the Convention in conjunction with Articles 3 and 8 that the authorities had failed to apply the domestic legislation intended to afford protection from

domestic violence, as a result of preconceived ideas concerning the role of women within the family.

76. The Court decides to examine the complaint only under Article 14 of the Convention in conjunction with Article 3, the other complaint being absorbed by the one examined below.

Article 14 reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

### A. Admissibility

77. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

78. The first applicant submitted that she had suffered discrimination based on her gender, since domestic violence affected mostly women. The domestic authorities had condoned such violence and in the present case had not intervened promptly, delaying enforcement of the protection orders and allowing them to be breached. In other words, they had failed to exercise due diligence in protecting her against domestic violence. Moreover, she had been victimised by various authorities, who had partly blamed her for the violence which she had suffered.

79. The Government argued that there had been no discriminatory treatment in the present case. Unlike in the case of *Opuz* (cited above), the authorities had not been inactive in respect of the first applicant's complaints and had taken all reasonable action to prevent her ill-treatment, which had eventually resulted in I.M.'s criminal prosecution.

80. The Court reiterates that it has already found that domestic violence affects mainly women and that the general attitude of the local authorities – such as the manner in which the women are treated at police stations when they report domestic violence and judicial passivity in providing effective protection to victims - creates a climate that is conducive to domestic violence (see *Volodina*, cited above, § 113). Accordingly, the State's failure to protect women from domestic violence breaches their right to equal protection of the law and that this failure does not need to be intentional (see *Opuz*, § 191, and *Eremia*, § 85, both cited above).

81. In the present case, the Court refers to its findings (see paragraphs 71 *et seq*. above) that the first applicant was subjected to violence from her former husband on a number of occasions and that the authorities were well

aware of the situation. It observes that the applicant made formal complaints against the police and social workers for not treating her complaints seriously enough (taking notes but no action, refusing assistance and so forth) and trying to convince her to keep the family together by "being nice" to I.M. (see paragraphs 16, 17, 19, 20, 27, 33 and 43 above). Moreover, in some of their judgments the courts referred to "the immorality of the victim's actions, who [had] provoked the offence", stating that the first applicant had provoked I.M.'s violence (see paragraphs 48 and 50 above).

82. In the Court's opinion, the combination of the above factors clearly demonstrates that the authorities' actions were not a simple failure or delay in dealing with violence against the first applicant, but in fact condonation of that violence, reflecting a discriminatory attitude towards her as a woman. The findings of the United Nations Special Rapporteur on violence against women, its causes and consequences (for details of the report concerning her visit to Moldova between 4 and 11 July 2008, see *Eremia*, cited above, § 37) only support the impression that, at the time of the events, the authorities did not fully appreciate the seriousness and extent of the problem of domestic violence in Moldova and its discriminatory effect on women.

83. Accordingly, the Court finds that there has been a violation of Article 14 in conjunction with Article 3 of the Convention in respect of the first applicant.

## III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

84. The Court raised, of its own motion, the issue of whether the circumstances of the case disclosed a breach of Article 13 of the Convention. It notes that the applicants did not make a complaint under this provision or submit any observations in this regard.

85. Having examined the material in the case file, the Court considers it unnecessary to to address the matter or pursue it further (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 131 et seq., 20 March 2018, and *T.M. and C.M. v. the Republic of Moldova*, cited above, § 52).

## IV. ALLEGED VIOLATION OF ARTICLE 17 THE CONVENTION

86. Lastly, the applicants complained under Article 17 of the Convention that the authorities' failure to curb I.M.'s violent behaviour had allowed him to continue to infringe their rights with impunity, effectively destroying their Convention rights. Article 17 reads as follows:

> "Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction

> of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

87. Having examined the material in the case file, the Court considers that this complaint is unsubstantiated. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

## V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

88. 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."

89. The applicants each claimed 20,000 euros (EUR) in respect of non-pecuniary damage. They referred to the lengthy period (2011 to 2016, with an interruption while I.M. was in prison) during which they had been systematically subjected to domestic violence without any protection from the authorities.

90. The Court notes that, within the time-limit set by the Registry, the applicants' representative failed to submit any claims for just satisfaction. Moreover, she did not ask for an extension of that time-limit, or give any reasons for the failure to make such claims. Her subsequent, unsolicited and late claims were not accepted to the file and shall not be examined.

91. Accordingly, the Court makes no award in this respect (see, for instance, *Siredzhuk v. Ukraine*, no. 16901/03, § 96, 21 January 2016 and *Balakin v. the Republic of Moldova*, no. 5947/11, § 26, 26 January 2016).

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 17 inadmissible and the remainder of the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention in respect of both applicants;

3. *Holds* that there has been a violation of Article 14 of the Convention read in conjunction with Article 3;

4. *Dismisses* the applicants' claim for just satisfaction.

Done in English, and notified in writing on 26 May 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Stanley Naismith | Robert Spano |
| Registrar | President |