



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

FIFTH SECTION

CASE OF OGHlishvili v. GEORGIA

(Application no. 7621/19)

JUDGMENT

Art 2 (procedural) • Lack of effective investigation into the alleged suicide of the applicant's daughter in a domestic violence context • Failure to explore adequately all credible lines of inquiry • Significant period of unjustified inactivity fully attributable to investigative authority • Consequent expiry of limitation period for criminal liability stripping continuing investigation of any possible utility and thus any potential effectiveness • Investigative authority's non-compliance with requirement to display particular diligence and vigour when investigating a case involving violence against women could be read as sheer unwillingness to establish the truth

Prepared by the Registry. Does not bind the Court.

STRASBOURG

4 July 2024

FINAL

04/10/2024

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

In the case of Oghlishvili v. Georgia,

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

Mattias Guyomar, *President*,
Lado Chanturia,
Carlo Ranzoni,
Mārtiņš Mits,
Stéphanie Mourou-Vikström,
Kateřina Šimáčková,
Stéphane Pisani, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 7621/19) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Georgian national, Ms Nana Oghlishvili (“the applicant”), on 29 January 2019;

the decision to give notice to the Georgian Government (“the Government”) of the application;

the parties’ observations;

Having deliberated in private on 11 June 2024,

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

INTRODUCTION

1. The case concerns the respondent State’s alleged failure to protect the applicant’s daughter, E.N., from domestic violence and to conduct an effective investigation into her death. The applicant brought her complaints under Articles 2, 3 and 13 of the Convention.

THE FACTS

2. The applicant was born in 1964 and lives in the village of Kalauri, Gurjaani District, Georgia. She was represented by Mr A. Merebashvili, a lawyer practising in Georgia.

3. The Government were represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice.

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

I. CIRCUMSTANCES PRECEDING THE DEATH OF THE APPLICANT’S DAUGHTER ON 18 OCTOBER 2017

5. E.N., the applicant’s daughter, was married to R.G. and had been living with him in his family house in the village of Shilda, together with their daughter and her mother-in-law, T.G., since 2013.

6. As was subsequently established by the relevant criminal investigation (see paragraphs 15-32 below), E.N.'s relationship with her husband and mother-in-law became strained after some two years of married life. The cause of the discord was that E.N. worked late hours, which made her mother-in-law question her fidelity to her husband and eventually led her to accuse her of having extra-marital affairs and being unfaithful to her son.

7. The only occasion on which the applicant reported her domestic problems to the police was when on 12 October 2017 she made an emergency telephone call and reported having been physically assaulted by her mother-in-law and husband. Officers from the Kvareli District police station came to their home immediately and interviewed all the family members.

8. A verbatim record of the interview with the applicant's daughter shows she told the officers that she had had a verbal and physical altercation with her mother-in-law shortly before their arrival. The reason for the argument was T.G.'s accusations against E.N., questioning whether she was faithful to her husband, after E.N. had stayed overnight with a friend (see paragraph 19 below). E.N. told the officers that her mother-in-law had punched in her face during the row. She also told the police that her husband had never abused her physically or verbally and that the only reason she had mentioned his name during the emergency telephone call (see paragraph 7 above) was because she had been in a state of great emotional distress. She asked the police to take restraining measures against her mother-in-law.

9. When interviewed by the police on 12 October 2017, T.G. confirmed that she had argued with E.N. that day because she had been absent from home the preceding night, which had confirmed T.G.'s fears that E.N. had been being unfaithful to her son. However, T.G. told the police that she had never hit the applicant's daughter and that, on the contrary, it was E.N. who had hit her violently in the face during the row and that her son had even had to step in and protect her from E.N.'s violent behaviour.

10. When interviewed by the police on 12 October 2017, R.G. confirmed that his wife had been absent from home the previous night and added that neither he nor his mother had been aware of her whereabouts. When his wife had finally come home, neither he nor his mother had been able to hide their anger, which had fuelled the row. He told the police that it had been E.N. who had punched his mother in the face and that he had had to step in to calm the two women down. He also told the police that he had never physically assaulted his wife, and that it was only on 12 October 2017 that his mother had told him for the first time about her doubts about his wife's fidelity.

11. The police commissioned, on the same day, a medical examination of both E.N. and her mother-in-law. This showed a minor bruise on E.N.'s left shoulder but that T.G. had no visible signs of any injury on her person.

II. E.N.'S DEATH ON 18 OCTOBER 2017 AND THE ENSUING INVESTIGATION

12. On 18 October 2017, at around 8:00 a.m., E.N. was found hanged. Her body was discovered in the wine cellar of the family home by G.G., E.N.'s brother-in-law (see paragraph 17 below). The incident was reported to the police at around 8:40 a.m., and they opened a criminal investigation into suspected incitement to commit suicide under Article 115 of the Criminal Code the same day. The investigation was carried out by the Kvareli Office of the Criminal Police of the Ministry of the Interior ("the Kvareli criminal police").

13. Various steps were taken in the course of the criminal investigation during the following months. Notably, the police carried out a forensic examination of the cellar and commissioned a forensic medical examination of the body which included the collection and analysis of various biological samples found both at the scene and on the body. The police questioned E.N.'s husband, mother-in-law and brother-in-law, as well as the applicant, E.N.'s friends, colleagues and neighbours and anyone else who was identified as having had contact with the deceased shortly prior to her death. In total more than twenty-five witnesses were questioned. The police also examined E.N.'s mobile telephone and retrieved the data for all incoming and outgoing telephone calls prior to her death.

14. Findings of the most important investigative measures can be summarised as follows.

A. Collected evidence

15. The first report on external examination of E.N.'s body was compiled by a police officer on 18 October 2017 between 11:00 a.m. and 12:10 p.m. Thus, the body was found hanging from a rope, naked from the waist downwards. Serious skin lesions and bruises were visible on both of her knees. Further bruises and skin lesions were also visible on the left side of E.N.'s face, in the area of the nose and the upper lip and also on her throat.

16. When questioned by the police for the first time on 18 October 2017, R.G, E.N.'s husband, stated that he had been working in Tbilisi when his wife was found dead in their house in the village of Shilda. He also added that E.N. had had suicidal tendencies. He recalled that she had previously attempted to hang herself in the same wine cellar at their house in August 2017 but that fortunately he had found her in time and freed her from the rope. He said that when he had asked her to why she had wanted to end her life, she had answered that her deceased father was calling for her. In general, E.N.'s husband continued, his wife had seemed to be depressed for the last few months. He also referred to all the circumstances of the incident of 12 October 2017, confirming again that the reason for the strained relationship between

his mother and E.N. had been his mother's belief that E.N. had been having extra-marital affairs. As to the skin lesions and bruises found on E.N.'s knees, R.G. suggested that those might have been inflicted by a pig kept by his family.

17. When questioned by the police, also on 18 October 2017, E.N.'s brother-in-law, G.G., stated that the reason he had gone to his brother's house at around 8.00 a.m. was that his mother had asked him to feed the pigs because his brother was away working in Tbilisi. He said that when he saw the dead body hanging from the rope in the wine cellar, he had been so scared that he had immediately run to his own house to tell his mother (who was staying with him at the time). In reply to a question from the investigator, he said that it was shock that had prevented him from either calling the police or the ambulance right away or trying to approach E.N. himself to see whether she was still alive. He said that he reported the discovery of the body to the police a few hours later. He also stated that he knew from his mother and brother that his sister-in-law had previously tried to commit suicide a few months earlier.

18. T.G., E.N.'s mother-in-law, was questioned on 19 October 2017. She confirmed that she had had frequent arguments with E.N. because of her immoral behaviour. E.N. would often return home late, although she had not been formally employed anywhere, and she had been seen with other men. T.G. also told the investigators that she had spent the night of 16 to 17 October 2017 at G.G.'s house and added, in reply to a question from the investigator, that G.G. had spent the whole night at home. T.G. also reported that the applicant's daughter had had a very difficult character and had been mentally fragile, and that E.N. had previously attempted suicide in the same wine cellar a few months before.

19. On 19 October 2017 the police questioned the friend of E.N. at whose home she had stayed on the night of 12 October (see paragraph 8 above). The witness stated that the reason E.N. had asked to stay overnight was that she had wanted to make her mother-in-law and husband understand that she was ready to leave them if the psychological harassment, which came mainly from T.G., were to continue. The witness recounted that she had had a frank conversation with the applicant's daughter on the night of 12 October 2017, during which E.N. had confided that she was on the point "of either running away from home or committing suicide as she could no longer cope with the stress". The witness also reported that E.N. had been a very emotionally unstable and nervous person in general and that she could get upset and irritated very easily. The witness also added that during the same night she had heard E.N. talking to an unknown man on her mobile telephone for almost two hours.

20. The closest neighbours were also questioned by the police in the immediate aftermath of the incident. They all confirmed that verbal altercations between E.N. and her mother-in-law had been very frequent, and

that they had indeed heard about E.N.'s unsuccessful attempt to hang herself in August 2017. They all stated that they had considered E.N. to be an emotionally unstable person. Some of the neighbours added that they had regularly seen G.G. visiting E.N. at home late in the evening, even when his brother, E.N.'s husband, had been away from home. One of the neighbours added that he had seen G.G. near her house at around 6:30 a.m. on the day of the discovery of her dead body; the neighbour specified that he was certain about the time because he had met G.G. on his way to his vineyard.

21. On 21 October 2017, at E.N.'s funeral, G.G. attempted to commit suicide by hanging himself from a tree. He was, however, saved by neighbours.

22. Almost immediately after this incident, R.G. started to accuse his own brother publicly of having raped and murdered E.N. The investigator questioned him about those accusations on 24 October 2017. R.G. stated that his brother's suicide attempt during his wife's funeral had made him think that his brother might have been implicated in E.N.'s death. In this connection, R.G. also admitted that he had had an extra-marital affair with his brother's former fiancée and that this might have given his brother a motive for trying to get even with him by raping E.N.

23. On 24 October 2017 a forensic medical expert report stated, in reply to a question put by the investigator, that there were no traces of semen on or inside E.N.'s body.

24. On 8 November 2017 the report of a comprehensive forensic medical examination of E.N.'s body, which had been conducted on 18 October 2017 at 3:00 p.m., was issued. Its results revealed that in addition to the injuries noted during a visual examination of the body (on the front of both knees and on the face and throat – see paragraph 15 above) there were also skin lesions and bruises on the lower part of the jaw, the left forearm, right wrist, lower left part of the abdomen, hips, both thighs, right buttock, the outer folds of the vulva, the lower front parts of both legs (near the ankles and in the area of the backside of the knees) and on the right foot. The experts estimated that whilst some of those lesions (namely those on the left forearm, right wrist and right buttock) had been inflicted six or seven days before death, all the other bruises and skin lesions had been inflicted shortly before the victim had died. The experts also confirmed that the cause of the death was asphyxia caused by strangulation, and that no less than seventeen hours had elapsed from the moment of death until commencement of the forensic examination. It was also noted in the report that E.N. had not been pregnant and that certain other biological samples collected from the body and taken from the cellar were still being examined.

25. On 12 November 2017 the investigator questioned the forensic medical expert who had drawn up the report of 8 November 2017. The expert considered that the injuries found on E.N.'s body had been inflicted when she was still alive, immediately before her death. He added that such injuries

could be inflicted by hitting, pushing, grabbing or other more or less violent physical contact.

26. On 25 December 2017 the applicant was granted victim status in the criminal investigation into her daughter's death and was given access to the case materials.

27. On 10 January 2018 the forensic experts issued another report, the main findings of which were that whilst there were no traces of sperm on the clothes found both on E.N.'s body and also scattered on the ground around it, some of the clothes were stained with blood which matched samples taken from E.N.'s body. The report also referred to trousers stained with semen and a pair of socks. These had been found in the cellar and appeared to belong to one man, whose DNA profile did not, however, correspond to that of any of the samples from three men (namely G.G. and two neighbours) that had been provided to the forensic expert by the investigators.

28. On 19 January 2018 a crime detection expert reported that a black bra that had belonged to E.N. and had been discovered in the wine cellar had been cut apart by some kind of a sharp object, possibly a knife.

29. On 28 May 2018 another crime detection report was issued. Its findings were that blue cotton fibres found under the finger-nails of E.N. (on both hands), on both her wrists and on her clothes were similar to the fibres of the blue denim trousers that G.G., E.N.'s brother-in-law, had been wearing on 11-12 October 2017 (and which the police had seized from him as an item of evidence). At the same time, it reported that no fibres of E.N.'s clothing had been found on any of the clothing seized by the investigators from G.G., including his trousers.

30. On 18 July 2018 a magistrate judge of the Kvareli District authorised the investigators to obtain all information possible relating to the telephone calls and text messages sent from and to E.N.'s mobile phone in the days preceding the discovery of her body from the relevant telecommunication companies.

31. The data thus retrieved allowed the police to identify the young man with whom E.N. had had frequent and lengthy telephone communications, including the day before she had been found dead (see paragraph 19 above). The police questioned that man, who appeared to be a distant relative of R.G. and G.G. and lived in a neighbouring village, on 27 September 2018, but his statements did not reveal any important or new information. He stated that E.N. had been a friend of his and that he did not know anything about the family issues that she had been having with her mother-in-law and husband.

32. On 6 February 2019 the investigator issued a procedural note attesting to the fact that he had tried several times, in vain, to identify the owner of another mobile telephone, with whom E.N. had had frequent contact prior to her death.

B. Subsequent developments

33. According to the latest information in the case file, which dates from April 2022, the criminal investigation into E.N.’s death was still ongoing, under the supervision of the Kvareli criminal police (see paragraph 12 above), and except for the giving of access to the case materials to the applicant on 13 January 2022, no significant investigative measure has been undertaken since 6 February 2019 (see paragraph 32 above).

RELEVANT LEGAL FRAMEWORK

34. Article 115 of the Criminal Code, as at the time of E.N.’s death, provided that “driving someone to the point of suicide or attempted suicide by intimidation or cruel treatment, or by systematically demeaning the honour and dignity of the victim” was punishable by imprisonment for up to four years.

35. The crime under Article 115 of the Criminal Code – incitement to suicide – was categorised under Article 12 § 2 of the same Code as a less serious offence because of the sentence it then carried.

36. Under Article 11(1) of the Criminal Code, a number of criminal offences, including that under Article 115, should be given the additional qualification of a “domestic crime” if the alleged perpetrators were members of the victim’s household or family. For the purposes of this provision, any person living in the same household as the victim, including, amongst others, parents-in-law, could be found to be perpetrators of such “domestic crimes”.

37. Article 71 §§ 1 (b) and 2 of the Criminal Code prescribed a limitation period for the investigation of a less serious criminal offence of six years. If no criminal charges were brought against a person within six years after the commission of the offence in question, the perpetrator would be exempt from all criminal liability.

38. As of 15 October 2019, Article 106 § 1(1) of the Code of Criminal Procedure entitled victims of domestic crimes – that is, victims of offences falling within the scope of Article 11 (1) of the Criminal Code (see paragraph 36 above) – to appeal against a decision discontinuing a criminal investigation for absence of crime not only to a hierarchically superior public prosecutor and but also to a first-instance criminal court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

39. The applicant complained about breaches of the substantive positive and procedural obligations arising under Article 2 of the Convention. Her specific complaints were about: (a) the police’s failure to protect her daughter

from domestic violence while she was still alive, and (b) their failure to conduct an effective criminal investigation into the circumstances around her daughter's death. Article 2 reads as follows:

Article 2

"1. Everyone's right to life shall be protected by law ..."

A. Admissibility

1. The parties' submissions

40. As regards the applicant's complaint about the alleged failure of the police to fulfil their substantive positive obligations, namely to protect her daughter from domestic violence, the Government submitted that the complaint was inadmissible for non-exhaustion of domestic remedies. They asserted that the applicant had failed either to sue the police or to file a criminal complaint against the police authority about alleged negligence of its staff. As regards the procedural limb of Article 2, the Government submitted that the complaint was manifestly ill-founded as the investigation into the suicide of the applicant's daughter had satisfied the requirements of promptness, independence and thoroughness (for further argument, see paragraph 45 below).

41. The applicant contested the Government's objections. As regards the complaint about the failure to protect her daughter from domestic violence, the applicant acknowledged that she had not sought either a civil or a criminal remedy against the police but argued that neither of those was effective for the purposes of Article 35 of the Convention. In this connection, she submitted that since the police had been fully aware of the risks to her daughter's life from domestic violence but had nevertheless disregarded their policing duties by not having taken any meaningful measures aimed at securing her life and well-being, neither of those processes would have brought about any remedial action. As to the complaint about the ineffectiveness of the criminal investigation into her daughter's death, she maintained it, referring to the continuing inability of the investigating authorities to establish the exact circumstances surrounding this death.

2. The Court's assessment

42. As regards the complaint about the breach of the positive substantive obligations under Article 2 of the Convention, the Court observes that there have been a number of similar cases raising the problem of violence against women in Georgia, where the crux of the complaints was similar to the present case in that it concerned the inactivity and negligence of the law-enforcement authorities in allowing domestic abuse to escalate and to culminate in the victim's death (by either homicide or suicide). It transpires from those cases that the most pertinent remedy for the purposes of

Article 35 § 1 of the Convention in circumstances as those in the present case was the initiation of criminal proceedings against the law-enforcement agents involved (see *A and B v. Georgia*, no. 73975/16, § 43, 10 February 2022; *Tkheldze v. Georgia*, no. 33056/17, § 60, 8 July 2021, with further references therein, and *Gaidukevich v. Georgia*, no. 38650/18, §§ 62 and 53, 15 June 2023). However, the applicant has neither sought this criminal remedy, the most appropriate one in the circumstances, nor has she sought a civil remedy (see by contrast, as regards the question of the civil remedy, *A and B v. Georgia*, cited above, § 45). It follows that the complaint under the substantive positive limb of Article 2 concerning the negligence of the police must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

43. As to the complaint under the procedural limb of Article 2 of the Convention, the Court considers that it is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

44. The applicant submitted that the criminal investigation into the circumstances surrounding the death of her daughter had been ineffective. The major problem lay in the fact that over more than six years the investigation had not yielded any conclusive findings, despite having been launched promptly and despite the applicant having been granted victim status. The main question remaining open is whether the applicant's daughter had indeed been driven to the point of suicide, and, if so, whether the incidents of domestic violence perpetrated by E.N.'s husband and mother-in-law had incited that suicide, or whether the applicant had been killed and the death then made to look like a suicide. The applicant also referred to a number of suspicious circumstances in the case, namely the fact that E.N.'s brother-in-law had attempted to hang himself on the day of her daughter's funeral, the homicide accusations made formally against E.N.'s brother-in-law by her husband and the discrepancy between the times when G.G. claimed to have entered the husband's house and when the neighbour saw him near the same house (see paragraphs 17-22 above). The applicant complained that those questionable circumstances had not been investigated. She also complained that it was not clear what significance, if any, the investigators had given to forensic medical reports of numerous physical injuries inflicted on her daughter whilst she had still been alive, some hours prior to her death, as well as to the fact that blue cotton fibres found under her fingernails and on her clothes bore similarities to the blue denim trousers worn by G.G. All in all, the applicant concluded that there was a high probability that her daughter

had been if not murdered then at least physically abused (and possibly raped) prior to her death, which in turn could have triggered the act of suicide.

45. The Government replied that the investigation into the suicide of the applicant's daughter had been fully adequate. They emphasised that the domestic authorities had launched the investigation promptly – on the very day of the discovery of E.N.'s body – and it had been thorough – questioning more than twenty-five witnesses and commissioning a number of forensic medical and other examinations. Referring to the applicant's arguments as an attempt to insinuate that E.N. had been murdered or at least subjected to sexual or other types of physical abuse prior to her death, the Government claimed that no such findings could be made based on the results of the investigation. On the contrary, a number of witness statements pointed to the fact that the applicant's daughter had been an emotionally unstable person who had previously attempted to hang herself a few months before her death. The Government also emphasised that no traces of semen were found inside or on the victim's body, which excluded, in their view, any possibility of her having been raped or otherwise physically abused prior to her death. The Government therefore concluded that the most probable explanation of how E.N. had died on 18 October 2017 was that she had committed suicide as a result of her longstanding emotional instability.

2. *The Court's assessment*

(a) **General principles**

46. The obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be some form of effective official investigation when individuals have been killed (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 169, 14 April 2015). The specific requirements of the duty to investigate can be found in *Mustafa Tunç and Fecire Tunç* (cited above, §§ 169-82; see also *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, §§ 298-306, ECHR 2011 (extracts), and *Mazepa and Others v. Russia*, no. 15086/07, §§ 69-70, 17 July 2018). In summary, there are several parameters to compliance with the procedural requirement of Article 2: the adequacy of the investigative measures; the promptness and reasonable expedition of the investigation; the involvement of the deceased person's family; and the independence of the investigation. These elements are inter-related and, taken jointly, enable the degree of effectiveness of the investigation to be assessed (see *Mazepa and Others*, cited above, § 225).

47. The Court further reiterates that the obligation to conduct an effective investigation into all acts of domestic violence is an essential element of the State's obligations under Articles 2, 3 and 8 of the Convention (for a recent

authority see *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others, § 114, 14 December 2021). To be effective, such an investigation must be prompt and thorough; these requirements apply to the proceedings as a whole (see *M.A. v. Slovenia*, no. 3400/07, § 48, 15 January 2015, and *Kosteckas v. Lithuania*, no. 960/13, § 41, 13 June 2017). The authorities must take all reasonable steps to secure evidence, including forensic evidence. Particular diligence is required in dealing with domestic violence cases, and the specific nature of the domestic violence must be taken into account in the course of the domestic proceedings. The State's obligation to investigate will not be satisfied if the protection afforded by domestic law exists only in theory; above all, it must also operate effectively in practice, and that requires a prompt examination of the case without unnecessary delays (see *Opuz v. Turkey*, no. 33401/02, §§ 145-51 and 168, ECHR 2009; *T.M. and C.M. v. the Republic of Moldova*, no. 26608/11, § 46, 28 January 2014; and *Talpis v. Italy*, no. 41237/14, §§ 106 and 129, 2 March 2017). The effectiveness principle means that the domestic judicial authorities must on no account be prepared to let the infliction of physical or psychological suffering go unpunished. This is essential for maintaining the public's confidence in, and support for, the rule of law and for preventing any appearance of the authorities' tolerance of or collusion in acts of violence (see *Okkaly v. Turkey*, no. 52067/99, § 65, ECHR 2006-XII (extracts)).

(b) Application of these principles to the circumstances of the case

48. The Court observes that a criminal investigation into the death of the applicant's daughter was opened immediately and that the law-enforcement authority conducted its investigation diligently during the first months, and that the applicant was duly granted the requisite procedural status of victim. The Court finds no room for criticism of the investigation from the perspective of the requirements of either promptness or the involvement of the deceased person's family. The Court also sees no deficiencies in the independence of the investigation currently being conducted by the Kvareli criminal police of the Ministry of the Interior, and the applicant has not suggested otherwise.

49. Conflicting hypotheses have been advanced by the parties in relation to the cause of E.N.'s death. The applicant claimed that her daughter had been if not murdered then at least physically abused prior to her death, and the Government maintained that she had committed suicide as a result of her reported emotional instability. The Court considers that, in the absence of any final conclusions that may be reached in the course of the investigation, it is inappropriate to speculate about the exact circumstances of the death of the applicant's daughter. However, the Court cannot but agree with the applicant that a number of important questions ought to be fully investigated by the authorities, such as whether E.N. was ill-treated shortly before her death – the existence of the numerous skin lesions and bruises on the deceased's body

cannot be disregarded in this respect (see paragraphs 15 and 24-25 above) – and whether the suspicions cast on E.N.’s brother-in-law were justified – G.G.’s attempted suicide and the accusations voiced against the latter by E.N.’s husband are of particular significance in this regard (see paragraphs 21-22 above). In this connection, the Court reiterates that, in order for an investigation to be effective, its conclusions must be based on a thorough analysis of all relevant elements, and that failure to explore adequately all credible lines of inquiry undermines the investigation’s ability to establish the circumstances of the case and the person responsible (see *Tsintsabadze v. Georgia*, no. 35403/06, § 93, 15 February 2011; *Vachkovi v. Bulgaria*, no. 2747/02, §§ 86 and 88, 8 July 2010; and *Kolevi v. Bulgaria*, no. 1108/02, § 201, 5 November 2009).

50. Furthermore, the Court observes that the investigation has already been on foot for more than six years. Whilst this delay may not appear excessive when assessed in the context of domestic criminal procedure, it becomes clear that by having protracted the investigation the authorities have already stripped it of any potential future utility. Specifically, the Court observes that the investigation has been launched and conducted under Article 115 of the Criminal Code, which deals with the offence of incitement to suicide. However, under the relevant domestic law, the prescription period for this offence, as a less serious offence, is six years. That period has already expired and no charges have been brought against anyone (see paragraphs 34-37 above). The Court reiterates in this connection that the procedural obligations under Article 2 of the Convention can hardly be considered to have been met where, as in the present case, the authorities’ inactivity has so protracted the investigation that the limitation period for criminal liability has expired (compare *Ashot Malkhasyan v. Armenia*, no. 35814/14, §§ 117 and 118, 11 October 2022, with further references therein, and also, *Magnitskiy and Others v. Russia*, nos. 32631/09 and 53799/12, § 271, 27 August 2019, with further references). Indeed, it further reiterates that allowing a grievous criminal charge to become time-barred is in itself an omission serious enough to raise an issue under the procedural limb of Article 2 (see *Mosendz v. Ukraine*, no. 52013/08, § 107, 17 January 2013).

51. In the present case, the Court observes from the information in its possession that whilst the domestic authorities undertook necessary investigative steps within a period of less than two years after E.N. had been found dead, no other significant investigative step has been taken since 6 February 2019 (see paragraphs 32 and 33 above). As to why the authorities have allowed the investigation to stagnate after that, for more than five years now, the Government left this question unanswered. If the reason for the stagnation of the investigation was that the investigators did not consider that the evidence they had gathered was sufficient to bring criminal charges against anyone, then the investigation could have been closed for reason of absence of crime. Such a closure would then have at least allowed the

applicant to obtain an additional review of the adequacy of the investigation conducted by the Ministry of the Interior first by a hierarchically superior public prosecutor and then also, given that the suspected crime was as a “domestic” one, by a criminal court of first level of jurisdiction (see paragraph 38 above).

52. All in all, the Court cannot but conclude that the investigative authority has so far failed to explore adequately all credible lines of inquiry in the present case and that there has been a significant period of unexplained inactivity fully attributable to that authority’s conduct; the consequent expiry of the limitation period has already stripped the continuing investigation of any possible utility and therefore of any potential effectiveness. The manifest failure to conduct the investigation at an appropriate pace, which cannot be justified either by its complexity or any other objective difficulties, and the lack of due diligence in addressing a number of important questions (see paragraph 49 above), clearly does not comply with the requirement for the domestic authorities to display particular diligence and vigour when investigating cases involving violence against women (compare *Tërshana v. Albania*, no. 48756/14, § 160, 4 August 2020, and *Sakvarelidze v. Georgia*, no. 40394/10, §§ 53 and 54, 6 February 2020) and can even be read as sheer unwillingness on the part of the investigative authority to establish the truth surrounding E.N.’s death. The foregoing considerations are sufficient to enable the Court to find that the authorities failed to conduct an effective investigation in the present case.

53. There has accordingly been a violation of Article 2 of the Convention under its procedural limb.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

54. Referring to Articles 3 and 13 of the Convention, the applicant reiterated his complaints about (i) police negligence in the management of the domestic violence incidents and (ii) the Ministry of the Interior’s failure to conduct an effective criminal investigation into E.N.’s apparent suicide.

55. As regards the former part of the application, the Court declares it inadmissible under Article 35 §§ 1 and 4 of the Convention for the reasons already stated (see paragraph 42 above).

56. As regards the latter part of the application, the Court notes that it relates to the matter already examined under the positive procedural limb of Article 2. It must therefore be declared admissible. However, in the light of its previous findings on the merits of the issues in the case (see paragraphs 48-53 above), the Court considers that there is no need for a separate examination of the complaints under Articles 3 and 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

57. Article 41 of the Convention provides:

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

A. Damage

58. The applicant claimed 25,000 euros (EUR) in respect of non-pecuniary damage.

59. The Government submitted that the amounts claimed were not justified in the circumstances of the case.

60. The Court accepts that the applicant must have suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation. It finds it appropriate to award the applicant EUR 12,000 under this head, plus any tax that may be chargeable.

B. Costs and expenses

61. The applicant did not make any claim in respect of costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under the positive procedural limb of Article 2, as well as the relevant complaints under Articles 3 and 13 (see paragraph 56 above) concerning the lack of effective investigation into the alleged suicide of the applicant's daughter admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;
3. *Holds* that there is no need to examine the complaints under Articles 3 and 13 of the Convention concerning the ineffectiveness of the criminal investigation into the alleged suicide of the applicant's daughter;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of

non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 4 July 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Mattias Guyomar
President