

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

FIRST SECTION

CASE OF J.S. v. SLOVAKIA

(Application no. 35767/23)

JUDGMENT

Art 3 (procedural) • Positive obligations • Failure to effectively investigate arguable claims of acts of domestic violence • Domestic courts' failure to analyse the circumstances of the case from a gender-based violence perspective and to conduct a context-sensitive assessment • Substantial delays in criminal proceedings
Art 14 (+ Art 3 and Art 8) • Discrimination • Alleged gender-based discrimination in investigating violence against women • Insufficient prima facie evidence of institutional attitudes or systematic patterns of discrimination or of widespread passivity in providing protection to women victims of domestic violence • Lack of evidence of discrimination in the applicant's case • Manifestly ill-founded

Prepared by the Registry. Does not bind the Court.

STRASBOURG

22 January 2026

FINAL

22/04/2026

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



In the case of J.S. v. Slovakia,

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

Ivana Jelić*, President*,
Erik Wennerström,
Frédéric Krenc,
Davor Derenčinović,
Alain Chablais,
Artūrs Kučs*, judges*,
Katarína Šmigová*,* ad hoc *judge*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 35767/23) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Slovak national, Ms J.S. ("the applicant"), on 19 September 2023;

the decision to give notice of the application to the Slovak Government ("the Government");

the decision not to disclose the applicant's name;

the parties' observations;

the decision of the President of the Chamber to appoint Ms K. Šmigová to sit as an *ad hoc* judge from a list submitted in advance by the Government (Article 26 § 4 of the Convention and Rule 29 § 1 (a) of the Rules of Court), since the office of judge elected in respect of Slovakia is presently vacant;

Having deliberated in private on 16 December 2025,

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

INTRODUCTION

1. The application mainly concerns the applicant's complaints that the respondent State had failed to effectively investigate and prosecute the acts of domestic violence which she had allegedly suffered at the hands of her then husband and the discriminatory impact of gender-based violence on women in Slovakia. It raises issues under Articles 3, 8, 13 and 14 of the Convention.

THE FACTS

2. The applicant was born in 1980 and lives in Prešov. She was represented by Ms V. Durbáková, a lawyer practising in Košice.

3. The Government were represented by their Agent, Ms M. Bálintová.

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

5. On 6 July 2014 the police brought criminal charges against the applicant's then husband, T. (to whom she had been married since 2001), of behaving in a dangerous and threatening manner, purportedly committed on

5 July 2014 and consisting of his verbally and physically attacking the applicant, threatening her with death and causing her injuries with a recovery time less than seven days. T. was convicted of that offence by a criminal order of 8 December 2014 and sentenced to eight months in prison.

6. On 24 September 2014, on the basis of the investigation file in the above-mentioned matter, the police opened a criminal investigation into the offence of abuse by a person close to the victim, under Article 208 §§ 1 (a) and 2 (d) of the Criminal Code, which should have occurred between September 2012 and 4 July 2014.

7. On 26 November 2014 T. was charged with that offence.

8. On 19 January 2015 the police investigator dismissed a request by T. for a pre-trial interview with the applicant, referring to the seriousness of the offence and the conclusions of a psychological expert.

9. On 6 March 2015, after T. had been released from the prison where he had served the sentence previously imposed (see paragraph 5 above), the court dismissed a request by the prosecutor to have T. remanded in detention in the framework of the ongoing criminal proceedings against him, but the court issued a restraining order prohibiting him from contacting the applicant and their children (born in 2002 and 2005 respectively) and from approaching them within a distance of five meters.

10. On 19 May 2015 the applicant's lawyer had the opportunity to consult the case file. She did not make any proposal to supplement the evidence.

11. On 19 June 2015 T. was formally indicted for repeatedly, over a long period of time (since September 2012) and while under the influence of alcohol, verbally and physically attacking the applicant (by slapping her on the face and arms, strangling her and kicking her), insulting and humiliating her, threatening her with death, provoking fear and anguish by controlling her and checking her clothes and mobile phone, requiring her to remain at home and forcing her to have sexual intercourse, which had led to the applicant developing battered woman syndrome and had caused their children to experience post-traumatic stress disorder. It follows from the indictment and from the information submitted by the Government that the applicant, T. and 17 witnesses, including the applicant's minor children, had been questioned during the pre-trial proceedings and that expert reports in the fields of psychology and psychiatry (see paragraph 12 below) and multiple relevant documents had been gathered in evidence. According to the indictment, which was based largely on the statements of the applicant, the accusations were confirmed by her mother and the minor children, who stated that, when drunk, their father had behaved very badly and that they had feared for their mother. The applicant's sister and several other persons, including the psychiatrist who was treating her, stated that they had noticed bruises or swelling on the applicant and also on her daughter. T.'s father stated that there had been quarrels between the applicant and T. and that on one occasion the children had called him to say that the latter had beaten the applicant. Lastly,

the prosecutor mentioned that the facts were proved by the medical reports adduced to the file and the criminal order of 8 December 2014 (see paragraph 5 above).

12. Between 9 September 2015 and 15 April 2016 six hearings were held before the Košice II District Court; the applicant attended only the first and agreed that further hearings should be held in her absence. At the hearing of 9 September 2015, she repeated her previous statements and, in response to a question by the court regarding the reasons why she had never sought medical assistance, she responded that it had probably been on account of fear. While denying his guilt, T. admitted that he had occasionally slapped the applicant and told her that she was a "bitch" when he had discovered that she had been unfaithful; he further stated that she tended to bruise easily and suffered frequently from jaw dislocation, for which she had repeatedly consulted a doctor and had been hospitalised. A psychiatrist, who was also heard and who had been treating the applicant for anxiety since 2010, stated that she had repeatedly seen bruises on the applicant and that the latter had regularly received phone calls from T. checking on her whereabouts.

Several witnesses, including the applicant's relatives and neighbours, stated that they had heard quarrels or seen bruises on the applicant and her daughter or that the applicant had confided in them about T.'s violent behaviour. Witness L.O. (a neighbour) stated that the applicant's daughter had mentioned a fight between her parents during which T. had hit the applicant in the jaw. The children's teachers stated that they had not noticed any signs of violence or abuse on the children.

The court also heard the authors of the expert reports ordered in the pre-trial proceedings. The expert in psychology presented his findings that the applicant and both children suffered from post-traumatic stress disorder, which was, in respect of the applicant, linked to battered woman syndrome, and indicated that she had been exposed to attacks and coercive control for more than a year. According to the expert, there was no reason to doubt that the applicant had been exposed to situations of violence; moreover, the applicant and the children were able to correctly recall and describe past events and did not tend to confabulate. In answer to a question posed by the court, he also explained that the fact that the applicant had been treated for an anxiety disorder in 2010 was not linked to the above-mentioned syndrome. On the other hand, T. was emotionally unstable and inclined to aggressive reactions. The expert in psychiatry stated that T. did not suffer from any mental disease or disorder such as to impair his capacity to control his behaviour, but was dependent on alcohol.

Furthermore, the court admitted into evidence the pre-trial statements of the children (see paragraph 11 above) and several medical certificates stating that the applicant had been under the treatment of a psychiatrist since 2010, that she had been hospitalised for jaw dislocation in May 2014 and that in

August 2014 the minor children had been examined by a psychologist in a hospital who had concluded that they had witnessed domestic violence.

13. By a judgment of the District Court dated 15 April 2016, T. was acquitted. After summarising the content of the evidence taken, the court considered that none of the witnesses, not even the closest relatives of the couple who had frequently been in contact with them, had confirmed that T. had behaved in the manner described in the indictment. In the court's view, the applicant's statement to the effect that T.'s aggressiveness had escalated in spring 2013, when he had learned about her infidelity, contrasted with the certificate of her psychiatrist according to which she had been consulting the latter as of November 2010 for long-standing problems with her husband; furthermore, the medical certificates relating to her jaw dislocation in May 2014 did not attest that the injury was due to any violence.

14. On 27 October 2016, on an appeal by the prosecutor, the above-mentioned judgment was quashed and the case was remitted to a different chamber of the first-instance court.

15. Between 9 August 2017 and 8 September 2021 the District Court held eight hearings in which the taking of evidence was repeated, including the hearing of the applicant. Several adjournments or cancellations were necessary because of the absence of T. or the applicant's lawyer, defective summonses and witnesses' failure to appear or on account of the COVID-19 pandemic.

16. By a judgment of 8 September 2021 the District Court acquitted T. again, considering that it had not been proved beyond any doubt that his actions had displayed the constituent elements of the criminal offence of domestic abuse.

17. Following an appeal by the prosecutor, the Košice Regional Court decided, on 28 January 2022, to quash the judgment and to send the case back to the District Court, being of the view that the latter's conclusions were unconvincing and inexact and had been based on incomplete findings of fact. It further instructed the District Court to supplement evidence concerning the period of the applicant's extramarital affair, to which T. had allegedly reacted with threats and physical attacks, *inter alia*, by holding a new hearing of the applicant's mother and of the psychological expert. In the Regional Court's view, T.'s acquittal was untenable since his conduct amounted at least to the offence of behaving in a dangerous and threatening manner.

18. On 18 May 2022 the District Court acquitted T. for a third time. Given that the applicant's mother and the psychological expert had failed to appear for the new hearing, the court relied on their previous statements, considered together with the oral, expert and documentary evidence taken previously. It noted, *inter alia*, that the applicant's daughter had stated that T. had not let them sleep, had poured cold water over them, had beaten her and had slapped the applicant in the face; the applicant's son had also stated that T., when drunk, had shouted at the applicant and had beaten her. The applicant's

mother had reported that T. had threatened to kill the applicant and that she had seen the applicant's injuries (bruises and injured jaw); while she herself had never witnessed any violence, she had been told by the applicant that those injuries had been caused by T. The applicant's sister had stated that the applicant had told her that T., who had suspected her of infidelity, had awoken her at night, beaten her and slapped her in the face or on her head; she had not personally witnessed any assaults but had seen bruises on the applicant; as regards her injured jaw, the applicant had told her that it had dislocated by itself.

The court found that none of the witnesses, including relatives who were in close contact with the couple, had confirmed that T. had behaved in the manner described in the indictment or had witnessed such incidents. The court expressed doubts in respect of the findings of the psychological expert, according to whom the applicant suffered from post-traumatic stress disorder and battered woman syndrome, pointing out that the applicant had been receiving psychiatric treatment for psychiatric disorders since at least 2010, which had refuted the expert's statement that her issues were linked to her conflicts with T. after September 2012. Moreover, the findings of the expert contradicted the statements of the children's teachers, who had not noticed any signs of violence or abuse. Lastly, the court considered it established that quarrels and physical and verbal attacks had occurred between the former spouses but, given their reciprocal character, it did not find that T. had committed the offence of behaving in a dangerous and threatening manner.

19. A subsequent appeal by the prosecutor was dismissed by the Košice Regional Court at a public hearing of 15 November 2022. The court found that the first-instance judgment had been duly and convincingly reasoned, which left no room for it to intervene. It pointed out that the applicant had admitted that her relationship with T. had worsened after she had been unfaithful to him, that she had not confided in her parents and that the children's teachers had not noticed any change in their behaviour.

20. The applicant lodged a constitutional complaint relying on Articles 3, 8, 13 and 14 of the Convention and complaining that the investigation had neither been diligent and effective nor prompt, that the State had not protected her against gender-based violence and that she had suffered discrimination based on her gender.

21. By decision no. II. ÚS 212/2023 of 26 April 2023 (served on the applicant's lawyer on 22 May 2023), the Constitutional Court dismissed the applicant's constitutional complaint mainly as being manifestly ill-founded. Considering that the applicant had essentially complained of an incorrect assessment of evidence, not the extent of the evidence taken, and about the length of the proceedings, it found that the appellate court's findings were sound and duly reasoned. As regards the length of the proceedings, the Constitutional Court referred to its case-law, according to which it could

only entertain such complaints as long as the proceedings complained of were still pending, which was not the situation at hand.

RELEVANT LEGAL FRAMEWORK AND INTERNATIONAL MATERIAL

I. DOMESTIC LAW

22. The offence of abuse by a person close to the victim or of a person in respect of whom the offender held a position of trust was defined in Article 208 of the Criminal Code (Law no. 300/2005), as in force at the material time.

Under paragraph 1 (a), that offence could be considered to have been committed if the perpetrator had caused a person, who was close to him or her or was in his or her care or education, physical or mental suffering by way of any of the following actions: beating, kicking, punching, causing wounds of various kinds, bullying, contemptuous treatment, continuous stalking, threatening, causing fear or stress, forced isolation, emotional extortion or any other behaviour endangering physical or mental health or putting the victim's safety at risk. A person guilty of the offence under paragraph 1 (a) could be sentenced to imprisonment for a term ranging from between three and eight years.

Paragraph 2 (d) provided that the perpetrator could be sentenced to imprisonment of a term ranging from between 7 and 15 years if he or she had committed the offence in a more serious manner.

23. The offence of behaving in a dangerous and threatening manner was defined in Article 360 § 1 of the Criminal Code, as in force at the material time, in accordance with which a person who threatened another person with death, serious bodily harm or other serious harm, thereby raising justified fears, could be sentenced to prison for a term of up to one year. Under Article 360 § 2 (b), the perpetrator could be sentenced to prison for a term ranging from six months to three years if he or she had committed that offence against a person under his or her care.

II. INTERNATIONAL MATERIAL

A. Convention on the Elimination of All Forms of Discrimination against Women

24. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the United Nations General Assembly. In 1992, the Committee on the Elimination of Discrimination against Women ("the CEDAW Committee") adopted General

Recommendation No. 19 on violence against women. Slovakia ratified CEDAW on 28 May 1993.

25. On 31 May 2023 the CEDAW Committee published its "Concluding observations on the seventh periodic report of Slovakia" (CEDAW/C/SVK/CO/7). In relation to "Gender-based violence against women", it noted and recommended the following:

> "22. The Committee is concerned about:
>
> (a) The lack of a specific definition of domestic violence as a crime in the Criminal Code, as well as the insufficient punishment of perpetrators of intimate partner violence and femicide;
>
> (b) The reported cases of failure to remove the abuser from the household, with incidents downplayed as minor offences rather than crimes or the perpetrators of violence given only a verbal warning;
>
> (c) The unequal distribution of shelters across the national territory, especially in rural areas, the lack of affordable public housing or rent-controlled housing, which forces victims of domestic violence to return to abusive households, and the lack of affordable and accessible health services and rehabilitation programmes for surviving victims of physical and sexual violence;
>
> (d) The exposure of women who are victims of domestic violence to further violence and secondary victimization in child custody and visitation rights proceedings by requesting their engagement to achieve reconciliatory solutions and to improve communication with the ex-partner.
>
> 23. Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee urges the State party:
>
> (a) To expedite the enactment of comprehensive legislation on the prevention and elimination of violence against women and the amendment of the Criminal Code to include domestic violence as a category of violent crime and raise the punishment for intimate partner violence and femicide;
>
> (b) To ensure, through mandatory and continuous capacity-building for judges, prosecutors, police officers and other law enforcement officials, that gender-based violence, including sexual violence against women, is effectively investigated and prosecuted, that perpetrators are adequately punished and that victim protection orders are adequately enforced;
>
> (c) To ensure the availability and adequate funding of shelters for women and girls who are victims of gender-based violence throughout the territory of the State party, to unify the registration procedure for shelters and to provide legal, medical and psychological assistance to all victims of physical and sexual violence, as well as skills training and education;
>
> (d) To ensure that domestic violence is adequately taken into account in child custody and visitation rights proceedings in order to prevent further exposure of the victims."

B. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

26. The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment was adopted in 1984 by the United Nations General Assembly and entered into force on 26 June 1987. Slovakia ratified it on 17 March 1995.

27. On 7 June 2023 the United Nations Committee against Torture (CAT) publish its "Concluding observations on the fourth periodic report of Slovakia" (CAT/C/SVK/CO/4) and, concerning gender-based violence, recommended the following:

> "22. The State party should ensure that all acts of gender-based and domestic violence, especially those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation and rehabilitation, and have access to legal assistance, safe shelters and the necessary medical care and psychosocial support. (...)."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

28. The applicant complained that she had been subjected to inhuman and degrading treatment by her former husband and that the domestic courts had failed to promptly and thoroughly investigate her allegations in that regard because, *inter alia*, their assessment of evidence had been laden with prejudice and stereotypes against women who experienced violence.

She 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

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

B. Merits

1. The parties' submissions

30. The applicant asserted that she had been subjected to inhuman and degrading treatment by her then husband T., which had caused her long-term physical and psychological suffering. Her statements made before the domestic authorities had been corroborated by several witnesses and

an expert in psychology, who had found that she had suffered from battered woman syndrome and post-traumatic stress disorder, and also by T.'s criminal conviction on account of his violent attack against her on 5 July 2014.

31. Arguing that the authorities had failed to comply with their obligation to effectively investigate gender-based violence and to protect her physical and psychological integrity, the applicant submitted that the domestic courts had downplayed the violence she had suffered and had refused to give due weight to her statements, those of her children and to the expert conclusions. In her view, the assessment of evidence had been laden with prejudice and stereotypes against women who experienced violence; moreover, the repeated questioning she had undergone had contributed to her secondary victimisation.

32. Referring to the judgment of the District Court finding that T.'s behaviour had not displayed the constituent elements of domestic abuse and that the attacks between the former spouses had been reciprocal (see paragraph 18 above), the Government argued that it had not been demonstrated that the applicant had been subjected to ill-treatment attaining the threshold of severity required by Article 3.

33. The Government further submitted that the domestic authorities had not remained inactive, pointing out that the criminal investigation had been opened by the police of their own motion on 24 September 2014, which had let to T.'s indictment by the prosecutor on 19 June 2015. Admitting that the proceedings before the courts at two levels of jurisdiction had lasted until 15 November 2022 (see paragraph 19 above), they argued that several hearings before the District Court had been adjourned or cancelled because of the absence of T. or the applicant's representative, defective summonses or witnesses' failure to appear or on account of the COVID-19 pandemic.

34. As to the secondary victimisation alleged by the applicant, the Government contended that, in the pre-trial proceedings she had not been interviewed in the presence of T. (see paragraph 8 above) and that before the court she had been heard only twice in presence of T. (see paragraphs 12 and 15 above). Moreover, she had not availed herself of the possibility, envisaged in the Code of Criminal Procedure, as in force at the material time, of requesting the application of protection measures or asking the president of the chamber to exclude T. from the court room.

35. Lastly, the Government argued that the domestic courts had taken extensive evidence with a view to establishing the facts of the case, having heard T., the applicant, several witnesses and experts, and had examined documentary evidence gathered in the pre-trial proceedings. The applicant had had sufficient opportunity to participate in the proceedings and exercise her rights and had not challenged the extent of the evidence (see paragraphs 10 and 21 above). In the Government's view, the courts' finding that T.'s guilt had not been proved beyond any doubt had been duly, logically

and convincingly reasoned. They also emphasised, referring to *M.T. and S.T. v. Slovakia* (no. 59968/09, §§ 84-85, 29 May 2012), that the crucial criterion for the assessment of the present case was the overall effectiveness of the protection rendered by the State of the Convention rights of the applicant and the fact that the criminal proceedings against T., combined with his criminal conviction of 5 July 2014 and the restraining order of 6 March 2015, had had a certain deterrent effect.

2. The Court's assessment

(a) General principles

36. The Court reiterates at the outset that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. An assessment of whether this minimum has been attained depends on many factors, including the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex of the victim and the relationship between the victim and the author of the treatment. Even in the absence of actual bodily harm or intense physical or mental suffering, treatment which humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or which arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, may be characterised as degrading and also fall within the prohibition set forth in Article 3. It should also be pointed out that it may well suffice that the victim is humiliated in his or her own eyes, even if not in the eyes of others (see, among many other authorities, *Bouyid v. Belgium* [GC], no. 23380/09, §§ 86-87, ECHR 2015, and *Volodina v. Russia*, no. 41261/17, § 73, 9 July 2019).

37. The obligation of the High Contracting Parties under Article 1 of the Convention to secure for everyone within their jurisdiction the rights and freedoms defined in the Convention, taken together with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to ill-treatment, including ill-treatment administered by private individuals (see, among many other authorities, *M.C. v. Bulgaria*, no. 39272/98, § 149, ECHR 2003-XII, and *O'Keeffe v. Ireland* [GC], no. 35810/09, § 144, ECHR 2014 (extracts)). Furthermore, the absence of any direct State responsibility for acts of violence of such severity as to engage Article 3 of the Convention does not absolve the State from all obligations under this provision. In such cases, Article 3 requires that the authorities conduct an effective official investigation into the alleged ill-treatment, even if such treatment has been inflicted by private individuals (see *M.C. v. Bulgaria*, cited above, § 151; *Denis Vasilyev v. Russia*, no. 32704/04, §§ 98-99, 17 December 2009; and *M.C. and A.C. v. Romania*, no. 12060/12, § 110, 12 April 2016).

38. The Court has already recognised that, depending on the circumstances of the case, domestic violence may be considered ill-treatment falling within the scope of Article 3 (see *Valiulienė v. Lithuania*, no. 33234/07, § 69, 26 March 2013; *Volodina*, cited above, § 74; and *M.S. v. Italy*, no. 32715/19, § 110, 7 July 2022). The phenomenon of domestic violence is not regarded as being limited to the sole fact of physical violence but is considered to include, among other aspects, psychological violence and stalking (see *Buturugă v. Romania*, no. 56867/15, § 74, 11 February 2020), threats (see *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others, § 119, 14 December 2021) and fear of further assaults (see *Eremia v. the Republic of Moldova*, no. 3564/11, § 54, 28 May 2013, and *T.M. and C.M. v. the Republic of Moldova*, no. 26608/11, § 41, 28 January 2014). Indeed, psychological impact forms an important aspect of domestic violence (see *Valiulienė*, cited above, § 69, and *De Giorgi v. Italy*, no. 23735/19, § 65, 16 June 2022).

39. 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 Article 3 of the Convention. To be effective, such an investigation must be prompt and thorough; these requirements apply to the proceedings as a whole, including the trial stage. The authorities must take all reasonable steps to secure evidence concerning the incident, including forensic evidence. Special 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. The effectiveness principle means that the domestic judicial authorities must on no account be prepared to let the physical or psychological suffering inflicted 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, among many other authorities, *Tunikova and Others*, cited above, § 114).

40. In the context of domestic violence, the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation (see *Volodina*, cited above, § 98). Moreover, when the official investigation has led to the institution of proceedings in the national courts, the proceedings as a whole, including the trial stage, must satisfy the requirements of Article 3 of the Convention. In this respect the Court has already held that the protection mechanisms available under domestic law should operate in practice in a manner that allows for the examination of the merits of a particular case

within a reasonable time (see, for example, *W. v. Slovenia*, no. 24125/06, § 65, 23 January 2014, and *M.C. and A.C. v. Romania*, cited above, § 112).

41. Furthermore, the important point for the Court to review is whether and to what extent the courts, in reaching their conclusions, may be deemed to have submitted the case to careful scrutiny of all the relevant considerations related to the case, so that the deterrent effect of the judicial system in place and the significance of the role it was required to play in preventing violations of the prohibition of ill-treatment are not undermined (see *Sabalić v. Croatia*, no. 50231/13, § 97, 14 January 2021, and *Hasmik Khachatryan v. Armenia*, no. 11829/16, § 192, 12 December 2024). The Court has also found violations of the States' procedural obligation in a number of cases of manifest disproportion between the gravity of an act and the results obtained at domestic level, fostering the sense that acts of ill-treatment went ignored by the relevant authorities and that there was a lack of effective protection against acts of ill-treatment (see *Vučković v. Croatia*, no. 15798/20, § 53, 12 December 2023, and the cases cited therein).

(b) Application of these principles in the present case

(i) Whether the applicant has been subjected to treatment falling under Article 3 of the Convention

42. The Government disputed that the applicant had been subjected to treatment contravening Article 3 of the Convention. The applicant, on the other hand, submitted that she had been exposed to physical and psychological abuse, which had comprised – as she consistently described during the investigation and trial – slapping, strangling, kicking, insults, humiliation, death threats, fear, anguish and coercive control. The prosecutor had found those statements serious enough to warrant T.'s indictment for abuse by a person close to the victim committed in a serious manner within the meaning of Article 208 §§ 1 (a) and 2 (d) of the Criminal Code (see paragraph 22 above) and had noted that they had been corroborated by several witness statements, an expert report, medical reports and the criminal order of 8 December 2014 (see paragraph 11 above).

43. The Court notes that no medical reports were submitted to it by the parties and that the applicant stated before the trial court that, out of fear, she had never sought medical assistance (see paragraph 12 above). It further notes that the medical reports available to that court concerned the applicant's treatment by a psychiatrist, her hospitalisation for jaw dislocation in May 2014 and a psychological examination of her children (see paragraph 12 *in fine* above).

44. The Court reiterates nevertheless that the prohibition of ill-treatment under Article 3 covers all forms of domestic violence without exception, and every such act triggers the obligation to investigate. Even a single blow may arouse feelings of fear and anguish in the victim and seek to break his or her

moral and physical resistance. Threats are a form of psychological violence and a vulnerable victim may experience fear regardless of the objective nature of such intimidating conduct (see *Volodina*, cited above, § 98).

45. The Court emphasises that T. admitted to having occasionally slapped the applicant, which was confirmed by their children, that the applicant's psychiatrist stated that the applicant feared him and, above all, that the psychological expert was convinced that she had been exposed to attacks and coercive control for more than a year and suffered from battered woman syndrome (see paragraph 12 above).

46. In this connection, the Court does not see any reason to doubt that the applicant feared assaults from T. and cannot ignore that her fears ultimately materialised in the incident of 5 July 2014 which led to T.'s criminal conviction (see paragraph 5 above).

47. In the light of the foregoing, the Court considers that the treatment, as described by the applicant, to which she was subjected and which was directed at her identity and undermined her integrity and dignity, must necessarily have aroused in her feelings of fear, anguish and insecurity reaching the requisite threshold of severity to fall under Article 3 of the Convention. Having regard to its case-law (see paragraphs 36-37 above), the Court finds that such treatment may be regarded as "degrading". The applicant thus raised an arguable claim of ill-treatment triggering the State's positive obligation under that provision.

(ii) Whether the State authorities discharged their positive obligation

48. It emerges from the Court's case-law that the authorities' positive obligations under Article 3 of the Convention comprise, firstly, an obligation to put in place a legislative and regulatory framework of protection; secondly, in certain well-defined circumstances, an obligation to respond promptly to reports of domestic violence and take operational measures to protect specific individuals against a risk of ill-treatment; and thirdly, an obligation to carry out an effective investigation into arguable claims concerning each instance of such ill-treatment. Generally speaking, the first two aspects of these positive obligations are classified as "substantive", while the third aspect corresponds to the State's positive "procedural" obligation (see *X and Others v. Bulgaria* [GC], no. 22457/16, § 178, 2 February 2021; *Kurt v. Austria* [GC], no. 62903/15, § 165, 15 June 2021, with further references; and *Tunikova and Others*, cited above, § 78).

49. While noting, together with the CEDAW Committee (see paragraph 25 above), the lack in Slovak law of a specific definition of domestic violence as a crime, the Court observes that the adequacy of the legal framework established under Article 208 of the Criminal Code, which was aimed at protection from domestic violence, and of the provisions of the Criminal Code on prosecution has not been disputed by the parties. It therefore sees no need to address this issue of its own motion.

50. Furthermore, the applicant also did not claim that the Slovak authorities had failed in their duty to carry out an immediate and proactive assessment of the risk of recurrent violence against her or to take operational and preventive measures to mitigate that risk, to protect her and to censure T.'s conduct. In this connection, the Court notes that the applicant herself neither lodged a complaint with the police nor requested protection measures. Nevertheless, it appears from the material in the case file that, as soon as the domestic authorities became aware of the violence to which she had been subjected at the hands of her then husband on 5 July 2014, they brought criminal proceedings against the latter, which resulted in his conviction in December 2014 (see paragraph 5 above). In the meantime, in September 2014, the police started, on their own initiative, a new criminal investigation into T.'s behaviour up until July 2014 (see paragraph 6 above), the effectiveness of which is the subject of the present application, and when T. was released from prison, in March 2015, the judge adopted a restraining order prohibiting him from contacting or approaching the applicant (see paragraph 9 above). The applicant did not assert that T. had continued his abusive behaviour towards her after the application of those measures. The Court thus sees no reason to conclude that the authorities remained passive in the face of the risk of ill-treatment of the applicant or failed to take adequate measures of deterrence (see paragraph 22 *in fine* above).

51. Consequently, and in line with the applicant's arguments, the Court's task in the present case is to examine the manner in which the available criminal-law mechanisms were implemented in the instant case, that is to say, whether the domestic authorities discharged their positive "procedural" obligation to carry out an effective investigation into the applicant's arguable claims concerning her ill-treatment (see *Volodina*, cited above, § 77; *X and Others v. Bulgaria*, cited above, § 178; and *Kurt*, cited above, § 165, with further references).

52. Sensitive to the subsidiary nature of its task, the Court reiterates that it must be cautious in taking on the role of a first-instance tribunal of fact where this is not rendered unavoidable by the circumstances of a particular case (see *G.M. and Others v. the Republic of Moldova*, no. 44394/15, § 97, 22 November 2022). It is not called to consider whether the national courts properly assessed the relevant facts; it cannot act as a domestic criminal court or hear appeals against the decisions of national courts, and it is not for it to pronounce on any points of criminal liability (see *Vučković*, § 59, and *Hasmik Khachatryan*, § 197, both cited above). Nonetheless, where allegations are made under Article 3 of the Convention, the Court must apply a particularly thorough scrutiny, even if certain domestic proceedings and investigations have already taken place (see *Y. v. Slovenia*, no. 41107/10, § 96, ECHR 2015 (extracts), and *A and B v. Croatia*, no. 7144/15, § 108, 20 June 2019).

53. Noting that the applicant did not raise any specific complaint regarding the police investigation, which indeed enabled the gathering of a substantial amount of evidence and the prompt indictment of the presumed perpetrator (see paragraph 11 above), the Court will focus on whether and to what extent the applicant's case was subjected to careful scrutiny within a reasonable time by the domestic courts (see the case-law principles cited in paragraphs 40-41 above).

54. In that connection, the Court cannot but note the domestic courts' formalistic approach to the circumstances of the applicant's case, considering that they refused to take into account a number of elements which were relevant for the overall assessment of the case.

55. To begin with, the Court observes that the domestic courts' main reason for acquitting T. was that none of the witnesses had confirmed that T. had behaved in the manner described in the indictment (see paragraph 18 above). However, this finding appears to be in stark contrast to the abundant evidence supporting the charges against T., which the courts disregarded without any explanation of their reasons for so doing. In the first place, there were the statements of the applicant's children, interviewed in the pre-trial proceedings (see paragraph 11 above), who spoke about their father's violent behaviour which they had witnessed and to which they had also been exposed (see paragraphs 12 and 18 above). Furthermore, the applicant's statements appear to have been corroborated by several witnesses, among them her relatives and neighbours, her mother and sister, T.'s father and her treating psychiatrist, who had seen her injuries.

56. The Court further observes that the psychological expert found that the applicant suffered from battered woman syndrome and post-traumatic stress disorder and he also found that there was no reason to doubt that the applicant had been exposed to situations of violence. Nevertheless, and although the expert explained that the psychiatric treatment undergone by the applicant in 2010 had had no link to the above-mentioned syndrome (see paragraph 12 above), which had obviously developed later, the trial court held – rather arbitrarily, in the Court's view – that the fact that the applicant had been consulting a psychiatrist as of 2010 had cast doubt on the expert's statement that her issues had been linked to her conflicts with T. after September 2012 (see paragraph 18 above). It appears all the more striking that the trial court considered that expert opinion refuted by the statements of the children's teachers, which had nothing to do with the applicant herself. Moreover, the trial court also disregarded the experts' findings that T. was emotionally unstable, inclined to aggressive reactions and dependent on alcohol, and remained silent in respect of the fact that the applicant had expressed fear of him.

57. The Court cannot but observe that, despite this extensive evidence corroborating the applicant's statements, the trial court put emphasis on the rather scant testimony of the witnesses who had stated that they had not

known about the events described in the indictment. Moreover, the court did not explain why the fact that T. had admitted to having occasionally slapped the applicant and harassed her verbally was not taken as a factor counting against him, at least for a lesser offence of behaving in a dangerous and threatening manner as indicated by the appellate court in its second judgment (see paragraph 17 *in fine* above), but rather as a ground for dismissing the charges on account of the reciprocal character of the spouses' violent behaviour. Therefore, while accepting that there had been violence, the court relied on its alleged reciprocity to exclude its criminal character (see paragraph 18 *in fine* above), thereby demonstrating the lack of a gender-sensitive approach in the present case.

58. The Court therefore considers that while the first-instance court described all the evidence in detail, it was overly formalistic in reaching its conclusions and showed no awareness of particular features of domestic violence cases, failing to analyse the circumstances of the case from a gender-based violence perspective and to make a context-sensitive assessment of the credibility of the various statements (see, *mutatis mutandis*, *C. v. Romania*, no. 47358/20, §§ 79-80, 30 August 2022, and *X. v. Greece*, no. 38588/21, §§ 79 and 87, 13 February 2024). In particular, the applicant's statements do not appear to have been placed in a relevant context, specifically with regard to other witness evidence corroborating her version of events and the expert evidence (see, *mutatis mutandis*, *A.P. v. the Republic of Moldova*, no. 41086/12, § 31, 26 October 2021), and the context-based elements, such as the history, the continuous pattern and the dynamics of T.'s violence against the applicant, determined in the criminal order of 8 December 2014, were entirely disregarded.

59. As to the latter point, the Court acknowledges that each criminal case should be decided on the basis of the facts that either confirm or refute the charges. It considers, however, that in domestic-violence cases, failure to address interrelated incidents that fall under the same pattern of aggressive behaviour amounts to a disregard of the obligation to submit those cases to the careful scrutiny required of the domestic courts under the Convention (see paragraph 41 above).

60. Lastly, the Court reiterates that, when examining the effectiveness of an investigation under Article 3, it also takes into account the promptness of the proceedings, a requirement which should be examined together with other parameters affecting the (in)effectiveness of the investigation. The Court takes into consideration not only the overall length of proceedings, but also whether decisions have been repeatedly declared void on account of omissions by lower courts (see *Kosteckas v. Lithuania*, no. 960/13, § 41, 13 June 2017; *D.M.D. v. Romania*, no. 23022/13, §§ 43-44, 3 October 2017; and *Y. v. Slovenia*, cited above, §§ 97-100).

61. In that connection, the Court has already observed that as far as the stage of the police investigation is concerned, the domestic authorities

demonstrated the requisite promptness (see paragraph 53 above); indeed, T. was indicted nine months after the police brought criminal proceedings against him on 24 September 2014.

62. However, substantial delays occurred once T. was brought to trial, on account of the facts that the first-instance acquittals were quashed twice and that, after the first quashing, it took the District Court (sitting in a different chamber) almost five years to deliver a new judgment, in which it simply repeated its previous reasoning. On the whole, the proceedings before the domestic courts lasted more than seven years, exposing the applicant to a prolonged state of uncertainty and other negative implications of the lengthy proceedings. In particular, she had to relive the painful events a number of times during three retrials, which must have caused her unnecessary suffering and frustration, and which might have been avoided had the criminal-law mechanisms which were aimed at deterrence of and punishment for criminal acts of abuse been applied in an effective and prompt manner.

63. In sum, the Court finds that the manner in which the authorities actually handled the matter – notably the serious shortcomings described above, that is, the failure to conduct a context-sensitive assessment of the case and the slow pace of the criminal proceedings against T. – disclosed a failure on their part to discharge their positive obligations under Article 3 of the Convention.

64. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 3 of the Convention.

II. ALLEGED VIOLATIONS OF ARTICLE 8 OF THE CONVENTION ALONE AND TAKEN IN CONJUNCTION WITH ARTICLE 13 AND UNDER ARTICLE 13 TAKEN IN CONJUNCTION WITH ARTICLE 3

65. The applicant complained that the domestic violence of which she had been a victim had interfered with her right to respect for private life under Article 8 of the Convention because the State had failed to ensure an effective investigation and to provide her with effective protection from the violence perpetrated against her. She further argued that, in the present case, the criminal proceedings which had ended with the acquittal of the perpetrator of that violence could not be considered an effective remedy in respect of her complaints under Articles 3 and 8 of the Convention.

66. The Government contested those arguments.

67. The Court considers that, in the light of its findings of a violation of Article 3 of the Convention, the complaint under Article 8 and under Article 13 taken in conjunction with Articles 3 and 8 must be declared admissible, but there is no need to examine them since they do not raise any separate issue (see, *mutatis mutandis*, *T.M. and C.M. v. the Republic of Moldova*, cited above, § 52).

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLES 3 AND 8

68. Lastly, the applicant complained that gender-based violence against women and the lack of its investigation was a systemic problem in Slovakia. She submitted that the cases of violence against women were underreported and the number of prosecutions and convictions of perpetrators was low, as indicated in reports on Slovakia (which she did not specify) by the CEDAW Committee and the CAT and as illustrated by several past cases of violence against women which had not been sufficiently investigated (here she referred to *Kontrová v. Slovakia*, no. 7510/04, 31 May 2007, and *E.S. and Others v. Slovakia*, no. 8227/04, 15 September 2009). In her submissions, the applicant added that although the investigation in her case had been opened by the police of their own motion, the courts had then downplayed the violence she had suffered and their assessment of evidence had been tainted with bias and stereotypes.

69. The Government reiterated that the violence between the applicant and her former husband had been reciprocal (see paragraph 32 above) and that she had not pointed to any specific facts which would indicate that she had been subjected to gender-based violence. Moreover, the applicant had raised arguments in her discrimination complaint only with reference to a general situation as described in the reports of international organisations, without submitting any specific data demonstrating discriminatory treatment on the part of the domestic authorities of women who were victims of domestic violence (referring to *A. v. Croatia*, no. 55164/08, § 97, 14 October 2010) and without proving any bias on the part of the authorities dealing with her case (referring to *Y and Others v. Bulgaria*, no. 9077/18, § 132, 22 March 2022).

70. The Court reiterates that, according to its case-law, a State's failure to protect women against domestic violence breaches their right to equal protection before the law and that this failure does not need to be intentional (see *Opuz v. Turkey*, no. 33401/02, § 191, ECHR 2009). The Court has previously held that the general and discriminatory judicial passivity of the police, creating a climate that was conducive to domestic violence, amounted to a violation of Article 14 of the Convention (ibid., §§ 191 et seq.). It also found that such discriminatory treatment had occurred where it could be established that the authorities' actions had not been a simple failure or delay in dealing with the violence in question, but had amounted to repeatedly condoning such violence and had reflected a discriminatory attitude towards the complainant as a woman (see *Eremia*, cited above, § 89, and *Talpis v. Italy*, no. 41237/14, § 141, 2 March 2017). However, the Court's findings made in the present case under Article 3 of the Convention do not disclose a discriminatory attitude on the part of the authorities and do not allow it to

conclude that the Slovak police or other national authorities are consistently downplaying or unwilling to deal with cases of violence against women.

71. In this connection, the Court takes note that Slovakia has not, to date, ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence ("the Istanbul Convention"). It also observes that the CEDAW Committee expressed, in its Concluding observations on the seventh periodic report of Slovakia of 31 May 2023, concern about the lack of a specific definition of domestic violence as an offence in the Criminal Code and the insufficient punishment of perpetrators of intimate partner violence and femicide (see paragraph 25 above). Furthermore, in its Concluding observations on the fourth periodic report of Slovakia of 7 June 2023, the CAT recommended that Slovakia should ensure that all acts of gender-based and domestic violence be thoroughly investigated and that the alleged perpetrators prosecuted and, if convicted, adequately punished (see paragraph 27 above).

72. The Court notes, however, that in the present case the applicant only generally referred to unspecified reports by the CEDAW Committee and the CAT, without providing any statistical or other information disclosing an appearance of discriminatory treatment on the part of the Slovak authorities of women who are victims of domestic violence. In the Court's view, such a general reference is not sufficient to demonstrate institutional attitudes or systematic patterns of discrimination (see, *mutatis mutandis*, *M.A. v. Iceland*, no. 59813/19, § 98, 26 August 2025). The Court further observes that the applicant did not attempt to substantiate her assertion that the Slovak authorities have remained generally complacent in such cases with other kinds of prima facie evidence (see, *mutatis mutandis, Y and Others v. Bulgaria*, cited above, § 127).

73. Taking into account that it is the applicant who bears the initial prima facie burden of proving a difference in treatment (see *Vieru v. the Republic of Moldova*, no. 17106/18, § 130, 19 November 2024), the Court is thus not satisfied that the applicant produced prima facie evidence of widespread passivity on the part of the domestic authorities when it came to providing effective protection to women who were victims of domestic violence (see paragraph 70 above). Furthermore, she did not submit any evidence demonstrating that the authorities dealing with her particular case had acted in a discriminatory manner or with discriminatory intent towards her, nor did she allege that any of the officials involved in the case under examination had tried to dissuade her from testifying against T. or that they had attempted in any other manner to hamper her efforts to seek protection against violence committed by T. (see, *mutatis mutandis*, *M.S. v. Italy*, cited above, § 163).

74. The Court is thus of the view that the deficiencies found in the present case stemming from the courts' failure to act promptly and to exercise careful scrutiny, while contrary to Article 3 of the Convention, cannot be considered

in themselves to disclose a discriminatory attitude on the part of the authorities.

75. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

76. 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

77. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage. She relied on the suffering and distress caused to her as a result of the State's failure to fulfil its obligations under the Convention.

78. The Government considered that claim overstated.

79. In the light of the circumstances of the case, the Court awards the applicant EUR 16,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

80. The applicant also claimed EUR 1,205 for the costs and expenses incurred before the domestic courts and EUR 3,210 for those incurred before the Court. She submitted a conditional fee agreement and a detailed breakdown of the work done by her representative.

81. The Government submitted that the applicant should be awarded only the costs and expenses that were actually and reasonably incurred and were also reasonable as to quantum.

82. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,500 covering costs under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints raised under Articles 3 and 8 taken alone and in conjunction with Article 13 of the Convention admissible and the remainder of the application inadmissible;

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

3. *Holds* that there is no need to examine the merits of the complaints under Article 8 of the Convention alone or in conjunction with Article 13 or under Article 13 taken in conjunction with Article 3 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 16,000 (sixteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 22 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt	Ivana Jelić
Deputy Registrar	President