



Police systemically failed to prevent gender-based violence

In today's **Chamber judgment**¹ in the case of [Tkhelidze v. Georgia](#) (application no. 33056/17) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 (right to life/investigation) taken in conjunction with Article 14 (prohibition of discrimination) of the Convention of the European Convention on Human Rights.

The case concerned the Georgian authorities' failure to protect the applicant's daughter from domestic violence and to conduct an effective investigation into the matter.

The Court found that the police had to have been aware that the applicant's daughter had been in danger. Despite the various protective measures that they could have implemented, they had failed to prevent gender-based violence against her, which culminated in her death. The Court found that the police inaction could be considered a systemic failure. There was a pressing need to conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had been behind the police's lack of action.

Principal facts

The applicant, Taliko Tkhelidze, is a Georgian national who was born in 1958 and lives in Tbilisi.

In 2013 the applicant's daughter, M.T., and her six-year-old daughter moved into a flat with M.T.'s partner, L.M., sharing with L.M.'s parents. In April and September 2014, the police were called to the flat due to L.M.'s threatening and abusive behaviour towards M.T. On neither occasion was a criminal investigation opened or restrictive measures issued, despite M.T. having been physically injured and despite requests from both M.T. and L.M.'s parents for a restraining order to be placed on L.M. The police informed M.T. that it was not possible to arrest her partner or to request any other restrictive measure given the "minor" nature of the "family altercation".

The following day, on 23 September 2014, M.T. left L.M. and moved in with her mother in Tbilisi.

Following her departure, L.M. kept sending threatening messages to both her and her daughter. On 27 September, M.T. lodged a criminal complaint against L.M. A criminal investigation was not opened, but a formal warning was issued against him not to engage in any kind of dispute with M.T. The following day, after M.T. had again been accosted by L.M., the police explained that they could not arrest him in the absence of a physical assault but suggested that an alternative solution would be for her brothers to beat him up.

In the first half of October 2014, the applicant went to the police station in Tbilisi three times to report L.M. for stalking and threatening her daughter, including turning up at her daughter's workplace with a hand grenade and threatening to detonate it. On 16 October 2014, after L.M. had almost crashed into M.T.'s car when she was taking her daughter to school, the applicant went to the police and pleaded for State protection. She reported that her and her daughter's lives had

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

become unbearable, with L.M. terrorising them on a daily basis. No restraining order or other restrictive measures were implemented.

On 17 October 2014 L.M. turned up at M.T.'s workplace and shot her dead. He immediately turned the gun on himself and committed suicide.

An investigation was opened but was discontinued on 31 December 2014 as the person liable for the crime was deceased.

According to the various records and reports drawn up by the police, neither the applicant nor her daughter had been advised of their procedural rights or the legislative and administrative measures of protection available to them under the Criminal Code and the Domestic Violence Act.

On 8 April 2015 the applicant lodged a criminal complaint with the district public prosecutor's office, requesting that an investigation for negligence be opened against the police officers dealing with her daughter's domestic violence allegations. She repeated her complaint on at least five further occasions between 2015 and 2016, emphasising that the inaction of the police could be seen as gender-based discrimination. Her complaints remaining unanswered, the applicant asked the Chief Public Prosecutor's Office in April 2017 whether it had received her letters and complaints and why she had not received a response. She received confirmation that all previous correspondence had been received but was provided with no further information.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 14 (prohibition of discrimination) of the Convention, the applicant complained of the domestic authorities' failure to protect her daughter from domestic violence and to conduct an effective criminal investigation into the circumstances which had led to her death. She submitted that the police had been aware of the danger posed to her daughter's life, but had failed to take the necessary preventive measures. In particular their response to the numerous complaints she and her daughter had made about L.M.'s abusive behaviour had been inappropriate and discriminatory.

The application was lodged with the European Court of Human Rights on 13 April 2017.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra **O'Leary** (Ireland), *President*,
Mārtiņš **Mits** (Latvia),
Lətif **Hüseynov** (Azerbaijan),
Lado **Chanturia** (Georgia),
Ivana **Jelić** (Montenegro),
Arnfinn **Bårdsen** (Norway),
Mattias **Guyomar** (France),

and also Victor **Soloveyichik**, *Section Registrar*.

Decision of the Court

Article 2 taken in conjunction with Article 14

The Court examined the complaints under Article 2 taken in conjunction with Article 14 of the Convention. The Court reiterated that, whenever there was any suspicion of domestic violence or violence towards women, special diligence was required of the authorities in the course of the domestic proceedings. A State's failure to protect women against domestic violence breached their right to equal protection before the law. Moreover, the obligation to protect life under Article 2 of

the Convention required that there be some form of effective official investigation whenever somebody had been murdered.

The Court noted that between 29 April and 16 October 2014, M.T. and the applicant had requested help from the police on at least 11 occasions. In their statements, they had always clearly conveyed the level of violence in L.M.'s behaviour. The police had been informed by L.M.'s parents that he suffered from pathological jealousy, was mentally unstable and had anger-management issues. He himself had admitted that he had threatened to kill the applicant's daughter, had a criminal record and a history of drug and alcohol abuse. The police knew that M.T. carried various defence weapons on her at all times and was extremely frightened of him. The Court thus concluded that the police knew or certainly ought to have known of the real and immediate threat to her safety.

However, the law-enforcement authorities had persistently failed to take steps that could have mitigated the harm or altered the tragic outcome. Despite the various protective measures that had been directly available to them, the authorities had failed to prevent gender-based violence against M.T., which culminated in her death.

The Court found that the police inaction in the present case could be considered a systemic failure and that there was a pressing need to conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had been behind the lack of action taken by the police.

The State had thus breached its obligations under Article 2 of the Convention read in conjunction with Article 14 to protect the life of the applicant's daughter and to carry out an effective investigation into her death.

Just satisfaction (Article 41)

The Court held that Georgia was to pay the applicant 35,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.