



Criminal proceedings against child's sexual abusers caused her further trauma

In today's **Chamber judgment**¹ in the case of [B v. Russia](#) (application no. 36328/20) the European Court of Human Rights held, unanimously, that there had been

a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

In 2019, at the age of 12, B, who was living with a guardian after the death of her mother, revealed that she had been subjected to sexual abuse between the ages of 7-10. The case concerned her participation in the ensuing investigation and trial in the criminal proceedings against her alleged abusers. She complained that her repeated interviews and direct contact with her alleged abusers during the proceedings had caused her severe stress and mental hardship, leading to serious psychological disorders, and resulting in her re-traumatisation.

The Court was called upon to examine whether the State had sufficiently protected B's rights during those proceedings in the light of her particular vulnerability owing to her young age and the alleged sexual abuse. It found that the Russian authorities had displayed utter disregard for her suffering and had failed to protect her personal integrity in the course of the criminal proceedings, which had led to her secondary victimisation.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, B, is a Russian national who was born in 2007 and lives in Kazan (Russia).

When her mother died in June 2018, B was placed in an orphanage at her father's request. A guardian was then appointed, and she went to live with her guardian's family. In February 2019, when B was interviewed by psychologists from the Centre of Assistance to Children without Parental Care, a state-funded institution, she revealed that she had been sexually abused by several males when she was younger.

Independent sets of criminal proceedings were subsequently brought against four suspects in respect of sexual abuse carried out in 2014-15 and in 2017. Between February 2019 and September 2020, investigators interviewed B on different occasions, in the presence of her guardian, of psychologists/educators, and from April 2019 onwards, of a lawyer. Over a period of one year and seven months, she was interviewed 12 times by different investigators (three male and one female), having to repeat in detail what had happened to her for each of the four sets of criminal proceedings and to participate in further interviews focusing on alleged abuse by one of the men in particular. Some evidence was made part of more than one case file.

All of the interviews were carried out in ordinary offices. On-site verifications of her statements took place in two of the flats where she said the abuse had taken place. On one of those occasions, the owner of the flat, who was also the brother of one of the suspects, was present so B refused to go back there after that. She was allowed to use photographs to reconstruct the remaining events.

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.

B also had to attend two identification parades, viewing the men presented through a one-way mirror so that she could not be seen. However, on one occasion, one of the suspects ended up in the same room as her by mistake, which caused her considerable distress. She identified the other two perpetrators from photographs.

On two other occasions, B had to give detailed accounts of her sexual abuse in front of each of two of the alleged perpetrators, answer questions and, when they denied any wrongdoing, had to state whether she insisted on going-ahead with her allegations. The experience resulted in her breaking down.

As the investigation progressed, B's psychological and physical state worsened. As a result, her lawyer requested that she be excused from taking part in some of the investigative activities.

During the trial proceedings of one of the defendants, the court refused that B's statements be read out, considering that there was nothing to prevent her from participating and being questioned in person. It rejected a forensic medical expert report concerning the state of B's mental health (prolonged depressive reaction developed as a result of several psycho-traumatic factors including her participation in the criminal proceedings, to be avoided henceforth) or the results of B's examination by psychologists (indicating her emotional distress and exhaustion and recommending that she be spared from psychologically traumatic situations) on formal grounds because the report had been ordered as evidence in one of the other cases and the psychologists lacked the status of experts and specialists. The court, citing lack of medical evidence, subjected B to two-hour stints of questioning by the prosecutor, the defendant's lawyer and the presiding judge, all the while refusing a request for a break or adjournment.

During the trials against the other three defendants, B's statements given at the preliminary investigation were read out at her lawyer's request.

B's condition deteriorated over the course of the proceedings (as shown in 2019-2020 reports by forensic psychological and psychiatric experts and by psychologists from the Centre of Assistance to Children without Parental Care and other organisations), with her being diagnosed with post-traumatic stress disorder, asthenia, anxiety and depression, to the point of suicide risk and self-harm. In December 2021, when the proceedings were still pending, she had to be placed under supervision by a psychiatrist and had needed lengthy treatment.

Three of the defendants were convicted and two were sentenced to twelve years' and nine years' imprisonment. Appeal proceedings in two of the cases and the trial against one defendant is still pending.

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy), the applicant complained that she had been subjected to secondary victimisation in the course of the criminal proceedings. She alleged in particular that scant regard had been given to her particular vulnerability as a child victim of sexual abuse, which had caused her excessive additional trauma and suffering.

The application was lodged with the European Court of Human Rights on 13 August 2020.

As the Russian Federation had ceased to be a High Contracting Party to the Convention on 16 September 2022, the office of judge in respect of the Russian Federation had ceased to exist after that date. Therefore, the President of the Section appointed an *ad hoc* judge from among the members of the composition, applying by analogy Rule 29 § 2 of the Rules of Court.

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

Pere Pastor Vilanova (Andorra), *President*,
Yonko Grozev (Bulgaria),
María Elósegui (Spain),
Darian Pavli (Albania),
Peeter Roosma (Estonia),
Ioannis Ktistakis (Greece),
Andreas Zünd (Switzerland),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

The Court established that it had jurisdiction to deal with the case, as the facts giving rise to the alleged violations of the Convention had taken place before 16 September 2022.

Due to the applicant's acute vulnerability and the particularly serious nature of her alleged secondary victimisation, the Court examined the case under Article 3 (prohibition of inhuman or degrading treatment) of the Convention, taking into account relevant international law and specifically "The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse", also known as the [Lanzarote Convention](#).

The Court noted that, in order to keep the number of interviews of minors to a minimum and thus avoid further trauma, one of the recommendations of that convention was that video-recordings should be accepted as evidence. The Court observed that only the first interview with B had been video-recorded, and the recording had been lost that same day. There was nothing to show that proper procedures had been put in place to keep it safe. After it was lost, no other ways of preventing B from having to keep telling her version of events and reliving the trauma had been implemented.

The Court noted that the fact that there were four separate sets of proceedings had not prevented the use of the same relevant evidence in the different proceedings. As it happened, the applicant had had to repeat her statements about all episodes of alleged abuse at least three more times. Moreover, additional interviews had then been carried out, with her also having to describe the abuse to a forensic expert. The Court found that the necessity for those additional interviews had not been clearly shown.

The Court observed that not only had B been interviewed repeatedly, but she had been interviewed by four different investigators, three of whom were male. In contrast, the Lanzarote Convention recommended that all interviews with children be conducted by the same person whenever possible. Such a provision was missing in Russian domestic law, but there was nothing to show that it had been impossible in practice to assign one female investigator to carry out all the interviews. Moreover, the 12 interviews had taken place in ordinary offices rather than in premises designed or adapted for interviews with children, and there was no proof that the investigators involved in the proceedings had been trained for interviewing children, whereas Article 36 of the Lanzarote Convention recommended that training on the rights of child victims of sexual abuse be available for the benefit of all persons involved in the proceedings, in particular judges, prosecutors and lawyers.

In addition to the numerous interviews, B had had to repeat her statements at the places where her alleged abuse had taken place. The brother of one of the perpetrators had been present on one such occasion. As those verifications could have been carried out through other means, for example with the help of photographs, the authorities had failed to show why it had been necessary to do it on-site.

Of particular concern for the Court was the contact that B had been made to have with the suspects. Although she had been in a room with a one-way mirror during the identification of two of them, her interests had not been sufficiently protected: her fear and stress might have arisen from not being told or reassured that she could not be seen. On one of the occasions the perpetrator had entered the room she was in, due to a mistake made by the investigator. Confronting the alleged perpetrators had been a particularly distressing experience for her, further aggravated by the fact that she had been subjected to intense questioning by two lawyers assisting one of them. No alternatives which would have enabled the defence to put questions to her in a less disturbing manner had been offered. B had displayed signs of psychological trauma, typical for child victims of sexual abuse, reliving shame, severe emotional stress, anxiety and fear. In the end, it had led to her being treated for a nervous breakdown.

The Court noted that the Centre of Assistance to Children without Parental Care had asked before the start of the investigative activities for enhanced control to protect the 12-year-old's rights, without success. The psychologist had specifically stated that B should not be made to meet the alleged perpetrators in order to prevent any further traumatising which might complicate her recovery and worsen her mental state. However, B had been confronted with two of the defendants just two months later.

Moreover, in June 2019 the investigating unit had been informed, by the forensic experts' report, of B's emotional and mental distress, her physical exhaustion and depression, and the psychologists' recommendation that mentally traumatic situations and negative emotions should be avoided. Nevertheless, the investigators had gone ahead with interviewing B seven more times in September and October 2019, and February, May and September 2020. Some of the investigators had tried to spare her from taking part in some of the investigative actions, but those decisions had not been coordinated between the different investigators involved and had not been enforced by everyone.

Especially striking were B's continued interviews by the investigators and her examination at the first hearing on 10 June 2020. The Court considered that it had been the responsibility of the domestic court to ensure that her personal integrity was adequately protected at the trial, and to balance her rights against the rights of the defence. The judge had given no reasons for his decision to question her and had not taken into account her particular vulnerability as a child victim of sexual abuse, the worrying condition of her psychological health, the experts' recommendation against her participation in the hearing, or even the psychologist's and guardian's request to halt her examination because she was being further traumatised. B had been subjected to extensive and detailed questioning and had been obliged to listen to her statements given at the preliminary investigation before being questioned in respect of alleged inconsistencies. She had been subsequently summoned to appear before the court for continued examination three more times after that. The Court considered that that was incompatible with the sensitive approach required on the part of the authorities to the conduct of criminal proceedings concerning the sexual abuse of a minor.

The Court concluded that the Russian authorities had displayed utter disregard for B's suffering. She had been acutely vulnerable on account of her young age, tragic family situation, placement in an orphanage and alleged sexual abuse. The authorities had failed to protect her personal integrity in the course of the criminal proceedings, which had led to her secondary victimisation. There had accordingly been a violation of Article 3 of the Convention.

[Just satisfaction \(Article 41\)](#)

The Court held that Russia was to pay the applicant 13,553 euros (EUR) in respect of pecuniary damage, EUR 20,000 in respect of non-pecuniary damage and EUR 6,741 in respect of costs and expenses.

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.