



Authorities' inadequate response to allegations of domestic violence, leaving a mother and her children to live in a shelter for over three years

The case of [Ubeda and Others v. Italy](#) (application no. 9993/24) concerned an alleged failure by the national authorities to duly address and assess allegations of domestic violence. The applicants in the case were a mother and her two children. The mother had lodged a complaint with the police in April 2021 against the father of her children and former cohabitant, alleging that, during their relationship, he had been violent towards her and her children, both physically and psychologically. In May 2021 she and her children were placed in a shelter, where they remained until July 2024.

In today's **Chamber** judgment¹ in the case, the European Court of Human Rights held, unanimously, that there had been a **violation of Articles 3 (prohibition of inhuman and degrading treatment) and 8 (right to respect for private and family life)** of the European Convention on Human Rights in relation to the complaints of domestic violence.

The Court held that the proceedings against the alleged perpetrator had not met the requirements of a prompt, thorough and effective investigation as required under the Convention. In addition, sexist and stereotyped remarks made by the prosecutor had resulted in Ms Ubeda being subjected to further victimisation. By keeping the applicants in the shelter for over three years, the authorities had breached their obligation to adopt proportionate measures and to carry out, on an ongoing basis, an assessment of the adequacy and proportionality of that measure.

The Court also held, unanimously, that there had been a **violation of Article 8 (right to respect for private and family life)** because of the inaction of the Juvenile Court in relation to the issue of custody and the family's continued placement in a shelter.

The Juvenile Court had taken more than three years to hand down a final decision ordering the withdrawal of the alleged perpetrator's parental responsibility. The court's decisions had been sparse and had completely disregarded the allegations of domestic violence. Furthermore, a stay of over three years in the shelter had given rise to significant consequences for the children's psychological and physical well-being and had subjected them to a serious restriction of their fundamental rights and freedoms.

Principal facts

The applicants, Audrey Carmen Manuela Ubeda, A.P. and M.P., are French nationals who were born in 1983, 2011 and 2014 respectively and live in Italy. A.P. and M.P. are Ms Ubeda's minor children.

In April 2021 Ms Ubeda lodged a complaint with the police against the father of her children and former cohabitant, G.P., an Italian national. She alleged that, during their relationship, he had been violent towards her and her children, both physically and psychologically. In May 2021, at Ms Ubeda's request, she and her children were placed in a shelter. In February 2024, after an initial request for dismissal by the prosecution, G.P. was committed for trial. A first hearing scheduled for January 2025 had not apparently taken place. In parallel, in May 2021 Ms Ubeda brought an action seeking sole

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.

custody of the children, the removal of G.P.'s parental responsibility, authorisation to leave Italy and maintenance. In May 2024 the Juvenile Court deprived G.P. of his parental responsibility. No ruling on Ms Ubeda's request to be authorised to leave the shelter and to settle in France was expressly taken. The applicants left the shelter in July 2024.

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of inhuman and degrading treatment) and 8 (right to respect for private and family life), Ms Ubeda and the two children complained that the national courts had failed to properly assess their allegations of domestic violence or to adopt adequate protective measures. They argued that their stay in the shelter for more than three years had resulted in a serious infringement of the children's physical and psychological well-being, effectively subjecting them to an excessive and unjustified restriction of their liberties as a result of the shelter's internal regulations.

The application was lodged with the European Court of Human Rights on 5 April 2024

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

Ivana Jelić (Montenegro), *President*,
Erik Wennerström (Sweden),
Raffaele Sabato (Italy),
Davor Derenčinović (Croatia),
Alain Chablais (Liechtenstein),
Artūrs Kučš (Latvia),
Anna Adamska-Gallant (Poland),

and also Ilse Freiwirth, *Section Registrar*.

Decision of the Court

The Court found that the Italian authorities had reacted promptly to the allegations of domestic violence; criminal proceedings had been opened in April 2021, and Ms Ubeda and her children had been placed in a shelter the following month. However, while that placement had prevented a possible escalation of violence, it had imposed a heavier burden on them than it had on G.P., who had not been subjected to any measure. Furthermore, the authorities had not assessed the measure's proportionality on an ongoing basis or considered the possibility of adopting alternative measures such as, for example, assigning the family home to Ms Ubeda and the children or authorising their move to France.

The Court found that the proceedings had not met the requirements of a prompt, thorough and effective investigation as required under the Convention. In November 2021 the public prosecutor had lodged a request for the discontinuance of the proceedings. He had dismissed an incident, during which G.P. had allegedly held a knife to Ms Ubeda's throat, as a "bad joke", and had stated that it was difficult to prove that G.P. had been aware of Ms Ubeda's lack of consent to sex, considering that "it [was] normal for men to have to overcome a minimum level of resistance that every women tend[ed] to display when she [was] tired from daily life and a man [made] a sexual advance". The Court found that those reasons reflected a sexist and stereotyped culture and shared the concerns expressed in [a report](#) by GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) that such stereotyping could lead to victims of domestic violence experiencing further (secondary) victimisation in the courtroom. In any event, following objections by Ms Ubeda, the prosecutor's request was refused and further investigations were ordered. However, it does not appear that to date a hearing has been held.

Overall, the Italian authorities had failed to recognise the complex dynamics of domestic violence and had failed to provide a response proportionate to the seriousness of the facts as alleged by Ms Ubeda and the children.

There had therefore been a violation of Articles 3 and 8 in relation to their complaints of domestic violence.

In parallel to the criminal complaint, Ms Ubeda had applied to the Juvenile Court in May 2021 seeking sole custody of the children, authorisation to leave Italy, withdrawal of G.P.'s parental responsibility and maintenance for the children. The Juvenile Court had taken more than three years to give a final decision ordering the withdrawal of G.P.'s parental responsibility and it did not appear that Ms Ubeda's other requests had yet been addressed.

The Juvenile Court's decisions, drafted using a pre-printed template, had entirely failed to address the domestic-violence allegations or the statements provided by Ms Ubeda and the two children regarding the violent conduct that they had suffered. The Court held that the authorities' complete disregard of the allegations had intensified and extended the first applicant's suffering, strengthening her belief that the violence she had endured remained undetected. The Court emphasised the necessity of expressly assessing allegations of domestic violence, their credibility and substance and the compatibility of the conduct in question with custody and visitation rights. None of those considerations had appeared in the reasoning of the decisions adopted.

As regards the children, between 2022 and 2024 the Juvenile Court had received numerous reports from the public services responsible for the two children, expressing serious concerns about the severe impact on them of the continuing uncertainty regarding their relationship with their father and of their extended placement at the shelter. Despite those reports, the decision withdrawing G.P.'s parental responsibility had only been adopted in May 2024. In the decision, reference to the children's best interests had been entirely absent. The national courts had also failed to act with the requisite promptness and diligence in delivering a final decision.

Furthermore, the prolonged stay in the shelter had given rise to significant consequences for the children's psychological and physical well-being and had subjected them to a serious restriction of their fundamental rights and freedoms as they had been required to remain in the shelter for nearly three years, confined to a room measuring 15 square meters and had been burdened by significant and unjustified limitations on their daily lives arising from the shelter's operational rules.

There had therefore been a violation of Article 8 as concerned the inaction of the Juvenile Court in relation to custody rights and the continued placement in the shelter.

Just satisfaction (Article 41)

The Court held that Italy was to pay the applicants 15,000 euros (EUR) each in respect of non-pecuniary damage and EUR 15,000 jointly in respect of costs and expenses.

The judgment is available only in English.

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