



Northern Irish authorities had not failed in their duty under the European Convention to protect a woman from domestic violence

In its decision in the case of [Irene Wilson v. the United Kingdom](#) (application no. 10601/09) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the complaint by a victim of domestic violence about the authorities' handling of the criminal proceedings against her husband for grievous bodily harm and her allegation that the suspended sentence given to him was too lenient.

Principal facts

The applicant, Irene Wilson, is a British national who was born in 1958 and lives in Londonderry (Northern Ireland).

On 20 October 2007 Ms Wilson's husband, Scott Wilson, assaulted her at her home, after they had been out drinking. She suffered a severed artery on her head, requiring eight stitches, as well as multiple bruising.

Mr Wilson was arrested and charged with causing grievous bodily harm with intent contrary to section 18 of the Offences Against the Person Act 1861. He was granted bail on 22 October 2007 and required to reside at an alternative address to the matrimonial home.

Temporarily reconciled with her husband, Ms Wilson withdrew her complaint. The Public Prosecution Service of Northern Ireland ("the PPS") decided nonetheless that the prosecution should proceed.

In March 2008 the charge against Mr Wilson was reduced to one of grievous bodily harm contrary to section 20 of the 1861 Act, owing to insufficient evidence as concerned the intent element. Prosecution requested a meeting with Ms Wilson to explain the nature of this new charge.

On 7 October 2008 the sentencing judge, having considered among other things a victim impact report, photographs of Ms Wilson's injuries, the transcript of the 999 telephone call as well as the probation service report, stated that the court could not tolerate violence against women and sentenced Mr Wilson to 18 months' imprisonment, which was suspended for three years. In passing sentence, the judge took into account the fact that Mr Wilson had no criminal record, that he was genuinely remorse for the assault, that he had pleaded guilty and that he had already completed a number of counselling sessions to address his drinking and aggression.

The senior public prosecutor subsequently met with Ms Wilson to explain the reasons for the decision in the case.

Unhappy with the excessive leniency of the sentence, Ms Wilson complained to various bodies in Northern Ireland, without success. She also sought compensation for her injuries which led to her being referred for examination and assessment by a

psychiatrist. On the basis of the psychiatrist's report, she was awarded 2,800 British pounds (approximately 3,484 euros).

Ms Wilson maintains that she was frequently assaulted by her husband during their 32-year marriage.

The Government emphasised that Ms Wilson had never complained to the police about her husband before 2007 and that there was no pattern of leniency in sentencing for assaults in the domestic context.

There have been no other incidents since the assault in October 2007.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 2 February 2009.

Relying in particular on Articles 8 (right to respect for private and family life and the home) and 13 (right to an effective remedy), Ms Wilson alleged that the criminal proceedings against her husband had not been conducted with sufficient regard for her rights as a victim. She also complained that the suspended sentence had been unduly lenient and was much lower than would have been given had the offence occurred outside of marriage.

The decision was given by a Chamber of seven, composed as follows:

Lech **Garlicki** (Poland), *President*,
 Nicolas **Bratza** (the United Kingdom),
 Päivi **Hirvelä** (Finland),
 George **Nicolaou** (Cyprus),
 Ledi **Bianku** (Albania),
 Zdravka **Kalaydjieva** (Bulgaria),
 Vincent A. **de Gaetano** (Malta), *Judges*,

and also Lawrence **Early**, *Section Registrar*.

Decision of the Court

Article 8 (right to respect for private and family life)

Under Article 8 States have a duty to protect the physical and moral integrity of an individual from other persons, especially in cases of domestic violence where the victims are particularly vulnerable.

The Court found, in particular, that the PPS could not be criticised as far as the decision to reduce the charge from a section 18 to a section 20 offence was concerned. It was entirely a matter for the PPS to decide whether the intent element could be proved, and when they concluded that it could not, to reduce the charge to the next most serious offence. Furthermore, the PPS, who had decided to proceed with the case despite Ms Wilson's wish to withdraw, had done everything in their power to inform her of the progress in her case: they had sought to explain the decision to reduce the charge before the matter came to court and had met with her once the sentence was passed.

Nor could the sentencing judge be criticised as concerned the sentence. He had had all the documentation necessary (the victim impact report, photographs of Ms Wilson's injuries and the transcript of the 999 call) to enable him to assess the seriousness of the

offence, and through the probation report, to identify the root cause of the incident, Mr Wilson's drinking. On the basis of that report, the judge was entitled to conclude that a probation order would serve no purpose as Mr Wilson was already in counselling. There was even merit in the sentencing judge's approach: passing an 18-month sentence and then suspending it acted as a deterrent to any further violent behaviour for three years, arguably longer and better protection from her husband than simply imprisoning him immediately. Indeed, that approach appears to have worked: there had been no other incidents since October 2007.

Moreover, this was not a case where the domestic authorities had done nothing in the face of repeated and credible complaints of violence or threats of violence. Ms Wilson only brought one complaint to the attention of the authorities: that incident was then promptly investigated, her husband arrested and charged and the ensuing criminal proceedings conducted with due expedition. She has not made any other specific allegations of violence to this Court.

Therefore, the Court concluded that the Northern Irish authorities had not failed in their duty to protect Ms Wilson's rights under Article 8 and rejected that part of her complaint as inadmissible.

Article 13 (right to an effective remedy)

The Court found that no issue arose under Article 13 because Ms Wilson had had at her disposal, and had in part actually made use of, criminal law and civil law remedies. There was no reason to alter that conclusion simply because those remedies had not included the power of the Attorney-General to refer the case to the Court of Appeal for review (which could have been the case if her husband had been charged under section 18 and not section 20). The Court therefore likewise rejected Ms Wilson's complaint under Article 13 as inadmissible.

The decision 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.