KEY THEME[1]
Article 2
Domestic violence

(Last updated: 31/08/2026)

Introduction

The issue of domestic violence – which can take various forms, ranging from physical assault to sexual, economic, emotional or verbal abuse – transcends the circumstances of an individual case. It is a general problem which affects, to a varying degree, all member States and which does not always surface into the public sphere since it often takes place within personal relationships or closed circuits and affects different family members, although women make up an overwhelming majority of victims (*Kurt v. Austria* [GC], 2021, § 161). In this respect, children who are victims of domestic violence are particularly vulnerable and are entitled to State protection (*ibid.*, § 163).

State obligations in brief

Article 2 substantive limb:

- The obligation to secure the right to life by putting in place effective criminal law provisions to deter the commission of offences against the person backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions (*Opuz v. Turkey*, 2009, § 128).
- The obligation to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual (*ibid.*, § 128).

  The test: For this preventive operational obligation to arise, it must be established that the authorities knew or ought to have known at the relevant time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (*Kurt v. Austria* [GC], 2021, § 158).

  The first limb of this test requires the authorities to immediately respond to allegations of domestic violence. The authorities must establish whether there exists a real and immediate risk to the life of one or more identified victims of domestic violence by carrying out an autonomous, proactive and comprehensive risk assessment. The reality and immediacy of the risk must be assessed taking due account of the particular context of domestic violence cases.

  If the outcome of the risk assessment is that there is a real and immediate risk to life, the second limb of the test - which requires the authorities to take preventive operational measures that are adequate and proportionate to the level of the risk assessed – must be met (*ibid.*, § 190).

[1] Prepared by the Registry. It does not bind the Court.

Article 2 procedural limb:

- Duty to investigate when individuals have been killed as a result of the use of force by private individuals (*Branko Tomašić and Others v. Croatia*, 2009, § 62, and *Tkhelidze v. Georgia*, 2021, § 50).

Noteworthy examples

- *Kurt v. Austria* [GC], 2021 – the Court clarified the scope, and developed the content of, the State's duty to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual in the context of domestic violence;
- *Opuz v. Turkey*, 2009 – the Court concluded for the first time that there had been a violation of Article 14 in a case of domestic violence;
- *Talpis v. Italy*, 2017 – the Court tailored the "real and immediate risk" test to the domestic violence context (§ 122);
- *A and B v. Georgia*, 2022 – the Court underlined that when the perpetrator of domestic violence was a serving police officer and had abused his official status, the State's obligation to investigate and, where appropriate, to punish was more stringent (§ 48); see also *Gaidukevich v. Georgia*, 2023, § 61, for a recapitulation of general principles on the nature of the investigative duty where a person is killed by a non-State actor as a result of the alleged negligence of State agents;
- *Y and Others v. Bulgaria*, 2022 – the Court clarified the methodological approach when assessing the preventive operational obligation *post-Kurt* and consolidated the principles regarding gender-based discrimination (§§ 90-111 and 123-136; to similar effect, see also *Landi v. Italy*, 2022, (§§ 79-94 and 102-109) where the Court took note of the impact of legislative reform put in place following its earlier findings in *Talpis v. Italy*, 2017 (§ 103))
- *N.D. v. Switzerland*, 2025 – impugned acts classified as violence against women (§ 66); lack of an adequate assessment of the risk to the applicant's life and of operational measures which would have had a real chance of changing the course of events or mitigating the harm caused (§§ 65-66 and 69-72); lack of sufficient coordination between the different services and gaps in the applicable domestic law (§§ 73-76).

Domestic violence under other Articles of the Convention

There is a natural interplay, notably, between Articles 2, 3 and 8 of the Convention in the context of domestic violence since they aim to protect from infringement of physical and psychological integrity. Domestic violence against women, as a form of gender-based violence, may also involve complaints under Article 14 of the Convention.

See for example:

- *Volodina v. Russia*, 2019 (concerning Articles 3 and 14) – provided a comprehensive review of case-law principles under Articles 3 and 14 in the context of domestic violence. In its discussion regarding burden of proof under Article 14, the Court finds that, once a large-scale structural bias had been shown to exist, an individual applicant did not need to prove that she had also been a victim of prejudice (see §§ 111-114 and, for recent authority, *A.E. v. Bulgaria*, 2023, §§ 116-122). See also *Tunikova and Others v. Russia*, 2021, indicating general measures to address the issue of domestic violence as systemic problem (§§ 148-158).
- *Galović v. Croatia*, 2021 (concerning Article 4 of Protocol No. 7) – applied the principles established in *A and B v. Norway* [GC], 2016, §§ 130-132, regarding the conduct of dual proceedings, to the particular context of domestic violence. The Court found that the

minor-offence proceedings and the criminal proceedings in question formed a coherent and proportionate whole, which enabled both the individual acts and the ongoing pattern of domestic violence to be punished in an effective, proportionate and dissuasive manner (see §§ 116 and 123).

- *J.I. v. Croatia*, 2022 (concerning Article 3) – under the procedural limb the Court referred to the need on the part of the authorities to protect a particularly vulnerable victim of incestuous rape and domestic violence from intimidation and repeat victimisation (§ 97).
- *Vieru v. the Republic of Moldova*, 2024 (concerning Articles 3 and 14) – legal framework not addressing long-term but low-intensity physical violence and unaccounted psychological violence, which had continued after the separation of the perpetrator and victim, in spite of repeated protection orders (§§ 105-106); authorities overlooking recurring domestic violence and its dynamics (§ 115); institutional passivity/lack of awareness of the phenomenon of domestic violence and gender-based violence (§§ 131-34).
- *Hasmik Khachatryan v. Armenia*, 2024 (concerning Article 3) – positive obligation under Article 3 to enable a victim of domestic violence to claim compensation in respect of non-pecuniary damage from the perpetrator (§§ 211-15)
- *M.A. v. Iceland*, 2025 (concerning Articles 8 and 14) - no need to determine whether the alleged violence had been sufficiently serious to meet the minimum level of severity required to bring it within the scope of Article 3, the authorities having had, in any event, an identical positive obligation to protect victims of violence under Article 8 (§ 62); insofar as the criminal proceedings could be initiated *ex officio*, the legislative approach adopted by Iceland found to be compatible with the relevant international standards (§§ 63-67); undue delays and administrative confusion leading to the expiry of limitation periods (violation of the procedural limb of Article 8, §§ 68-76), no sufficiently established *prima facie* case of structural bias or disproportionate effect, capable of shifting the burden of proof to the State under Article 14 read in conjunction with Articles 3 and 8 (§§ 89-103);
- *B.A. v. Iceland*, 2025 (concerning Articles 3, 8 and 14) - the threshold of applicability of Article 3 found to have been met but the applicant's complaints examined concurrently under both provisions (§ 58); insofar as the criminal proceedings could be initiated *ex officio*, the legislative approach adopted by Iceland found to be compatible with the relevant international standards for the purposes of Article 8 (§§ 59-61) and of Article 3 (§§ 62-65); despite its length, the investigation as a whole found to have met the threshold of effectiveness required (§§ 67-74); no sufficiently established *prima facie* case of structural bias or disproportionate effect, capable of shifting the burden of proof to the State under Article 14 read in conjunction with Articles 3 and 8 (§§ 87-101 respectively);
- *J.S. v. Slovakia*, 2026 (concerning Articles 3 and 14 taken in conjunction with Articles 3 and 8) - the impugned treatment, directed at the applicant's identity and undermined her integrity and dignity, found to have reached the requisite threshold of severity to fall under Article 3 and to trigger the State's positive obligation under that provision (§§ 43-47); the domestic courts' lack of awareness of particular features of domestic violence cases, failure to analyse the circumstances of the case from a gender-based violence perspective and to conduct a context-sensitive assessment, and their failure to address interrelated incidents that fall under the same pattern of aggressive behaviour (§§ 53-59) as well as substantial delays in the criminal proceedings (§§ 61-62) constitutive of a violation of Article 3 (§ 64); 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 and lack of evidence of discrimination in the applicant's case (§§ 72-73).
- *Ubeda and Others v. Italy*, 2026 (concerning Articles 3 and 8) - domestic violence against a mother and her minor children as well as sexual violence against her: placement in a

shelter for more than three years found to have entailed a significant interference with their rights and freedoms and imposed a heavier burden on them than on the alleged perpetrator (§§ 87-88); the domestic authorities found to have failed to adopt adequate and proportionate protective measures (§ 90); the proceedings found to have failed to meet the requirement of a prompt, thorough and effective investigation, there being a clear link between the delays in criminal proceedings and the overall effectiveness of the investigation (§§ 92-95); the reasons given by the public prosecutor for the discontinuance of the criminal proceedings reflecting a sexist and stereotyped culture that had to be avoided in the courtrooms of the domestic judiciary (§ 96); domestic authorities' failure to recognise the complex dynamics of domestic violence and provide a response proportionate to the seriousness of the facts alleged (§ 97).

See also:

- *N. v. Sweden*, 2010: risk of being subjected to domestic violence if deported (Article 3);
- *Hajduová v. Slovakia*, 2010: threat of domestic violence (Article 8);
- *M. and M. v. Croatia*, 2015: domestic violence concerning a minor (Articles 3 and 8);
- *Volodina v. Russia (no. 2)*, 2021: cyberviolence in the context of domestic violence (Article 8);
- *Giuliano Germano v. Italy*, 2023: police caution imposed on the applicant in stalking-prevention proceedings in the context of allegations of domestic violence (Article 8, §§ 125-131);
- *Luca v. the Republic of Moldova*, 2023: failure to take into account the context of domestic violence in the determination of child contact rights and to support the applicant in maintaining contact with her children (Article 8, §§ 90-95; see also *Bîzdîga v. the Republic of Moldova*, 2023, § 62);
- *Ubeda and Others v. Italy*, 2026: Inaction of the Juvenile Court in relation to custody rights and the continued placement in the shelter (Article 8): domestic violence allegations disregarded in custody proceedings, reinforcing and prolonging the first applicant's suffering, as well as her perception that the violence she endured had remained undetected (§§ 116-17); the inertia in custody proceedings creating a protracted climate of uncertainty regarding the nature of the alleged perpetrator's relationship with his children and the possibility of them leaving the shelter with their mother. Children's prolonged stay in the shelter gave rise to significant consequences for their psychological and physical well-being (§§ 125-28).

Recap of general principles

- For a recapitulation of general principles under Article 2 see *Kurt v. Austria* [GC], 2021, §§ 157-190; *Y and Others v. Bulgaria*, 2022, § 89 (abridged version for preventive operational duty);
- For a recapitulation of general principles under Article 3 see *Tunikova and Others v. Russia*, 2021, §§ 75, 78, 86, 95, 103-105, 114 and *De Giorgi v. Italy*, 2022, §§ 69-70 (abridged version for preventive operational duty);
- For a recapitulation of general principles under Articles 2 and 3 see *Talpis v. Italy*, 2017, §§ 95-106;
- For a recapitulation of general principles under Article 8 see *A. v. Croatia*, 2010, §§ 58-60 and *Malagić v. Croatia*, 2022, §§ 56-60;
- For a recapitulation of general principles under Article 14 see *Volodina v. Russia*, 2019, §§ 109-114; *Y and Others v. Bulgaria*, 2022, § 122.

Further references

Other key themes:

- Discrimination through violence (Article 14)

Other:

- Istanbul Convention (CoE website to the Convention on preventing and combatting violence against women and domestic violence).

KEY CASE-LAW REFERENCES

Leading case:

- *Opuz v. Turkey*, no. 33401/02, ECHR 2009 (violation of Articles 2, 3 and 14 in conjunction with Articles 2 and 3);
- *Kurt v. Austria* [GC], no. 62903/15, 15 June 2021 (Article 14 inadmissible – outside of six-month time limit; no violation of Article 2).

Other cases under Article 2:

- *Kontrová v. Slovakia*, no. 7510/04, 31 May 2007 (violation of Articles 2 and 13 together with Article 2);
- *Branko Tomašić and Others v. Croatia*, no. 46598/06, 15 January 2009 (violation of Article 2 (substantive));
- *Durmaz v. Turkey*, no. 3621/07, 13 November 2014 (violation of Article 2 (procedural));
- *Civek v. Turkey*, no. 55354/11, 23 February 2016 (violation of Article 2);
- *Halime Kılıç v. Turkey*, no. 63034/11, 28 June 2016 (violation of Articles 2 and 14 in conjunction with Article 2);
- *Talpis v. Italy*, no. 41237/14, 2 March 2017 (violation of Articles 2, 3 and 14 in conjunction with Articles 2 and 3);
- *Penati v. Italy*, no. 44166/15, 11 May 2021 (Article 2 (substantive) inadmissible – incompatible *ratione personae*, no violation of Article 2 (procedural));
- *Tkhelidze v. Georgia*, no. 33056/17, 8 July 2021 (Article 2 (substantive and procedural) in conjunction with Article 14,);
- *A and B v. Georgia*, no. 73975/16, 10 February 2022 (violation of Article 2 (substantive and procedural) in conjunction with Article 14);
- *Y and Others v. Bulgaria*, no. 9077/18, 22 March 2022 (violation of Article 2; no violation of Article 14 in conjunction with Article 2);
- *Landi v. Italy*, no. 10929/19, 7 April 2022 (violation of Article 2; Article 14 in conjunction with Article 2: inadmissible – manifestly ill-founded);
- *Oghlishvili v. Georgia*, no. 7621/19, 4 July 2024 (violation of Article 2 (procedural)).

Domestic violence under other Articles:

- *Bevacqua and S. v. Bulgaria*, no. 71127/01, 12 June 2008 (violation of Article 8);
- *E.S. and Others v. Slovakia*, no. 8227/04, 15 September 2009 (violation of Articles 3 and 8);
- *A. v. Croatia*, no. 55164/08, 14 October 2010 (violation of Article 8);

- *Hajduová v. Slovakia*, no. 2660/03, 30 November 2010 (violation of Article 8);
- *Kalucza v. Hungary*, no. 57693/10, 24 April 2012 (violation of Article 8);
- *Valiulienė v. Lithuania*, no. 33234/07, 26 March 2013 (violation of Article 3);
- *Eremia v. the Republic of Moldova*, no. 3564/11, 28 May 2013 (violation of Articles 3 and 14 in conjunction with Article 3 in respect of first applicant and Article 8 in respect of second and third applicants);
- *B. v. the Republic of Moldova*, no. 61382/09, 16 July 2013 (violation of Articles 3 and 8);
- *Mudric v. the Republic of Moldova*, no. 74839/10, 16 July 2013 (violation of Articles 3 and 14 in conjunction with Article 3);
- *T.M. and C.M. v. the Republic of Moldova*, no. 26608/11, 28 January 2014 (violation of Article 3; violation of Article 14 in conjunction with Article 3 in respect of the first applicant);
- *M. and M. v. Croatia*, no. 10161/13, ECHR 2015 (extracts) (violation of Article 3 (procedural) and no violation of Article 3 (positive obligations) as regards the first applicant; no violation of Article 8 as regards the second applicant; violation of Article 8 as regards the first applicant; violation of Article 8 as regards the second applicant (length of custody proceedings));
- *M.G. v. Turkey*, no. 646/10, 22 March 2016 (violation of Articles 3 and 14 in conjunction with Article 3);
- *Bălşan v. Romania*, no. 49645/09, 23 May 2017 (violation of Articles 3 and 14 in conjunction with Article 3);
- *Ž.B. v. Croatia*, no. 47666/13, 11 July 2017 (violation of Article 8);
- *D.M.D. v. Romania*, no. 23022/13, 3 October 2017 (violation of Article 3 (procedural); violation of Article 6 § 1);
- *Volodina v. Russia*, no. 41261/17, 9 July 2019 (violation of Articles 3 and 14 in conjunction with Article 3);
- *Buturugă v. Romania*, no. 56867/15, 11 February 2020 (violation of Articles 3 (positive obligations) and 8 (positive obligations));
- *Volodina v. Russia (no. 2)*, no. 40419/19, 14 September 2021 (violation of Article 8);
- *Galović v. Croatia*, no. 45512/11, 31 August 2021 (no violation of Article 4 of Protocol No. 7);
- *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others, 14 December 2021 (violation of Article 3 (substantive and procedural); violation of Article 14 in conjunction with Article 3);
- *De Giorgi v. Italy*, no. 23735/19, 16 June 2022 (violation of Article 3);
- *M.S. v. Italy*, no. 32715/19, 7 July 2022 (violation of Article 3 (substantive) for the period between 19 January 2007 and 21 October 2008; no violation of Article 3 (substantive) for the remaining period; violation of Article 3 (procedural);
- *J.I. v. Croatia*, no. 35898/16, 8 September 2022 (violation of Article 3 (procedural); no need to examine the remaining complaint under Article 3; no separate issue under Article 14 in conjunction with Articles 3 or 8);
- *I.M. and Others v. Italy*, no. 25426/20, 10 November 2022 (violation of Article 8);
- *Malagić v. Croatia*, no. 29417/17, 17 November 2022 (no violation of Article 8; no need to examine separate issues under Articles 6 and 13);
- *Ghişoiu v. Romania* (dec.), no. 40228/20, 29 November 2022 (Articles 3 and 8 inadmissible - manifestly ill-founded);

- *A.E. v. Bulgaria*, no. 53891/20, 23 May 2023 (violation of Articles 3 and 14 in conjunction with Article 3);
- *Gaidukevich v. Georgia*, no. 38650/18, 15 June 2023 (violation of Article 2 (substantive and procedural) in conjunction with Article 14);
- *Giuliano Germano v. Italy*, no. 10794/12, 22 June 2023 (violation of Article 8);
- *Luca v. the Republic of Moldova*, no. 55351/17, 17 October 2023 (violation of Articles 3 (substantive and procedural), 8 and 14 in conjunction with Article 3);
- *Bîzdîga v. the Republic of Moldova*, no. 15646/18, 17 October 2023 (violation of Articles 6 § 1 and 8);
- *Vieru v. the Republic of Moldova*, no. 17106/18, 19 November 2024 (violation of Article 2 (procedural); violation of Article 3 (procedural and substantive); violation of Article 14 read in conjunction with Articles 2 and 3);
- *Hasmik Khachatryan v. Armenia*, no. 11829/16, 12 December 2024 (violation of Article 3 (procedural and substantive));
- *H.W. v. France*, no. 13805/21, 23 January 2025 (violation of Article 8);
- *P.P. v. Italy*, no. 64066/19, 13 February 2025 (violation of Article 3 (procedural));
- *M.A. v. Iceland*, no. 59813/19, 26 August 2025 (violation of Article 8, no violation of Article 14 read in conjunction with Articles 3 and 8);
- *B.A. v. Iceland*, no. 17006/20, 26 August 2025 (no violation of Articles 3 and 8, no violation of Article 14 read in conjunction with Articles 3 and 8);
- *Scuderoni v. Italy*, no. 6045/24, 23 September 2025 (violation of Articles 3 and 8 (substantive and procedural));
- *J.S. v. Slovakia*, no. 35767/23, 22 January 2026 (violation of Article 3 of the Convention (procedural); the complaint under Article 14 inadmissible (manifestly ill-founded).
- *Ubeda and Others v. Italy*, no. 9993/24, 2 July 2026 (violations of Articles 3 and 8 (substantive and procedural)).