



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.

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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.