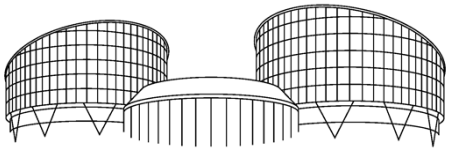

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF UBEDA AND OTHERS v. ITALY

(Application no. 9993/24)

JUDGMENT

Art 3 and Art 8 • Positive obligations • Ineffective investigation into the first applicant's complaints of domestic violence against her and her minor children (second and third applicants) as well as sexual violence against her • Clear link between delays in criminal proceedings and overall effectiveness of the investigation • Proceedings not prompt, thorough or effective • Reasons given by public prosecutor for the discontinuance of the criminal proceedings reflected a sexist and stereotyped culture that had to be avoided in the courtrooms of the domestic judiciary • Domestic authorities' failure to recognise the complex dynamics of domestic violence and provide a response proportionate to the seriousness of the facts alleged • Failure to adopt adequate and proportionate protective measures • Applicants' placement in a shelter for more than three years entailed a significant interference with their rights and freedoms and imposed a heavier burden on them than the alleged perpetrator • Domestic authorities' failure to consider other measures or conduct an ongoing assessment of the adequacy and proportionality of the shelter placement
Art 8 • Positive obligations • Juvenile Court's final decision to withdraw the alleged perpetrator's parental responsibility taken three years after the filing of the custody proceedings by the first applicant, without addressing her requests to relocate and for maintenance • Domestic violence allegations disregarded, reinforcing and prolonging her suffering, as well as her perception that the violence she endured remained undetected • Failure to act with due diligence and promptness in safeguarding the first applicant's Art 8 rights • Inertia in custody proceedings created 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 • Failure to evaluate the impact of the children's stay in the shelter

Prepared by the Registry. Does not bind the Court.

STRASBOURG

2 July 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Ubeda and Others v. Italy,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Ivana Jelić*, President*,
Erik Wennerström,
Raffaele Sabato,
Davor Derenčinović,
Alain Chablais,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 9993/24) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Ms Audrey Carmen Manuela Ubeda ("the first applicant"), A.P. ("the second applicant") and M.P. ("the third applicant") on 5 April 2024;

the decision to give notice of the application to the Italian Government ("the Government");

the decision to give priority to the application (Rule 41 of the Rules of Court);

the decision not to disclose the identity of the second and third applicants;

the decision of the French Government to not make use of their right to intervene in the proceedings (Article 36 § 1 of the Convention);

the parties' observations;

Having deliberated in private on 16 June 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the alleged failure of the Italian authorities to effectively investigate the first applicant's complaints of domestic and sexual violence, as well as delays in the criminal proceedings and its consequences on the applicants. It also concerns the alleged inaction of the Juvenile Court in the proceedings for child custody. It raises issues under Articles 3 and 8 of the Convention.

THE FACTS

2. The first applicant, Ms Audrey Carmen Manuela Ubeda, is a French national born in 1983. The second applicant, A.P., and the third applicant, M.P., are her minor children, both French nationals and born in 2011 and in 2014 respectively. The applicants live in Italy. The first applicant also acted

on behalf of her children. They were represented by Mr G. Thuan Dit Dieudonné, a lawyer practising in Strasbourg.

3. The Government were represented by their Agent, Mr L. D'Ascia, *Avvocato dello Stato*.

4. The facts of the case may be summarised as follows.

I. THE ALLEGED DOMESTIC VIOLENCE

5. On 16 April 2021 the first applicant lodged a complaint with the police against the father of her children and former cohabitant, G.P., alleging that during their relationship, and more precisely in the years between 2018 and 2020, he had carried out physical and psychological violence against her and their children. The first applicant also alleged that he had subjected her to aggravated sexual violence, as well as to a climate of terror and economic violence.

6. According to the first applicant's complaint, she and G.P. had begun cohabiting in France and had then moved to Italy in July 2011, after the birth of the second applicant. She stated that during their cohabitation and after the birth of their second child, G.P. had subjected the children to numerous episodes of serious psychological and physical violence (beatings using a belt and slaps from 2018 to 2020) and had made death threats against her. On 19 October 2019, during the celebration of the third applicant's birthday, he had placed a knife under the first applicant's throat in front of two witnesses – her mother and her cousin – saying that sooner or later he would appear on the television, with implicit reference to reports and news items concerning cases of femicide. In addition, he had subjected her to psychological violence, repeated insults, and humiliating and degrading remarks, while establishing a climate of terror and economic violence (no contribution to household expenses). The first applicant also complained that he had subjected her to aggravated sexual violence (multiple rapes under coercion, from March to September 2020, in the marital bed where the third applicant had also been sleeping). She described specific incidents of alleged sexual violence, specifying that she used to sleep with the third applicant by her side, and that G.P., after lying down, had on several occasions pulled down her knickers and pyjamas and raped her. She also stated that on one occasion in April 2016, while the children had been at school, G.P. had forced her to have anal intercourse and that he had often masturbated while watching the first applicant cleaning the house, until she had agreed to have sexual intercourse.

II. INVESTIGATION AND CRIMINAL PROCEEDINGS

7. On 22 April 2021 the Naples police referred the case to the Public Prosecutor's Office at the Benevento District Court.

8. On 23 April 2021 the public prosecutor opened proceedings against G.P., asking for the first applicant to be interviewed, for documentation to be obtained and for the witnesses indicated to be interviewed. A police investigation followed, during which the first applicant was interviewed by the police in the presence of a psychologist; screenshots of messages were collected; the children were interviewed; and two witnesses were interviewed (the first applicant's mother and cousin).

9. On 24 May 2021, at the request of the first applicant, she and her children were placed in a dedicated and protected shelter.

10. On 5 November 2021 the public prosecutor in charge of the case lodged a request to discontinue the proceedings, on the grounds, *inter alia*, that the knife placed under the applicant's throat had clearly been a "bad joke", that the blows inflicted on the children had merely been disciplinary measures that had not exceeded the father's right to exercise parental authority and that the alleged sexual violence had not been established, as it was difficult to demonstrate that the husband had been aware of his wife's lack of consent, considering that "it [was] normal for men to have to overcome a minimum level of resistance that every woman tend[ed] to display when she [was] tired from daily life and a man [made] a sexual advance."

11. On 4 December 2021 the first applicant lodged an objection to the request to discontinue the proceedings before a preliminary investigations judge of the Benevento District Court, which was upheld on 18 January 2022. The Benevento District Court scheduled a first hearing for 1 April 2022. On that date, the court adjourned the case for six months, extended the preliminary investigation and appointed another public prosecutor to handle the case.

12. On 13 July 2022 the applicants were examined before the Benevento Criminal Court by a psychologist and the public prosecutor, in the context of an application for the immediate taking of evidence (*incidente probatorio*).

13. On 18 November 2022 the Public Prosecutor's Office of the Benevento District Court issued its investigative conclusions.

14. On 6 March 2023 the public prosecutor asked for G.P. to be committed for trial.

15. On 30 October 2023 the preliminary investigations judge adjourned the case until 12 February 2024.

16. On 12 February 2024 at the preliminary hearing, the Benevento District Court committed G.P. for trial and scheduled the first hearing for 17 September 2024. The indictment was issued for sexual assault against the first applicant and ill-treatment against all three applicants.

17. On 17 September 2024 the case was again adjourned until 14 January 2025. At the time of the submission of the parties' observations before the Court, no hearing had been held.

III. CIVIL PROCEEDINGS

18. On 6 May 2021 the first applicant brought an action under Articles 330 and 337 *bis* of the Civil Code before the Naples Juvenile Court (hereinafter, "the Juvenile Court"), seeking sole custody of the children; the removal of the father's parental responsibility; authorisation to leave Italy for France (where the first applicant had a home and a family network capable of helping her) in order to ensure the full safety of the three applicants; and child maintenance in the amount of 800,00 euros (EUR) and 50% of the extraordinary expenses for the children. The application explicitly referred to the assaults and violent conduct by G.P. against the three applicants. In particular, it referred to the repeated verbal assaults; the climate of fear created by G.P. through constant shouting and the banging of his fists on the table; an assault on the second applicant because he had been making noise preventing G.P. from watching television; and the beating of the second applicant with a belt which had left a visible mark on the child's arm. The first applicant further referred in the application to the episode in which G.P. had held a knife to her throat while a news programme on television had been reporting on cases of femicide, the sexual violence she had suffered and the continuous verbal abuse to which she had been subjected. In support of the application, she submitted a medical certificate attesting to her condition of asthenia, as well as the criminal complaint lodged against G.P.

19. On 16 July 2021 the Juvenile Court appointed a guardian for the second and third applicants, scheduled the hearing of the applicants as well as of G.P. and requested a report from the social services.

20. During hearings before the Juvenile Court on 14 March and 8 April 2022, the three applicants reported the abuse and ill-treatment they had suffered, providing details about G.P.'s conduct toward them. The interviews with the social services took place, with the support of a psychologist, from 8 April 2022, following a request by the first applicant's lawyer.

21. Supervised visits between the second and third applicants and G.P. were then organised at the request of both G.P and the guardian of the minors. The first applicant had specified that, given the violence suffered by the minors, she was unable to say whether the meetings would be dangerous for them, but that she would consent to them taking place only if they were conducted in a protected and supervised setting. The second and third applicants, heard on this point, stated that they did not wish to see their father and reported several episodes of violence they had suffered. The meetings took place on 29 April, 13 and 25 May, and 6 June 2022. According to the social services' report, during the supervised visits the second and third applicants consistently expressed great fear and refused to see their father and receive his presents (a mobile telephone). During the last meeting G.P. behaved aggressively, shouting and screaming. The report stated that, on that occasion, the children's refusal to see their father was so strong that they had

hidden in the boot of their mother's car in order to avoid being forced to see him. The report further noted a worrying change in the second and third applicants' behaviour and emphasised the need for them to see a neuropsychiatrist.

22. In a report dated 29 May 2022 the social services described the second and third applicants' fear of their father and their refusal to see him. The psychologist pointed out that the second and third applicants had said that they had been beaten by their father with a belt, which had been left on the table during lunch to intimidate them. The report emphasised that the first applicant had always tried to encourage her children to comply with the court order and see their father, but had only received refusals, tears and despair in return.

23. By an interim decision of 17 June 2022, the Juvenile Court provisionally suspended G.P.'s parental responsibility as well as the supervised meetings with the children. It stated that the second and third applicants should urgently receive psychological support and indicated that G.P. could, if he so wished, undertake psychological counselling and an assessment of his parental capacity. The Juvenile Court confirmed the placement of the second and third applicants in the shelter and authorised the first applicant to remain there for welfare purposes. It further adjourned the case until the next hearing scheduled for 16 December 2022.

24. On 25 July 2022 G.P. appealed against the interim decision before the Court of Appeal.

25. The hearing before the Juvenile Court initially scheduled for 16 December 2022 was subsequently adjourned until 6 July 2023.

26. By a judgment of 14 April 2023 the Court of Appeal dismissed G.P.'s appeal and upheld the interim decision of 17 June 2022.

27. In several reports submitted before the Juvenile Court – (i) the Local Health Authority of Salerno's report of 14 November 2022; (ii) a report by the director of the shelter dated 19 November 2022; (iii) a report by the social worker and psychologist responsible for the second and third applicants dated 25 November 2022; (iv) the report by the public prosecutor dated 13 June 2022 requesting the suspension of meetings and G.P.'s parental responsibility; (v) a psychological report on the first applicant dated 28 April 2023; (vi) a report by the shelter dated 8 June 2023; and (vii) a report by the social services dated 22 June 2023 highlighting the first applicant's consistent presence and support and the second and third applicants' suffering and wish to leave the shelter – it was stated that the children were suffering severe psychological distress owing to their father's conduct. The reports also highlighted that the second and third applicants' stay in the shelter was contributing to their distress: the shelter's internal rules, such as the prohibition on leaving between 8 p.m. and 8 a.m. and on Sunday afternoons, negatively affected the children's sports, extracurricular and leisure activities. Lastly, the reports emphasised that both the second and third applicants had

repeatedly asked to be allowed to leave the shelter, return to their normal lives and join their grandparents in France, displaying unusual and worrying reactions (anger, sadness, physical and mental fatigue, and episodes of faecal incontinence in respect of the third applicant) owing to the protracted nature of the situation. It was then emphasised that the shelter deprived the children of their freedom and that they needed to resume a normal life with the first applicant, failing which there was a risk of serious harm to their emotional and relational development. The reports also highlighted the first applicant's cooperative behaviour.

28. On 6 July 2023 a hearing scheduled before the Juvenile Court to rule on the merits of the first applicant's claims was again adjourned and scheduled for 9 May 2024.

29. On 25 July 2023 the first applicant lodged an urgent request asking once again for authorisation to move to France with her children and, subordinately, seeking permission to spend the summer holidays in France at her family home. She also asked that the hearing scheduled for 9 May 2024 be brought forward.

30. On the same day the Juvenile Court stated that the urgent request would be decided at the hearing scheduled for 9 May 2024.

31. On 1 August 2023 the first applicant's lawyers lodged a new urgent request, accompanied by a note from the French Embassy in Rome expressing concern about the length of the proceedings, and reiterated the same requests.

32. By an order dated 8 August 2023 the Juvenile Court granted the request to travel to France for the month of August.

33. By a note dated 8 March 2024 addressed to the Municipality of Vallesaccarda, the Juvenile Court stated that if the first applicant became economically independent and had accommodation, which could be a property belonging to the maternal grandparents in Vallesaccarda, then the guardian of the second and third applicants could submit an application seeking to place the children in the first applicant's care outside the protected structure.

34. In response, the first applicant stated that it was not her intention to live in Vallesaccarda, which was the village where her former partner and his parents resided, in accommodation that did not belong to her that lacked heating, was completely unsuitable and was very far from the children's school.

35. By a decision of 9 May 2024, the Juvenile Court deprived G.P. of his parental responsibility. No ruling on the first applicant's request to be authorised to leave the protected shelter for victims of domestic violence and to settle in France was expressly taken. Nor was a decision made on the requests for child maintenance and sole custody. However, according to the decision, the applicants were to be monitored by the competent social services department, "which will continue to implement all ongoing measures and any

further interventions that may become necessary for the psycho-physical well-being of the minors."

36. The applicants left the shelter on 8 July 2024.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LEGAL FRAMEWORK AND PRACTICE

A. Legal framework

37. The relevant provisions of the Criminal Code and of the Code of Criminal Procedure are set out in *Landi v. Italy* (no. 10929/19, §§ 47-48, 7 April 2022) and *De Giorgi v. Italy* (no. 23735/19, §§ 36-37, 16 June 2022).

38. In addition, following the adoption of Law no. 38 of 23 April 2009, Law no. 119 of 15 October 2013 (extraordinary action plan to combat violence against women) and Law no. 69 of 19 July 2019 ("Code Red"), the following provision has been added to the Criminal Code:

Article 609 *bis* – Sexual violence

"Anyone who, through violence or threats or abuse of authority, forces someone to perform or undergo sexual acts shall be punished with imprisonment for a term of between 6 and 12 years.

The same penalty shall apply to anyone who induces someone to perform or undergo sexual acts: (1) by abusing the physical or mental inferiority of the victim at the time of the offence; or (2) by deceiving the victim by impersonating another person.

In less serious cases, the penalty shall be reduced by no more than two thirds."

39. The relevant provisions of the Civil Code in matters relating parental rights are set out in *Scuderoni v. Italy* (no. 6045/24, §§ 51-53, 23 September 2025).

40. In addition, the Civil Code contains the following provisions:

Article 330 – Withdrawal of parental responsibility over a child

"The judge may order the withdrawal of parental responsibility when a parent violates or neglects the obligations inherent in his or her parental role or abuses the powers related thereto, thereby causing serious harm to the child.

In such cases, for serious reasons, the judge may order the child's removal from the family home or the removal of the parent or cohabiting partner who has been ill-treating or abusing the child."

Article 333 – Harmful parental conduct towards a child

"Where the conduct of one or both parents is not such as to warrant the withdrawal of parental responsibility under Article 330, but is nonetheless harmful to the child, the judge, depending on the circumstances, may adopt the appropriate measures and may even order the child's removal from the family home or the removal of the parent or cohabiting partner who has been ill-treating or abusing the child.

These measures may be revoked at any time (Article 742 of the Code of Civil Procedure)."

Article 337 *quater* – Sole custody of one parent

"The judge may order that the child be placed in the sole custody of one of the parents where, by a reasoned decision, he or she considers that placement with the other parent would be contrary to the best interests of the child.

Either parent may, at any time, apply for sole custody where the conditions referred to in the first paragraph are met. If the judge grants the application, he or she shall order sole custody to the applicant parent, while safeguarding, as far as possible, the rights of the child provided for in the first paragraph of Article 337 *ter*. Where the application is manifestly unfounded, the judge may take the conduct of the applicant parent into account when determining the measures to be adopted in the interests of the child, without prejudice to the application of Article 96 of the Code of Civil Procedure.

The parent to whom the child is entrusted on a sole-custody basis shall, unless otherwise ordered by the judge, exercise exclusive parental responsibility over him or her and shall comply with the conditions laid down by the judge. Unless otherwise provided, decisions of major importance concerning the child shall be taken by both parents. The parent to whom the child is not entrusted has the right and the obligation to supervise his or her education and upbringing and may apply to the judge when he or she considers that decisions prejudicial to the child's interests have been taken."

41. The rules governing family matters and visitation or custody rights have been substantially revised following the adoption of Legislative Decree no. 149/2022, applicable to proceedings initiated from 1 March 2023. The decree, enacted to enhance the efficiency and speed of civil proceedings, introduced a dedicated section into the Code of Civil Procedure addressing cases involving allegations of domestic or gender-based violence. Consistent with the Convention on Preventing and Combating Violence against Women and Domestic Violence ("the Istanbul Convention"), the decree covers all forms of physical, economic or psychological violence committed by one party against the other or against children. Where domestic violence is alleged, a priority procedure applies (Article 473 *bis*.40 et seq. of the Code of Civil Procedure), and the judge may reduce procedural time-limits by half while ensuring that all required procedural steps are completed without delay (Article 473 *bis*.42 § 1 of the same Code).

42. From the earliest stages of the proceedings, the judge assesses the credibility of the allegations of domestic violence and could, also *ex officio*, obtain documents or any other means of evidence, freely question the parties, hear relatives or neighbours or appoint an expert in order to protect the victims (Article 473 *bis*.44 of the Code of Civil Procedure). Appropriate safeguarding and protective measures must be ensured: whether the conduct of a spouse or other cohabiting partner causes serious harm to the physical or moral integrity or to the personal freedom of the other spouse or cohabiting partner or of children, the judge may order the removal from the family home of the spouse or cohabiting partner who has engaged in the detrimental conduct, while prescribing support measures, including financial support, in

favour of the family. The protection order may remain in force for up to one year and may include a prohibition on violent conduct or a prohibition on approaching the victims. Such measures may also be adopted *ex officio* and on a provisional basis (Article 473 *bis*.46 of the same Code).

43. The public prosecutor plays an active role in cases concerning parental rights and is required to intervene in separation, divorce and custody proceedings (Article 70 of the Code of Civil Procedure). The public prosecutor is able to propose the adoption of specific measures and submit the results of any criminal investigations (Article 72 of the same Code and Article 64 *bis* implementing provisions of the Code of Criminal Procedure).

B. Case-law of the Court of Cassation

44. In Order no. 4595 of 21 February 2025, the Court of Cassation pointed out that the assessment of domestic abuse carried out by the civil courts was independent of any findings made in criminal proceedings. It clarified that a criminal punishment of the person responsible was not sufficient to protect victims of domestic abuse and that a rapid, timely and thorough intervention by the judge dealing with family relationships was required. To that end, judges had at their disposal specific instruments, including the possibility of ordering the removal of the perpetrator from the family home, which were suitable not only for protecting the victim but also for preventing the escalation of violence. The Court of Cassation further specified that civil-law instruments for the protection of victims of domestic violence – which had been strengthened by Legislative Decree no. 149/2022 – had also existed before that reform, since the domestic courts had an obligation to interpret national law in conformity with the Istanbul Convention.

45. The duty to interpret domestic law in conformity with the Istanbul Convention had already been recognised by the Court of Cassation in Order no. 11631/2024, dated 30 April 2024. In that ruling, the Court of Cassation clarified that one of the Convention's core purposes was the prevention of secondary victimisation. That objective – even prior to the entry into force of the provisions introduced by Legislative Decree no. 149/2022 – also had to serve as a guide in civil proceedings whenever circumstances indicative of domestic violence arose. Consequently, the Court of Cassation held that, in proceedings concerning parental responsibility where allegations of domestic violence were raised and had not been excluded, the judge was under a duty to verify whether the measures adopted were compatible with, and did not give rise to, a risk of secondary victimisation in the specific case.

II. INTERNATIONAL LAW AND PRACTICE

46. In *Kurt v. Austria* ([GC], no. 62903/15, §§ 75-86, 15 June 2021) reference is made to the relevant provisions of the Istanbul Convention, which

entered into force in respect of Italy on 1 August 2014. Other relevant provisions are set out in *Landi* (cited above, §§ 50-52).

47. In *Scuderoni v. Italy* (no. 6045/24, §§ 56-57, 23 September 2025) and *I.M. and Others v. Italy*, (no. 25426/20, §§ 73-74, 10 November 2022) reference is made to the Baseline Evaluation Report on Italy (GREVIO/Inf(2019)18) published on 13 January 2020 by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent specialised body responsible for monitoring the implementation of the Istanbul Convention by the Parties. In particular, in paragraph 183 the report emphasised that sometimes "civil courts ... not only fail[ed] to detect instances of violence, but they tend[ed] to ignore them" and stigmatised the rare use of Civil Code provisions on sole custody or removal of parental responsibility in favour of children who had experienced violence. At the same time, in paragraph 186 the report underlined "In the light of ample research showing that improper child custody and visitation arrangements may expose women to post-separation abuse and secondary victimisation [...] that the safety of the non-violent parent and children must be a central factor when deciding the best interest of the child in relation to custody and visitation arrangements". In the report concerns were expressed about information provided by non-governmental organisations that would indicate that the system in place, rather than affording protection to victims and their children, "backfire[d]" on mothers who sought to protect their children by reporting the violence and exposed them to secondary victimisation.

48. In its First Thematic Evaluation Report on Italy (GREVIO(2025)15), published on 2 December 2025, GREVIO welcomed the significant expansion and the development of the country's legislative framework on violence against women. With reference to investigation, prosecution, procedural law and protective measures, the report: (i) stressed that Article 49 of the Istanbul Convention required that investigations and judicial proceedings be conducted without undue delay and with full respect for victims' rights at every stage (paragraph 119 of the Report); (ii) noted that fast-track procedures had been further strengthened for cases involving domestic violence, physical violence, rape and sexual violence, stalking, and breaches of protection or barring orders (paragraph 123 of the Report); (iii) showed appreciation for the new requirement under Law no. 168/2023 to appoint specialised prosecutors for offences covered by the Istanbul Convention but observed that cases of violence against women were not always assigned to those specialised prosecutors, even when they were available (paragraph 124 of the Report); (iv) expressed concerns about secondary victimisation in judicial proceedings, stating that victims still faced credibility challenges, gender stereotypes and prejudice from judicial actors, experts and lawyers, along with a tendency to underestimate the seriousness of different forms of violence (Executive summary and paragraph 133 of the

Report); (v) stressed that trial length continued to be a major issue, with serious cases of violence against women becoming time-barred (paragraph 132 of the Report); and (vi) welcomed recent civil-procedure reforms in custody proceedings, but emphasised that the reforms had not yet produced a real reduction in the overall duration of such proceedings (paragraph 103 to 107 of the Report).

49. The relevant parts of the Concluding observations on the eighth periodic report of Italy (CEDAW/C/ITA/8) of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) are summarised in *Scuderoni* (cited above, § 60). The report, published on 27 February 2024, recommended, among other things, that Italy ensure, through mandatory and continuous capacity-building for judges, prosecutors, police officers and other law-enforcement officials, that gender-based violence, including sexual and domestic violence against women, was effectively investigated and prosecuted, that perpetrators were adequately punished and that protection orders were effectively enforced and monitored, with penalties in the event of non-compliance.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 8 OF THE CONVENTION IN RELATION TO THE APPLICANTS' COMPLAINTS ABOUT DOMESTIC VIOLENCE

50. The applicants complained that, notwithstanding the allegations and reports of domestic violence, the authorities had failed to adopt, in both the proceedings before the Juvenile Court and the criminal proceedings, adequate preventive or supervisory measures capable of protecting them from the risk of further violence. They also complained that the authorities had failed to conduct an effective investigation into their allegations of domestic violence. In particular, they complained of the failure, by both the criminal judge and the Juvenile Court, to promptly assess their requests in breach of Articles 3 and 8 of the Convention, which read as follows:

Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment ..."

Article 8

"1. Everyone has the right to respect for his private and family life ..."

A. Admissibility

1. Submissions by the parties

(a) The Government

51. The Government objected that, at the time of lodging the application, the applicants had not exhausted domestic remedies. The objection was based on two elements: (i) the applicants' failure to await the conclusion of both the criminal proceedings and the proceedings before the Juvenile Court; and (ii) the fact that, in the proceedings before the Juvenile Court, the applicants had not raised the same complaints subsequently brought before the Court.

(b) The applicants

52. The applicants objected to the Government's plea of non-exhaustion of domestic remedies. In particular, they referred to the Court's established case-law (see *Karoussiotis v. Portugal*, no. 23205/08, §§ 57 and 87-92, ECHR 2011, and *A.I. v. Italy*, no. 70896/17, § 60 et seq., 1 April 2021) according to which the objection of non-exhaustion lost its relevance once the proceedings had been concluded.

2. The Court's assessment

53. The Court reiterates that, as a rule, an applicant is required to make a genuine attempt to exhaust the available domestic remedies before lodging an application with the Court. While compliance with this obligation is assessed at the date of the introduction of the application (see *Baumann v. France*, no. 33592/96, § 47, ECHR 2001-V), the Court accepts that the final stage of such remedies may be reached shortly after the application has been lodged, but before the Court rules on its admissibility (see *Ringeisen v. Austria*, 16 July 1971, § 91, Series A no. 13; *E.K. v. Turkey* (dec.), no. 28496/95, 28 November 2000; *Karoussiotis*, cited above, §§ 57 and 87-92; *Rafaa v. France*, no. 25393/10, § 33, 30 May 2013; *Stanka Mirković and Others v. Montenegro*, nos. 33781/15 and 3 others, § 48, 7 March 2017; and *Mehmet Hasan Altan v. Turkey*, no. 13237/17, §§ 107-09, 20 March 2018).

54. Accordingly, the Court observes, with reference to the proceedings before the Juvenile Court relating to the custody of the second and third applicants and to G.P.'s parental responsibility, that the first applicant lodged the application while the proceedings concerning the custody of the minors were still pending before the Juvenile Court, following the adoption by that court of an interim decision suspending G.P.'s parental responsibility. The Court further notes that it is not disputed that on 9 May 2024 (see paragraph 35 above), that is, before any ruling of the Court on the admissibility of the case, the Juvenile Court brought the custody proceedings to a close by declaring G.P. to be deprived of parental responsibility.

55. In these circumstances, the Court finds that the Government's objection of non-exhaustion of domestic remedies in respect of the proceedings before the Juvenile Court cannot be upheld. Furthermore, the Court notes that the complaints raised in the present case had also been raised before the domestic courts.

56. As regards the objection of non-exhaustion of domestic remedies relating to the criminal proceedings, the Court observes that the Government's objection raises issues concerning the effectiveness of the investigation into the first applicant's allegations of ill-treatment and sexual violence and is thus closely linked to her complaint under the procedural aspect of Article 3 of the Convention. That being so, the Court considers that it should be joined to the merits of that complaint (see, *mutatis mutandis*, *Husayn (Abu Zubaydah) v. Poland*, no. 7511/13, § 337, 24 July 2014, and *Estamirov v. Russia*, no. 27365/07, §§ 78-79, 17 April 2012).

57. It follows that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

58. The applicants, relying on Article 3 (under both its substantive and procedural limbs) and Article 8 of the Convention, alleged that the authorities had failed to properly assess the domestic violence to which they had been exposed and to respond effectively to the risk of physical and psychological violence perpetrated by G.P. against them. They complained of the belated examination of their applications by the domestic courts and alleged that there had been a failure to fully evaluate their need to benefit from protective measures.

59. The applicants accused the authorities of having disregarded the specific nature of domestic violence. According to the applicants, the authorities had neither responded in a manner proportionate to the seriousness of the reported facts nor acted with the required promptness and diligence. They claimed that all those circumstances had amounted to an extended period of uncertainty and mental suffering, which had caused a state of anxiety, stress and fear of further acts of violence.

60. Moreover, although the authorities had reacted relatively promptly following the first applicant's criminal complaint (see paragraphs 7 and 8 above) and by granting her request for urgent placement in a shelter (see paragraph 9 above), they had nevertheless allowed G.P. to remain at liberty, without imposing any preventive or supervisory measures, such as judicial

supervision, a restraining or non-contact order, or ordering compliance with any other appropriate protective measure.

61. In addition, the applicants argued that the request to discontinue the criminal proceedings in favour of G.P. (see paragraph 10 above) was based on the public prosecutor's assessment, allegedly influenced by persistent gender stereotypes capable of giving rise to secondary victimisation. They further added that no investigative steps had been taken and that the criminal proceedings had not advanced (see paragraph 17 above), despite the significant amount of time that had elapsed since the complaint had been filed.

(b) The Government

62. The Government submitted that an investigation into the allegations of sexual assault and domestic violence had been prioritised by the police in order to ascertain whether there had been a real and immediate risk to the applicants' lives.

63. Concerning the request for restrictive measures, the Government observed that the first applicant had asked the local authorities to be taken to a shelter, and that on the same day a suitable facility had been found and the applicants had been taken there. In that context, there had been no need for specific measures in respect of G.P., considering that the applicants had been fully and adequately protected in the shelter. The Government also stressed that there was no evidence that G.P. or any of his family members had approached the protected facility or the places frequented by the second and third applicants.

64. Considering the procedural aspect of Article 3, the Government emphasised that the judicial authorities had taken steps to ensure that the criminal proceedings had been both rapid and effective, taking into account the particular nature of the offences at issue. Indeed, the first applicant had been interviewed in person within three days from lodging the criminal complaint with the assistance of a psychologist. Subsequently, the investigation had immediately started, and all the parties involved had been interviewed.

65. The Government stressed that, given the time required to conduct a criminal trial, all steps had been carried out timely to ensure the rapidity and effectiveness of the proceedings, and no delays had occurred.

2. The Court's assessment

(a) Applicability of Articles 3 and 8 of the Convention

66. The relevant principles on the applicability of Articles 3 and 8 of the Convention are summarised in *Scuderoni v. Italy* (no. 6045/24, §§ 81-82, 23 September 2025).

67. In the present case, the Court notes that the Government did not contest the applicability of the above-mentioned Articles, and it finds no reason to conclude otherwise. In particular, it considers that the violence alleged by the applicants, if proven, was sufficiently serious to attain the minimum level of severity required to bring it within the scope of Article 3 of the Convention (see, among others, *Volodina v. Russia*, no. 41261/17, § 75, 9 July 2019, and *Opuz v. Turkey*, no. 33401/02, § 161, ECHR 2009).

68. The Court further emphasises that in cases concerning violence inflicted by private parties the distinction between the requirements of Articles 3 and 8 of the Convention is not clear-cut. Indeed, both provisions impose an obligation on the State to safeguard an individual's physical and psychological integrity and, together with Article 2, form a continuum that triggers the State's duty to provide protection once it has been established that attacks on an individual's integrity were sufficiently serious to necessitate a response (see *Hanovs v. Latvia*, no. 40861/22, § 45, 18 July 2024, with further references).

(b) Compliance with positive obligations

(i) General principles

69. In *Scuderoni* (cited above, §§ 88-93), the Court has summarised the general principles related to the issue of domestic violence.

70. In particular, the Court reiterates the scope and content of the State's positive obligation to prevent the risk of recurrent violence in the context of domestic violence as clarified in *Kurt v. Austria* ([GC], no. 62903/15, §§ 157-89, 15 June 2021) and summarised as follows (ibid., § 190):

(a) The authorities must respond immediately to allegations of domestic violence.

(b) When such allegations are brought to their attention, the authorities must determine whether there is a real and immediate risk to the lives of the identified victims of domestic violence and must, for that purpose, carry out a risk assessment that is autonomous, proactive and comprehensive. They must give due consideration to the particular context of domestic-violence cases when assessing whether the risk is real and immediate.

(c) Where that assessment reveals the existence of a real and immediate risk to the life of others, the authorities are under an obligation to take preventive operational measures. Those measures must be adequate and proportionate to the level of risk identified.

71. Moreover, where it is established that a particular individual has been systematically targeted and future abuse is likely to follow, apart from responses to specific incidents, the authorities may be called upon to implement an appropriate action of a general nature to combat the underlying problem and prevent future ill-treatment (see *Đorđević v. Croatia*,

no. 41526/10, §§ 92-93 and 147-49, ECHR 2012, and *Levchuk v. Ukraine*, no. 17496/19, § 80, 3 September 2020).

72. The Court further reiterates that Articles 2, 3 and 8 of the Convention also impose a positive procedural obligation on States. Thus, the obligation to conduct an effective investigation into all acts of domestic violence is an essential element of the obligations placed on the State under Article 3 of the Convention (see *Volodina*, §§ 76-77, and *Scuderoni*, § 91, both cited above).

73. To be effective, such an investigation must be prompt and thorough; these requirements apply to the proceedings as a whole, including during the trial phase (see *M.A. v. Slovenia*, no. 3400/07, § 48, 15 January 2015; *Kosteckas v. Lithuania*, no. 960/13, § 41, 13 June 2017; and *M.S. v. Italy*, no. 32715/19, §§ 134 and 139, 7 July 2022). The authorities are required to take all reasonable steps to secure evidence related to the incident, including forensic evidence. Particular diligence is necessary in cases of domestic violence, and the specific nature of such violence must be taken into account (see *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others, § 114, 14 December 2021, and *Vieru v. the Republic of Moldova*, no. 17106/18, § 81, 19 November 2024).

74. The obligation to investigate incumbent on the State will not be satisfied if the protection afforded by domestic law exists only in theory; above all, it must also operate effectively in practice, which requires a prompt examination of the case without unnecessary delays (see *Opuz*, cited above, §§ 145-51 and 168, and *Talpis v. Italy*, no. 41237/14, §§ 106 and 129-30, 2 March 2017). The principle of effectiveness implies that the domestic judicial authorities must under no circumstances be prepared to allow physical or psychological suffering inflicted to go unpunished. This is essential for maintaining public confidence in and support for the rule of law and for preventing any appearance of tolerance of, or collusion with, acts of violence (see *De Giorgi v. Italy*, no. 23735/19, § 81, 16 June 2022).

75. Nonetheless, the Court reiterates that the procedural obligation is a requirement of means and not of results. There is no absolute right to the prosecution or conviction of a particular person where no culpable failures have occurred in the authorities' efforts to hold perpetrators accountable. The mere fact that an investigation has yielded limited or inconclusive results does not, in itself, indicate any failing. While the authorities must take all reasonable steps to gather evidence, clarify the circumstances, and conduct a thorough, objective and impartial analysis of all relevant elements without neglecting any obvious lines of inquiry, the procedural obligation must not be construed as imposing an impossible or disproportionate burden. The Court needs not be concerned with allegations of errors or isolated omissions and cannot replace the domestic authorities in the assessment of the facts of the case or decide on the alleged perpetrators' criminal responsibility. Instead, it must focus on whether there were significant shortcomings in the proceedings, namely those capable of undermining the investigation's ability

to establish the circumstances or identify those responsible (see *B.A. v. Iceland*, no. 17006/20, § 57, 26 August 2025, and *S.M. v. Croatia* [GC], no. 60561/14, §§ 315-20, 25 June 2020, with further references).

(ii) Application of these principles to the present case

76. The Court notes that, as it has already found in *Landi* (cited above, § 80), *Scuderoni* (cited above, § 95), *De Giorgi* (cited above, § 71) and *M.S. v. Italy* (cited above, § 118), the legal and operational measures provided for by the Italian legislative system at the time of the events afforded the authorities concerned a sufficiently broad range of possibilities that were adequate and proportionate in view of the seriousness of the risk in the present case.

(α) Whether the authorities reacted immediately to the allegations of domestic violence

77. The Court notes that the first applicant brought proceedings simultaneously before the juvenile (see paragraph 18 above) and the criminal (see paragraphs 5 and 6 above) authorities in order to obtain protection, alleging specific acts of ill-treatment and psychological violence committed by G.P. against the second and third applicants and herself, and that she had also been the victim, on several occasions, of sexual violence.

78. The Court further notes that, on the basis of the parties' submissions, following the complaint lodged by the first applicant on 16 April 2021, the police forwarded the case file to the Public Prosecutor's Office at the Benevento District Court on 22 April 2021 (see paragraph 7 above). Subsequently, on 24 May 2021, at the first applicant's request, she and her children were placed in a specialised protected shelter (see paragraph 9 above).

79. It follows that the authorities reacted with the requisite promptness in their immediate response to the first applicant's allegations of domestic violence.

(β) The quality of the risk assessment

80. The Court reiterates that, in order to determine whether the authorities should have been aware of the risk of repeated acts of violence, it has, in a number of cases, identified and taken into account the following factors: the perpetrator's history of violent behaviour and failure to comply with the terms of a protection order (see *Eremia v. the Republic of Moldova*, no. 3564/11, § 59, 28 May 2013); the escalation of violence representing a continuing threat to the victim's health and safety (see *Opuz*, cited above, §§ 135-36); and the victim's repeated requests for help by means of emergency calls, as well as formal complaints and requests addressed to the chief of police (see *Bălşan v. Romania*, no. 49645/09, §§ 135-36, 23 May 2017).

81. In this connection, the Court has already acknowledged that, upon the first applicant's request, the domestic authorities ensured the applicants' immediate placement in a shelter (see paragraph 9 above) with a view to protecting them from the risk of further violence. According to the concordant submissions of the parties, that measure secured the applicants' safety in the short term against the risk of a repetition of the violence.

82. The Court therefore finds that the authorities fulfilled the positive obligations incumbent upon them with regard to the initial assessment of the risk of repeated violence.

(γ) Did the authorities know or should they have known that there was a real and immediate risk of recurrent violence against the applicants?

83. The Court reiterates that, in the context of domestic violence, not every alleged risk of repeated violence is sufficient, in itself, to impose on the authorities a duty to adopt operational measures to prevent that risk from materialising. Such a positive obligation arises only where it is 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 stemming from the criminal acts of a third party, and nevertheless failed to take measures within the scope of their powers which could reasonably have been expected to avert that risk (the so-called "*Osman* test" – see *Osman v. the United Kingdom*, 28 October 1998, § 116, *Reports of Judgments and Decisions* 1998-VIII and, in the specific context of domestic violence, *Kurt*, cited above, § 158). In the present case it is clear from the documents that the domestic authorities had been informed of G.P.'s violent conduct, on an ongoing basis, toward the applicants (see paragraphs 5, 6, 18 and 20 above). Therefore, the Court considers that the national authorities knew that there was a real and immediate risk of recurrent violence against the applicants as a result of the violence committed by G.P. As a consequence, the authorities were under an obligation to take adequate and sufficient measures to protect the applicants.

(δ) Did the authorities take adequate preventive measures in the circumstances of the case?

84. The Court reiterates that even when domestic authorities do not remain totally passive, they still fail to discharge their obligations under the Convention if the measures they take do not stop the abuser from perpetrating further violence against the victim (see *Kurt*, cited above, § 178). Moreover, also considering its prior assessment of the adequacy of the measures provided by the domestic legal framework (see paragraph 76 above), the Court emphasises that the authorities must select the measure that is adequate and proportionate to the level of risk that has been assessed (see *Kurt*, cited above, § 179), as well as appropriate in the circumstances (see *Talpis*, cited above, § 103).

85. The Court has already acknowledged that the authorities in the present case acted without delay after the complaints submitted by the first applicant and promptly implemented protective measures so as to prevent the applicants from remaining exposed to the alleged acts of violence (see paragraphs 78-79 above).

86. The applicants nevertheless emphasised that no measures had been taken against G.P., even after their placement in the shelter. The Government, for their part, argued that, since the three applicants had been accommodated in a shelter, there had been no need to impose any restrictive measures on G.P.

87. Even though the applicants' placement in the shelter, immediately after the first applicant's complaint, prevented a possible escalation of violence, the Court is not persuaded that this response met the requirements of adequacy and proportionality requested by *Kurt* (cited above, § 179).

88. Indeed, the applicants' placement in the shelter lasted for more than three years and entailed a significant interference with their rights and freedoms, particularly in view of the restrictive operational rules of the shelter (see paragraph 27 above). In these circumstances, it appears that the measure adopted imposed a heavier burden on the alleged victims of violence than on G.P., the alleged perpetrator, who does not appear to have been subject to any measure.

89. Nor does it appear from the documents in the case file that, during that period, the authorities considered the possibility of adopting measures other than placement in the shelter (such as, for example, assigning the family home to the applicants or determining the amount of maintenance for the children and, at the same time, authorising their request to relocate to France), which would have ensured the respect for the private life of the victims of violence while at the same time continuing to protect them (for example by imposing on G.P. a restraining order). Nor does it appear that the authorities assessed, on an ongoing basis, the adequacy and proportionality of the measure adopted.

90. In the light of the foregoing considerations, the Court concludes that the domestic authorities failed to adopt adequate and proportionate measures in favour of the applicants.

(ε) The obligation to conduct an effective investigation

91. The Court must further examine whether the manner in which the law mechanisms were applied in the present case amounted to a breach of the positive procedural obligations binding on the respondent State under the Convention.

92. In response to the complaint lodged by the first applicant on 16 April 2021 (see paragraph 5 above), an investigation was opened by the judicial authorities on 23 April 2021. After carrying out some investigative activities (see paragraph 8 above) the public prosecutor, on 5 November

2021, lodged a request for the discontinuance of the proceedings (see paragraph 10 above). In that request, the public prosecutor, *inter alia*, asserted that the knife placed under the applicant's throat had clearly been a "bad joke", that the blows inflicted on the children had constituted mere disciplinary measures that had not exceeded the father's right to exercise parental authority and that the alleged sexual violence had not been established, on the basis that it was difficult to prove that the husband had been aware of his wife's lack of consent, considering that "it [was] normal for men to have to overcome a minimum level of resistance that every woman tend[ed] to display when she [was] tired from daily life and a man [made] a sexual advance". Following the first applicant's objection, further investigations were ordered. However, from the documentation submitted by the parties, it does not appear that the investigative activity provided any additional elements beyond those already in the possession of the national authorities at the earlier stage, as certain investigative acts were merely repeated (see paragraph 12 above). At the time the application was lodged with the Court, no hearing had yet taken place (see paragraph 17 above). In their observations submitted in November 2024, the applicants emphasised that the first hearing in the criminal proceedings against G.P. was scheduled for 14 January 2025, following multiple adjournments carried out without any specific justification. In the observations submitted by the Government, no reference is made to the outcome of the criminal proceedings against G.P., nor do they indicate any significant progress in relation to the trial proceedings.

93. The Court observes that, in the present case, there is a clear link between the delays and the overall effectiveness of the investigation, considering that the criminal proceedings were initiated in April 2021 and it does not appear that the first hearing had been held by January 2025. In that connection the Court notes that the considerable delay in the criminal proceedings against G.P. seriously risks undermining the effectiveness of judicial protection for the victims as it has a clear impact on the practical possibility of obtaining a determination of G.P.'s criminal responsibility.

94. Consequently, the Court rejects the Government's preliminary objection of non-exhaustion of domestic remedies on the ground that the application was premature.

95. Moreover, considering all the above elements, the Court finds that the proceedings complained of have failed to meet the requirements of a "prompt", "thorough" and "effective" investigation for the purposes of Articles 3 and 8 of the Convention (see paragraphs 72-75 above). It follows that the authorities, through their inaction over such a long period of time, have breached the positive obligations incumbent upon them and have allowed the repeated physical and psychological suffering, reported by the first applicant, to remain unpunished.

96. In addition, the Court is struck by the reasons on which the request for a discontinuance of the proceedings against G.P. was sought: reasons which reflected a sexist and stereotyped culture that must be avoided in the courtrooms of the domestic judiciary (see *E.A. and European Association for Combating Violence Against Women at Work v. France*, no. 30556/22, § 138, 4 September 2025). On this point the Court, emphasising that decisions based on stereotypes contribute to the acceptance of domestic violence, considers that the approach adopted by the public prosecutor exactly reflects the assessments made by GREVIO (see paragraphs 47 and 48 above) where it notes the tendency to give credence to stereotypes and common beliefs that regard an intimate relationship as intrinsically based on submission/overpowering and possessiveness. In this regard, the Court shares the concerns expressed by GREVIO about the possibility that victims of domestic violence may continue to experience secondary victimisation in courtrooms.

97. The Court also reiterates the particular diligence required in dealing with complaints of domestic violence and considers that the specific features of domestic-violence cases, as recognised in the Istanbul Convention, must be taken into account in domestic proceedings (see *P.P. v. Italy*, no. 64066/19, § 46, 13 February 2025). The Court notes that through their approach, the Italian authorities failed to recognise the complex dynamics of domestic violence. In particular, the authorities made no serious effort to obtain an overall view of the applicants' situation, as is required in cases of this type. In the circumstances of the case, a proper assessment should have included an analysis of the entirety of G.P.'s conduct, including allegations of sexual violence, psychological and physical violence, and economic violence.

98. The Court concludes that, having regard to the manner in which the domestic authorities dealt with the material before them indicating domestic violence against the applicants – and in particular their failure to ensure that the perpetrator was prosecuted and, where appropriate, that his potential criminal liability was assessed without undue delay – they failed, in the context of the criminal investigation, to provide a response proportionate to the seriousness of the facts alleged by the applicants.

99. It follows that, in the circumstances of the case, having regard to the specific social danger posed by domestic violence and to the need to combat it through effective and deterrent action, the State, in its response to the violence suffered by the applicants, failed to sufficiently discharge its procedural obligation to ensure that the violence to which they had been subjected was dealt with in an appropriate manner.

(στ)Conclusion

100. The foregoing considerations are sufficient to enable the Court to conclude that there has been a breach of the positive obligations incumbent on the respondent State under Articles 3 and 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION AS CONCERNS THE INACTION OF THE JUVENILE COURT IN RELATION TO CUSTODY RIGHTS AND THE CONTINUED PLACEMENT IN THE SHELTER

101. Under Article 8 of the Convention, the applicants also complained about the inertia of the Juvenile Court regarding the requests concerning visitation and custody rights and argued that the three-year placement in the shelter had resulted in a disproportionate interference with their rights and freedoms.

A. Admissibility

1. Submissions by the parties

(a) The Government

102. The Government objected that, at the time of lodging the application, the applicants had not exhausted domestic remedies. The objection was based on two elements: (i) the applicants' failure to await the conclusion of the proceedings before the Juvenile Court; and (ii) the fact that, in the proceedings before that court, the applicants had not raised the same complaints subsequently brought before the Court.

(b) The applicants

103. The applicants objected to the Government's plea of non-exhaustion of domestic remedies. In particular, they referred to the Court's established case-law (see *Karoussiotis*, §§ 57 and 87-92, and *A.I. v. Italy*, § 60, both cited above) according to which the objection of non-exhaustion lost its relevance once the proceedings had been concluded.

2. The Court's assessment

104. The Court, with reference to its examination in paragraphs 53 and 54 above, reiterates that it has already rejected the Government's objection in relation to this matter (see paragraph 55 above). It follows that the present complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

105. The applicants criticised the inaction of the Juvenile Court in the custody proceedings, emphasising that, notwithstanding the requests initially submitted by the first applicant (see paragraph 18 above) and the subsequent urgent requests lodged (see paragraphs 29 and 31 above), no definitive decision had been given for a period exceeding three years (see paragraph 35 above). They emphasised in that regard that the request for the withdrawal of G.P.'s parental responsibility had been dealt with more than three years after the first applicant had lodged the request, while the additional requests submitted – concerning sole custody of the second and third applicants in favour of the first applicant, authorisation to relocate to France and the determination of the children's maintenance – had not been addressed by the Juvenile Court (see paragraph 35 above). The Juvenile Court had merely postponed the proceedings without adopting effective measures or examining all the requests that had been submitted, leaving them in a state of legal, psychological and material uncertainty.

106. The applicants insisted that their placement in the shelter for almost three years had not been justified. They also argued that their situation had been underestimated and stated that they had had no choice but to remain in the shelter. Furthermore, they alleged that the Juvenile Court, although it had been warned by social services as early as May 2022 about the minors' psychophysical conditions owing to the meetings with G.P. and staying in the shelter (see paragraphs 21 and 22 above), had only intervened in June 2022. However, it had merely suspended the meetings and the parental authority of G.P. (see paragraph 23 above), confirmed the placement of the children in the shelter and authorised the mother to remain there for welfare purposes. They therefore stressed that the measures had been inadequate in view of the need to protect the children's psychological and physical well-being and that, despite the numerous requests contained in the subsequent reports, the final measures had only been adopted two years later (see paragraph 35 above). They emphasised that that had had a significant impact on their freedom owing to the shelter's operating rules, in particular confinement to a room measuring 15 square metres, the obligation to comply with the daily curfew and the prohibition on going outside on Sunday afternoons. They specified that the serious repercussions that staying in the shelter had had on the two children had been highlighted in numerous reports by the shelter staff, the social services and the psychologist (see paragraph 27 above). They added that in those same reports it had been made clear that the second and third applicants had refused to continue the supervised meetings with their father, but, despite that the Juvenile Court had failed to adopt any protective

measures. They emphasised that that situation had led to ongoing secondary victimisation, psychological harm, and a persistent state of fear and insecurity caused by the lack of measures in their favour.

(b) The Government

107. The Government highlighted that the Juvenile Court had acted with promptness and diligence. They emphasised that during the first part of the proceedings the authorities had tried to re-establish a parental relationship between the children and G.P., a measure which, although inherently complex, was essential to enable the State to fulfil its positive obligation to prevent the unjustified disruption of a family relationship. On that point the Government emphasised that the domestic courts had properly and thoroughly examined the relevant facts, the experts' reports and the father's behavioural changes, and had decided, in a timely manner, to withdraw his parental responsibility only when it had been fully established that the children's ties with their father could not be maintained, in accordance with the children's best interests.

2. The Court's assessment

(a) General principles

108. The Court reiterates that although the primary object of Article 8 is to protect the individual against arbitrary action by public authorities, there are, in addition, positive obligations inherent in effective "respect" for family life. Where the measures in issue concern parental disputes over their children, however, it is not for the Court to substitute itself for the competent domestic authorities in regulating contact questions, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation. In so doing, it must determine whether the reasons purporting to justify any measures taken with regard to an applicant's enjoyment of his or her right to respect for family life are relevant and sufficient (see, amongst other authorities, *Glaser v. the United Kingdom*, no. 32346/96, §§ 63-64, 19 September 2000).

109. The Court emphasises that ineffective, and in particular delayed, conduct of custody proceedings may give rise to a breach of positive obligations under Article 8 of the Convention (see *M. and M. v. Croatia*, no. 10161/13, § 179, ECHR 2015 (extracts)). Furthermore the Court, reiterating the principles established in its case-law (see *Barnea and Caldararu v. Italy*, no. 37931/15, §§ 63-65, 22 June 2017, and *I.M. and Others v. Italy*, no. 25426/20, §§ 104-11, 10 November 2022), notes that while Article 8 of the Convention contains no explicit procedural requirements, the decision-making process must be fair and such as to ensure due respect for the interests safeguarded by Article 8. The domestic courts must conduct an in-depth examination of the entire family situation and of a

whole series of factors, particularly those of a factual, emotional, psychological, material and medical nature, and make a balanced and reasonable assessment of the respective interests of each person, with a constant concern for determining what would be the best solution for the child, as this consideration is in every case of crucial importance. The margin of appreciation to be accorded to the competent national authorities will vary in accordance with the nature of the issues and the importance of the interests at stake (see *I.M. and Others v. Italy*, § 108, cited above, and *Petrov and X v. Russia,* no. 23608/16, §§ 98-102, 23 October 2018).

110. The Court has repeatedly held that in cases concerning parental contact rights, the State has in principle an obligation to take measures with a view to reuniting parents with their children, and an obligation to facilitate such reunions, in so far as the interests of the child dictate that everything must be done to preserve personal relations (see *A.I. v. Italy*, cited above, § 86). There is currently a broad consensus in support of the idea that in all decisions concerning children, their best interests must be paramount (see *Luca,* cited above*,* § 85*; and Ribić v. Croatia,* no. 27148/12, § 94*,* 2 April 2015*,* § 94, with further references therein). The child's best interests may, depending on their nature and seriousness, override those of the parents. In particular, a parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see *Olsson v. Sweden (no. 2)*, 27 November 1992, § 90, Series A no. 250, and *Sommerfeld v. Germany* [GC], no. 31871/96, § 64, ECHR 2003-VIII (extracts))).

111. Moreover, the right to human dignity and psychological integrity calls for particular attention where a child is the victim of violence (see, *mutatis mutandis*, see *Söderman v. Sweden* [GC], no. 5786/08, § 81, ECHR 2013 and *D.M.D. v. Romania*, no. 23022/13, § 51, 3 October 2017). To that extent, the Court also reiterates that the failure of the domestic authorities to take into account incidents of domestic violence in the determination of child contact rights breaches their Article 8 obligations (see *Luca v. the Republic of Moldova*, no. 55351/17, §§ 90-95, 17 October 2023).

(b) Application of those principles to the present case

112. The Court must examine, in the light of the overall circumstances of the case, whether the domestic courts that intervened in the present case provided relevant and sufficient reasons to justify the measures adopted in a context of domestic violence, while maintaining a fair balance between the various interests at stake. In examining whether such interference meets the above-mentioned requirements under Article 8 of the Convention, the Court considers it necessary to separate the analysis relating to the first applicant from that concerning the position of the second and third applicants.

(i) The first applicant.

113. The Court notes that in May 2021 (see paragraph 18 above) the first applicant applied to the Juvenile Court for sole custody of the second and third applicants, for authorisation to leave Italy and move to France with them, for the withdrawal of G.P.'s parental responsibility, and for maintenance for the children in the amount of EUR 800 per month. In the application, she included all references to the domestic violence they had suffered and submitted a medical certificate attesting to her condition of asthenia, as well as the criminal complaint filed against G.P. During one of the hearings before the Juvenile Court (see paragraph 20 above), the first applicant reported the psychological, physical, and sexual abuse she, as well as the second and third applicants, had suffered at the hands of G.P.

114. The Court observes that, although the Juvenile Court dealt promptly (in July 2021) with the request to schedule a hearing for the case (see paragraph 19 above), no decision, not even on an interim basis, was taken regarding custody of the children or their maintenance. It was only one year later, in June 2022 (see paragraph 23 above), that the suspension of G.P.'s parental responsibility and of the supervised contact arrangements was ordered on a provisional basis. However, that interim decision confirmed the children's placement in the shelter and did not rule on either the request for sole custody in favour of the first applicant or the request for authorisation to move to France. It was only after the filing of the application before the Court, namely on 10 May 2024, that the Juvenile Court rendered a final decision, more than three years after the first applicant had filed her action. By this decision, the Juvenile Court ordered the withdrawal of G.P.'s parental responsibility (see paragraph 35 above), without addressing the first applicant's remaining requests concerning the authorisation to relocate to France and the amount to be paid in maintenance.

115. Having regard to its case-law (see *M. and M. v. Croatia*, cited above, § 182) the Court considers that the above circumstances would be sufficient to find that the respondent State has failed to discharge its positive obligations under Article 8 of the Convention.

116. However, the Court also observes that despite the seriousness of the facts alleged by the first applicant, the decisions of the Juvenile Court, taken after three years, as well as the interim decision to suspend G.P.'s parental responsibility, have disregarded the allegations of domestic violence. None of the decisions examined the violent conduct allegedly perpetrated by G.P. against the applicants, as described in the first applicant's request before the Juvenile Court (see paragraph 18 above) as well as during the hearings (see paragraph 20 above). In this regard, the Court notes that the final decision was issued using a pre-printed template, merely striking out the portions of the decision that were not suitable for the specific case, without any detailed analysis of the facts or assessment of the merits of the three applicants' statements regarding the violent conduct they had suffered over time.

117. Thus, the Court shares GREVIO's concerns on this point regarding the existence of a widespread practice among civil courts whereby "civil courts ... not only fail to detect instances of violence, but they tend to ignore them" (see paragraph 47 above) and considers that such conduct puts a further burden on the victims of domestic violence instead of protecting them. This is precisely what occurred in the present case, where the first applicant was confronted with the complete disregard of her allegations of domestic violence, clearly and extensively set out in her introductory request as well as in the statements she made during the hearing before the Juvenile Court, thereby reinforcing and prolonging her suffering, as well as her perception that the violence she endured remained undetected.

118. In this regard, the Court is struck by the approach adopted by the Juvenile Court and emphasises that this kind of approaches undermines the confidence that victims of domestic violence have in the ability of the domestic authorities to handle proceedings involving allegations of domestic violence in an appropriate manner. The Court emphasises that protection against conduct falling within the broad scope of domestic violence must be ensured not only in criminal proceedings but also by the civil and juvenile courts in the context of family-law disputes, during which the courts are responsible for assessing parental abilities and safeguarding the best interests of the child.

119. The Court therefore stresses that, where allegations of domestic violence are made, the positive obligations incumbent on the authorities under Article 8 of the Convention also include the obligation of the family court to act in a timely and effective manner, taking into account the specific features of situations of domestic violence.

120. In these circumstances, the Court finds that the domestic courts failed to act with due diligence and promptness in safeguarding the first applicant's rights under Article 8 of the Convention.

121. Accordingly, the Court concludes that there has been a violation of Article 8 in this respect concerning the first applicant.

(ii) The second and third applicants

122. The Court notes that between 2022 and 2024 the Juvenile Court received numerous reports (see paragraphs 21, 22 and 27 above) from the public services responsible for the second and third applicants, which expressed serious concern about the severe impact on the children of the continuing uncertainty regarding their relationship with their father and of their extended placement in the shelter. Moreover, the second and third applicants themselves had reported to the Juvenile Court (see paragraph 20 above) the violent behaviour their father had exhibited toward them while they had lived with him.

123. The Court underlines that despite the numerous reports received, the decision withdrawing G.P.'s parental responsibility was only adopted on

9 May 2024 (see paragraph 35 above), two years after the interim decision suspending his parental responsibility in June 2022 (see paragraph 23 above). In this regard, the Court is not persuaded by the Government's objection that the duration of the proceedings was justified by the need to assess the possibility of re-establishing contact between G.P. and the second and third applicants. Indeed, the attempt to do so between end of April and beginning of June 2022, when four supervised meetings took place, had shown that contact with G.P. was not in the children's best interest and were suspended by the Juvenile Court in its interim decision. While the Court does not assume the role of the domestic authorities in determining the measures necessary to safeguard the second and third applicants, it does draw attention to the domestic court's failure to act with the requisite promptness and diligence in delivering a final decision. From 2022 to 2024, the Juvenile Court remained entirely inactive. In the decision withdrawing G.P.'s parental responsibility no consideration was given to balancing the competing interests, and the best interests of the second and third applicants were entirely absent from the pre-printed template employed. Likewise, the court failed to rule on the requests to authorise the children's move to France and to impose maintenance obligations on G.P. Such inaction was not merely unjustified; it constituted a breach of the State's positive obligation to exercise exceptional diligence in proceedings concerning minors.

124. The Court recognises that custody matters are highly sensitive, with significant implications for the child's upbringing and well-being, and must therefore be carefully assessed by domestic authorities to safeguard the child's best interests. However, the prolonged failure to resolve such matters cannot be justified as serving the child's best interests, and custody and residence arrangements must be clarified without undue delay. Custody proceedings, by their very nature, demand prompt action by the relevant administrative and judicial authorities.

125. In the present case the authorities, through their inertia, created a protracted climate of uncertainty regarding the nature of G.P.'s relationship with the second and third applicants, as well as the possibility of the children leaving the shelter and moving to France or elsewhere with their mother. The issues concerning the second and third applicants' authorisation to move to France with their mother and the father's obligation to provide for their maintenance remain unresolved to this day, despite more than four years having passed.

126. In line with its case-law on custody matters (see, notably, *E.S. v. Romania and Bulgaria*, no. 60281/11, §§ 64-65, 19 July 2016) the Court considers that, in the present case, the mere length of the proceedings may suffice to establish that the respondent State failed to fulfil its positive obligations under Article 8 of the Convention. The Court nonetheless considers it necessary to call attention to two additional circumstances.

127. First, recalling the assessments already expressed (see paragraphs 88 and 89 above) regarding the adequacy of the measures for the prevention of domestic violence, the Court considers that the prolonged stay of the minors in the shelter also gave rise to significant consequences for their psychological and physical well-being. In this respect, the Court notes that none of the decisions issued contained a careful and genuine assessment of the impact that the stay in the shelter had on the minors, notwithstanding the fact that the domestic authorities were aware of the suffering experienced by the second and third applicants over the three-year period as their distress was clearly reflected in the various reports submitted by the competent social services to the Juvenile Court.

128. In this case, the protracted inaction also resulted in the second and third applicants being subjected to a serious restriction of their fundamental rights and freedoms, as they were required to remain in the shelter for nearly three years, confined to a room measuring 15 square metres and burdened by significant and unjustified limitations on their daily lives arising from the shelter's operational rules. The Court doubts that such conditions can be reconciled with the protection of the best interests of the second and third applicants and observes that the Juvenile Court never took steps to assess whether the children's living conditions aligned with their best interests.

129. Second, it appears that nowhere in the attached decisions is there any evaluation of the actual exposure of the second and third applicants to domestic violence by G.P. In particular the final decision by the juvenile court (see paragraph 35 above) was adopted on the basis of a pre-printed template from which the parts of the standard text that were not considered suitable for the case were merely struck through by hand, with only a few handwritten additions.

130. In this regard, the Court expresses serious concern over the complete absence, in the Juvenile Court's decisions, of any reference to the statements made by the second and third applicants in hearings regarding the violent conduct they had suffered or to the validity of the complaints filed by the first applicant concerning G.P.'s violent conduct. In that respect the Court shares the concerns expressed by GREVIO (see paragraph 47 above) regarding the rare use of Civil Code provisions on sole custody or the removal of parental responsibility in favour of children who have experienced domestic violence, and reiterates the crucial role that Article 31 of the Istanbul Convention must play in such proceedings. Accordingly, the Court emphasises the necessity of expressly assessing, in the reasoning of domestic authorities' decisions, the allegations of domestic violence, their credibility and substance, and the compatibility of the conduct in question with custody and visitation rights. It regrets that none of the above considerations appear in the – sparse and pre-printed – reasoning of the decisions adopted.

131. Taken as a whole, the above circumstances allow the Court to conclude that there has been a violation of Article 8 in this respect concerning the second and third applicants.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

132. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

133. The first applicant claimed 52,293 euros (EUR) in respect of pecuniary damage and EUR 50,000 in respect of non-pecuniary damage which she considered she had sustained. She also claimed EUR 40,000 each in respect of non-pecuniary damage for the second and third applicants.

134. The Government contested the applicants' claims.

135. The Court sees no causal link between the violation found and the alleged pecuniary damage and therefore dismisses this claim. As regards non-pecuniary damage, it considers that the applicants undoubtedly experienced anxiety and distress as a result of the authorities' failure to comply with their positive obligations. Consequently, ruling on an equitable basis, it awards each applicant EUR 15,000 in respect of non-pecuniary damage, plus any tax that may be chargeable; the amounts to be held for the second and third applicants in trust by the first applicant.

B. Costs and expenses

136. The applicants also claimed EUR 111,198 for the costs and expenses incurred before the domestic courts and EUR 7,200 for those incurred before the Court.

137. The Government contested the applicants' claims.

138. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicants jointly the sum of EUR 15,000 covering costs under all heads, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Joins* to the merits the Government's objection as to the non-exhaustion of domestic remedies relating to the criminal proceedings and *dismisses* it;

2. *Declares* the application admissible;

3. *Holds* that there has been a violation of Articles 3 and 8 of the Convention in relation to the applicants' complaints about domestic violence;

4. *Holds* that there has been a violation of Article 8 of the Convention as concerns the inaction of the Juvenile Court in relation to custody rights and the continued placement in the shelter;

5. *Holds*,
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 15,000 (fifteen thousand euros) each, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 15,000 (fifteen thousand euros) jointly, plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 2 July 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth	Ivana Jelić
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Anna Adamska-Gallant is annexed to this judgment.

CONCURRING OPINION OF JUDGE ADAMSKA-GALLANT

1. I fully agree with my esteemed colleagues that in the present case, the respondent State violated Articles 3 and 8 of the Convention on account of its insufficient response to the established domestic violence suffered by the applicants. However, in my view, the case also presented an opportunity – which was ultimately missed – to examine whether secondary victimisation may arise from failures attributable not only to criminal-justice authorities but also to a civil court, namely the Juvenile Court in the present circumstances.

2. It is true that, in the Court's case-law to date, the notion of secondary victimisation has primarily emerged in the context of criminal proceedings. In that setting, the Court has identified such victimisation as resulting, *inter alia*, from disrespectful or insensitive questioning by investigative authorities[1], failure to take adequate context-sensitive measures during the investigation[2] or trial[3], and language used in criminal-court decisions that was found to perpetuate/reproduce sexist stereotypes or downplay gender-based violence[4]. Nevertheless, confining the concept of secondary victimisation exclusively to acts occurring within the criminal-justice chain is, in my view, unduly restrictive. Such an approach risks undermining the requirement that protection against secondary victimisation be practical and effective, particularly where other judicial bodies may contribute to or perpetuate harm.

3. Council of Europe Committee of Ministers' Recommendation Rec(2006)8 to member States on assistance to crime victims defines, in Article 1 of its appendix, secondary victimisation as victimisation occurring not as a direct consequence of the criminal act, but through the response of institutions and individuals to the victim, understood as a person who has suffered harm – including physical or mental injury, emotional suffering or economic loss – resulting from acts or omissions that violate the criminal law of a member State. This definition is not confined to the actions of participants within the criminal-justice chain.

4. While secondary victimisation presupposes the existence of an underlying criminal offence giving rise to primary victimisation, the corresponding positive obligations of the State are not limited to the conduct of criminal-justice authorities. Rather, as consistently emphasised in relevant

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[1] See, for instance, *I.C. v. the Republic of Moldova*, no. 36436/22, §§ 199-200, 27 February 2025 (police and social worker); *X v. Georgia*, no. 35640/22, §§ 128-29, not yet final (investigators); and *C. v. Romania*, no. 47358/20, § 83, 30 August 2022 (prosecutor).

[2] See, for instance, *X v. Greece*, no. 38588/21, §§ 76-77 and 85-87, 13 February 2024, and *X v. Georgia*, cited above, §§ 128-29.

[3] See, for instance, *Y. v. Slovenia*, no. 41107/10, §§ 97, 101-04 and 107, ECHR 2015 (extracts).

[4] See *J.L. v. Italy*, no. 5671/16, § 136, 27 May 2021.

standards, preventing secondary victimisation requires a holistic approach encompassing the response of all public authorities involved.

5. It is also noteworthy that the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), in its numerous evaluation reports, has expressly addressed the issue of secondary victimisation, including in the context of civil-court proceedings, such as those before juvenile courts. In its Baseline Evaluation Report on Italy (2020), GREVIO identified as an area of urgent concern the determination of custody and visitation rights, observing that existing legal provisions allowing priority to be given, in cases of violence against women, to the best interests of the child over the principle of shared parenting are rarely applied. GREVIO further expressed concern about a systemic tendency to expose to secondary victimisation mothers who seek to protect their children by reporting violence[5].

6. The GREVIO report goes on to emphasise that improper child custody and visitation arrangements may expose women to post-separation abuse and secondary victimisation, and underlines that the safety of the non-violent parent and the child must be a central consideration in determining the child's best interests. Moreover, GREVIO noted with concern the existence of a widespread practice among civil courts of failing to identify, or even disregarding, instances of domestic violence[6].

7. Similar concerns also emerge from the framework of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). In its General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19[7], the Committee stressed that, at the judicial level, all judicial bodies (not only in the context of criminal proceedings) must refrain from engaging in acts or practices of discrimination or gender-based violence against women and must ensure that proceedings are unaffected by gender stereotypes. It further stated that decisions concerning child custody, access, contact and visitation must be determined in the light of women's and children's rights to life and physical, sexual and psychological integrity and guided by the best interests of the child.

8. In the present case, the first applicant, in her initial submissions, detailed the various acts of violence suffered by herself and the minors; these incidents were subsequently reiterated by the applicants during the hearings. Nevertheless, as underscored by the Court in its judgment, the final decision contained no reference whatsoever to the allegations of violence. According to the Court, such an institutional response amounted to a complete disregard of her allegations of domestic violence, thereby exacerbating and prolonging the applicants' suffering, as well as reinforcing their perception that the

[5] GREVIO, Baseline Evaluation Report on Italy (2020), p. 7.
[6] Ibid., paragraph 186, p. 61.
[7] 26 July 2017, CEDAW/C/GC/35.

violence they had endured had gone unacknowledged. Consequently, the applicants experienced harm, attributable to the conduct of the Juvenile Court, that exceeded the consequences directly arising from the domestic violence which had been reported. This constitutes nothing other than secondary victimisation.

9. To conclude, only a holistic approach – encompassing the actions of all State authorities involved – can ensure effective protection against secondary victimisation. Limiting this obligation to the sphere of criminal justice risks leaving significant gaps in protection, particularly where other judicial bodies play a decisive role in shaping the lived experience of victims. In the present case, the insufficient and belated response of the Juvenile Court, in my view, formed part of the institutional reaction to the applicants' situation and therefore contributed to their secondary victimisation.

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Audrey Carmen Manuela UBEDA	1983	French	Pellezzano
2.	A.P.	2011	French	Pellezzano
3.	M.P.	2014	French	Pellezzano