



## Italian authorities failed to protect a mother and son because they did not take prompt action on a complaint concerning conjugal violence

In today's **Chamber** judgment<sup>1</sup> in the case of [Talpis v. Italy](#) (application no. 41237/14), concerning domestic violence to which a mother of two (Ms Talpis) was subjected and which resulted in the murder of her son and her own attempted murder, the European Court of Human Rights held:

- by six votes to one, that there had been a **violation of Article 2 (right to life)** of the European Convention on Human Rights on account of the murder of Ms Talpis' son and her own attempted murder,
- unanimously, that there had been a **violation of Article 3 (prohibition of inhuman or degrading treatment)** on account of the failure of the authorities in their obligation to protect Ms Talpis against acts of domestic violence, and
- by five votes to two, that there had been a **violation of Article 14 (prohibition of discrimination) in conjunction with Articles 2 and 3 of the Convention.**

The Court found, in particular, that by failing to take prompt action on the complaint lodged by Ms Talpis, the national authorities had deprived that complaint of any effect, creating a situation of impunity conducive to the recurrence of the acts of violence, which had then led to the attempted murder of Ms Talpis and the death of her son. The authorities had therefore failed in their obligation to protect the lives of the persons concerned.

The Court also found that Ms Talpis had lived with her children in a climate of violence serious enough to qualify as ill-treatment, and that the manner in which the authorities had conducted the criminal proceedings pointed to judicial passivity, which was incompatible with Article 3 of the Convention.

Finally, the Court found that Ms Talpis had been the victim of discrimination as a woman on account of the inaction of the authorities, which had underestimated the violence in question and thus essentially endorsed it.

### Principal facts

The applicant, Elisaveta Talpis, is a Romanian national who was born in 1965 and lives in Remanzaccio (Italy).

On 2 June 2012 Ms Talpis complained to the police that her husband (A.T.), who was an alcoholic, had beaten her and her daughter. On arriving at the scene, the police officers found A.T. in the street in a drunken state and recorded the injuries sustained by Ms Talpis and her daughter in their incident report. Ms Talpis did not lodge a formal complaint and decided to hide in the cellar.

On 19 August 2012 Ms Talpis was once again attacked by her husband with a knife, forcing her to follow him in order to have sexual relations with his friends. She asked a police patrol in the street for help; the officers fined A.T. for carrying a prohibited weapon and invited Ms Talpis to go home.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

She then went to the hospital accident and emergency unit, where doctors noted a head injury and multiple lesions to her body, and told her that the injuries would probably heal up within a week. She was then taken in by a welfare association for female victims of violence for three months, after which she had to leave for lack of available space and resources. According to Ms Talpis, she subsequently slept in the street, was accommodated for a time by a friend, and finally found a job as a care assistant and was able to rent a flat. A.T. continued to exert psychological pressure on her, in particular by telephone.

On 5 September 2012 Ms Talpis lodged a complaint for bodily harm, ill-treatment and threats of violence, urging the authorities to take prompt action to protect her and her children. On 4 April 2013 she was questioned for the first time by the police and she modified her statements, mitigating the allegations. In August 2013 the complaint file concerning the allegations of ill-treatment of the family and threats of violence was closed. In October 2015, however, A.T. was fined 2,000 euros (EUR) for having caused actual bodily harm.

On 25 November 2013 Ms Talpis once again called the police concerning an argument with her husband, who was taken to hospital in a state of intoxication. After his discharge from hospital, A.T. was asked for his identity papers at around 2.25 a.m. as he was walking along the street in a drunken state. He was given an on-the-spot fine and allowed to go home. At around 5 a.m., armed with a kitchen knife, A.T. entered the family apartment and attacked Ms Talpis. He stabbed his son, who had tried to separate his parents and who died of his injuries. A.T. also stabbed Ms Talpis in the chest several times as she was attempting to escape. In January 2015 A.T. was sentenced to life imprisonment for the murder of his son and the attempted murder of his wife, for carrying a prohibited weapon and for the ill-treatment of Ms Talpis and her daughter. He was also ordered to pay Ms Talpis damages.

## Complaints, procedure and composition of the Court

Relying on Article 2 (right to life), Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life), Ms Talpis complained of the failure of the Italian authorities in their obligation to provide protection against domestic violence that had led to the death of her son and her own attempted murder.

Relying on Article 14 (prohibition of discrimination) in conjunction with Articles 2 and 3, Ms Talpis also complained that she had suffered discrimination as a woman on account of the inaction of the authorities. She also criticised the inadequacy of the Italian legislation on domestic violence.

The application was lodged with the European Court of Human Rights on 23 May 2014.

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

Mirjana **Lazarova Trajkovska** (Former Yugoslav Republic of Macedonia), *President*,  
Guido **Raimondi** (Italy),  
Kristina **Pardalos** (San Marino),  
Linos-Alexandre **Sicilianos** (Greece),  
Robert **Spano** (Iceland),  
Armen **Harutyunyan** (Armenia),  
Tim **Eicke** (United Kingdom),

and also Abel **Campos**, *Section Registrar*.

## Decision of the Court

### Article 2 (right to life)

The Court noted that Article 2 of the Convention was applicable in respect of Ms Talpis' deceased son and of Ms Talpis herself, the latter having suffered acts which, by their very nature, had endangered her life. Given that the applicant had lodged a criminal complaint on 5 September 2012, the Court considered it necessary to assess the conduct of the authorities as of that date.

After Ms Talpis had lodged her complaint concerning the violence inflicted by her husband and mentioning her concern for her daughter's and her own lives, the domestic authorities had failed to issue any kind of protection order, and Ms Talpis had not been questioned until seven months after lodging her complaint. That delay had inevitably deprived the applicant of the immediate protection required by the situation. The national authorities should have taken account of Ms Talpis' situation of great insecurity and moral, physical and material vulnerability, assessed that situation accordingly, and provided her with appropriate support, which they had failed to do. Nor had the authorities conducted an assessment of the risks facing Ms Talpis, including the risk of further physical assault. By failing to take prompt action on the complaint, therefore, the domestic authorities had deprived that complaint of any effect, creating a situation of impunity conducive to the recurrence of the acts of violence committed by Ms Talpis' husband. Furthermore, the situation of impunity had ultimately led to the tragic events of the night of 25 November 2013. Even though the police had intervened twice during that night, they had taken no particular action to provide Ms Talpis with appropriate protection in the light of the seriousness of the situation, at a time when the violent conduct of the applicant's husband had been known to the police and a prosecution for serious bodily harm had been under way. In view of the possibilities available to the police for real-time checks on the criminal record of Ms Talpis' husband, the Court considered that the police should have known that he posed a real threat to Ms Talpis, the imminent execution of which threat could not have been ruled out. Consequently, the competent authorities had failed to take the action which, rationally, would no doubt have prevented the materialisation of a real risk to the lives of Ms Talpis and her son. They had therefore lacked the requisite diligence and failed in their obligation to protect the lives of Ms Talpis and her son. These failures had, moreover, rendered nugatory Ms Talpis' criminal complaint.

**The Court therefore found a violation of Article 2 of the Convention.**

### Article 3 (prohibition of inhuman or degrading treatment)

The Court considered that Ms Talpis could be considered as belonging to the category of "vulnerable persons" entitled to State protection<sup>2</sup>, noting that the violence inflicted, including bodily harm and psychological pressure, had been sufficiently serious to qualify as ill-treatment within the meaning of Article 3 of the Convention.

The Court pointed out that in the judicial treatment of cases of violence against women, the national authorities had to take account of the victim's situation of particular insecurity and moral, physical and/or material vulnerability, and to assess that situation accordingly, as promptly as possible. In the present case it noted that there was no plausible explanation for the authorities' inertia for such a long period – seven months – before instigating the criminal prosecution. Nor was there any reason why the criminal proceedings for serious bodily harm should have taken three years. In the Court's view, the manner in which the domestic authorities had conducted the criminal proceedings in the present case also pointed to the same judicial passivity and fell short of the requirements of Article 3 of the Convention.

**The Court therefore found a violation of Article 3 of the Convention.**

<sup>2</sup> See *A. v. the United Kingdom*, 23 September 1998, § 22, *Case Reports* 1998-VI.

### Article 14 (prohibition of discrimination) in conjunction with Articles 2 and 3

The Court reiterated that under its case-law, the State's failure to protect women against domestic violence breached their right to equal protection of the law and that that failure did not need to be intentional<sup>3</sup>. In the instant case Ms Talpis had suffered violence on several occasions, a state of affairs of which the authorities had been aware. Yet they had not conducted any investigations for seven months after the complaint or taken any steps to protect her. Ms Talpis' husband had been convicted of serious bodily harm three years later (on 1 October 2015), that is to say after the death of Ms Talpis' son and the attempted murder of Ms Talpis herself. The authorities' inertia in the present case had been particularly blatant in that the prosecution had asked the police, who had been inactive for six months, to take immediate action on Ms Talpis' request for protective measures. The Court held that the combination of all the above-mentioned factors showed that by underestimating, through their inertia, the seriousness of the violence in question the Italian authorities had essentially endorsed it. **Ms Talpis had therefore been the victim, as a woman, of discrimination contrary to Article 14 of the Convention.**

The Court noted that the findings of the United Nations Special Rapporteur on violence against women, its causes and consequences, following his visit to Italy in 2012, those of the Committee for the Elimination of Discrimination against Women, and those of the National Bureau of Statistics, showed the extent of the problem of domestic violence in Italy and the concomitant discrimination against women. Consequently, the Court considered that Ms Talpis had provided evidence of that phenomenon, substantiated by undisputed statistical data demonstrating, first of all, that domestic violence primarily affected women and that despite the reforms implemented a large number of women were being murdered by their partners or former partners (femicide), and, secondly, that the socio-cultural attitudes of tolerance of domestic violence were alive and well.

The Court accordingly held that the violence inflicted on Ms Talpis should be considered as being grounded on sex and that it consequently amounted to a form of discrimination against women. **It therefore found a violation of Article 14 of the Convention combined with Articles 2 and 3.**

### Just satisfaction (Article 41)

The Court held that Italy was to pay Ms Talpis 30,000 euros (EUR) in respect of non-pecuniary damage and EUR 10,000 in respect of costs and expenses.

### Separate opinions

Judge Eicke expressed a partly concurring and partly dissenting opinion. Judge Spano expressed a partly dissenting opinion. These opinions are annexed to the judgment.

*The judgment is available only in French.*

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<sup>3</sup> See *Opuz v. Turkey*, no. 33401/02, § 191, ECHR 2009

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.