

Judgment of the European Court of Human Rights in a case of domestic violence: **CASE OF EREMIJA AND OTHERS v. THE REPUBLIC OF MOLDOVA** (28. May 2013 – not final):

In the decision Eremia and Others v. the Republic of Moldova, the European Court of Human Rights held that the Republic of Moldova has violated Articles 3, 8 and Article 14 in conjunction with Article 3 of the European Convention of Human Rights for failing to prevent a husband (working as a police officer) from repeatedly beating his wife in front of their two teenage daughters. The applicants in this case were three Moldovan national women; the first applicant, Lilia Eremia, and her two daughters (second and third applicants, Doina and Mariana Eremia). The mother was repeatedly beaten by her husband, a police officer, in front of their two daughters. In addition to the physical and mental suffering of the mother, the two girls' psychological well-being was adversely affected.

The facts:

On the first applicant's request, a protection order had been issued against the violent husband, who did however not respect the order. Finally, the Moldovan Courts stood on the husband's side by upholding his appeal and partly revoking the protection order. The first applicant had filed a criminal complaint and had claimed that she has been pressured by other police officers to withdraw the complaint. Although a criminal investigation had been finally launched, and substantive evidence of the husband's guilt has been found, the prosecutor decided to suspend the investigation for one year subject to the condition that the investigation would be reopened if the husband committed another offence during that time. The prosecutor based his decision on the consideration that, the husband had committed "a less serious offence" and "did not represent a danger to society".

Allegations of the applicants:

The three applicants alleged that there had been a violation of Article 3 of the Convention. Relying on this article, the first applicant complained that authorities had ignored the domestic abuse and had failed to enforce the binding court order. The two daughters complained under this article based on the fact that they had been verbally abused by their father and having witnessed the assaults against their mother.

All three applicants also complained under Article 14 (Prohibition of Discrimination in the Enjoyment of the Rights and Freedoms of the Convention) in conjunction with Articles 3 and 8 (Respect to Private and Family Life). They alleged that the Moldovan authorities had "*failed to apply the domestic legislation intended to afford protection from domestic violence, as a result of preconceived ideas concerning the role of women in the family.*"

The Court's findings:

1) A Violation of Article 3 in respect of the first applicant, on the following grounds:

- The first applicant was particularly vulnerable. The risk to her physical and psychological well-being was "imminent and serious enough to require the authorities to act swiftly" (Point 61 of the Judgment).
- "The authorities never considered the impact of such a failure to enforce a court order by a police officer on the public order and never initiated criminal proceedings (...)" (Point 63 of the Judgment)
- "In the Court's view, the suspension of the criminal investigation ... in such circumstances had the effect of shielding him from criminal liability rather than deterring him from committing further violence against the first applicant (...)" (Point 65 of the Judgment).
- As a consequence, "the Court finds that the State has failed to observe its positive obligations under Article 3 of the Convention." (Point 66 of the Judgment)

2) A Violation of Article 8 of the Convention in respect of the second and third applicants

The Court did not examine the complaint under Article 3 regarding the two daughters, instead, on the basis of prior jurisprudence, decided to examine their complaint under Article 8 of the Convention (Respect of Private Life, which includes a person's physical and psychological integrity):

- The fact that the second and third applicant had to witness repeatedly their father's violence against their mother had adversely affected their psychological well-being: "In the Court's view, this amounts to an interference with the second and third applicant's right to private life and respect for their home within the meaning of Article 8 of the Convention." (Point 74 of the Judgment)
- The authorities had been fully aware of the first applicant's husband's breaches of the protection order and of his threatening and insulting behavior "not only on the second and third applicant, but also on the effects of such behavior on the second and third applicants. However ... little or no action was taken to prevent the recurrence of such behavior..." (Point 78 of the Judgment).
- Thus, "the Court concludes that the domestic authorities did not properly comply with their positive obligations under Article 8 of the Convention." (Point 79 of the Judgment).

3) Violation of Article 14 in conjunction with Article 3 of the Convention in respect of the first applicant

- The Court recalls its findings in the case of *Opuz*, according to which "the State's failure to protect women against domestic violence breaches their right to equal protection of the law", and "this failure does not need to be intentional." (Point 85 of the Judgment).
- The Court concluded that the refusal to speed up the urgent examination of their request for a divorce, the failure to enforce the protection order and the insult of the first applicant by suggesting reconciliation since she was "not the first nor the last woman to be beaten up by her husband" (Point 87 of the Judgment), and by suspending the criminal proceedings amounted to "repeatedly condoning such violence and reflect a discriminatory attitude towards the first applicant as a woman" (Point 89 of the Judgment).
- The Court found a violation of Article 14 in conjunction with Article 3 in respect of the first applicant, and decided not to examine the complaint under Article 14 taken in conjunction with Article 8 separately, as it did not raise any separate issues.

4) The Court held that the Republic of Moldova was to pay the applicants 15,000 Euros in respect of non-pecuniary damage and 2,150 Euro in respect of costs and expenses.