

ECHR case law review 2019

I. Communicated Cases (1st of September - 30th of November 2019)

1. [Sümeyye YILMAZ and others against Turkey \(Application no. 30957/19\)](#)

Summary of facts: The application concerns the alleged abduction and disappearance of the applicants' relative, Mr Mehmet Yılmaz, on 19 February 2019. Mr Yılmaz was convicted of being a member of the terrorist organisation known as FETÖ/PDY ("Gülenist Terror Organisation/Parallel State Structure") and was sentenced to 6 years and 3 months' imprisonment. He was released on 8 January 2019 pending trial and his appeal is still pending before the domestic courts. Relying on Articles 2, 3, 5 of the Convention, the applicant complains about the lack of an effective investigation into Mr Yılmaz's disappearance.

2. [Oksana DANILINA and Burliyat DANILINA against Russia \(Application no. 32400/12\)](#)

Summary of facts: The applicants are respectively the wife and the mother of Mr Timur Danilin, who was disappeared in 25 March 2012 and whose whereabouts are still unknown. Several witnesses indicated that Mr Danilin had been beaten and taken to the Counterterrorism Centre in Khasavyurt by police officers. The applicants reported his abduction to the police and a criminal investigation into the case was opened. However, the circumstances of the case were never clarified. The applicants allege a violation of articles 3, 5 and 13 of the Convention, given the torture of Mr Danilin, the failure of the domestic authorities to effectively investigate the matter and the lack of domestic remedies.

3. [T.V. against Russia \(Application no. 31323/19\)](#)

Summary of facts: The applicant T.V. married her husband E. in 2008 and they have three children together. E. abused the applicant and their children from the early days of their marriage. In the course of 2017, she reported two violent assaults to the police, but did not receive any assistance. In October 2017, the applicant took the children and moved out. However, they got in touch again. E. assaulted the applicant and, at a later stage, had sexual intercourse with her against her will. The applicant managed to reach a police station and was taken to a hospital with multiple injuries. Later, she was accommodated in a State-operated shelter for women. The police opened a criminal investigation into threats of death or grievous bodily harm, but refused to investigate the applicant's rape, even though she submitted that the intercourse had not been consensual. She explained the police that she had not been able to bring herself to talk about the rape to the male police officer, who was interviewing her after the assault, and only mentioned it to the gynaecologist in the hospital..

In the end, E. was only found guilty of the offences of “tormenting” and threats of death or grievous bodily injury and was sentenced to two and a half years’ imprisonment. Before the Court, the applicant complains about the failure of Russian authorities to effectively investigate the rape allegations, amounting to a violation of articles 3 and 8 of the Convention.

4. [Yelizaveta Magometovna ALIYEVA and others against Russia \(Application no. 18424/17\)](#)

Summary of facts: The four applicants are related to Ms Marem Magometovna Aliyeva, who was the sister to the first applicant and the mother to the other applicants.

In 2001, Ms Marem Magometovna Aliyeva entered into a religious marriage with Mr Mukharbek Yevloyev. The second, third and fourth applicants were born of that union. From the first days of their marriage, Mr Yevloyev abused Ms Aliyeva. She did not complain to the police, because he bragged about his connections with law enforcement authorities. She tried to run away a few times, but he prevented her each time. In July 2015, Ms Aliyeva decided to break up with her abusive husband, took her three children and their half-sister and moved in with her relatives (first applicant). Mr Yevloyev, who carried a firearm and was in the company of his male relatives, approached their house and briefly kidnapped the first applicant and her husband. He did manage to take Marem back to their house. Afterwards, he reported Marem’s attempted escape to the police and accused her of stealing money from him. Wanted notices featuring Marem’s photograph and describing her as a suspected thief were posted around town.

Later, Marem and her children ran away and went to a shelter in the Moscow Region for two weeks and then to Minsk, but they were found and brought back by Mr Yevloyev once again. In September 2015, Marem disappeared from their family home. Before the Court, the applicants allege that their rights under articles 2, 3 and 14 of the Convention have been violated, given the failure of domestic authorities to prevent as well as to effectively investigate the presumed death of Ms Marem Aliyeva and previous incidents of domestic violence. They also allege that the authorities failed to provide effective witness protection measures to Marem’s relatives.

5. [Valeriya Igorevna VOLODINA against Russia \(Application no. 40419/19\)](#)

Summary of facts: In November 2014, the applicant began a relationship with Mr S., an Azerbaijani national. Following their separation in 2015, Mr S. became abusive. He threatened her with death or bodily injuries, abducted and assaulted her on several occasions.

In June 2016, the applicant's account on the Russian social network VKontakte had been hijacked. An invented name had replaced her real name and personal details, like a photograph of her passport and nude photographs, had been posted. The applicant complained to the police about a breach of her right to privacy. The police declined to institute criminal proceedings on the grounds that the information had been disclosed on a social network rather than in mass-media.

A supervising prosecutor set that decision aside as unlawful and directed the police to find and interview S. Later, new fake accounts under the applicant's name appeared. Additionally, S. sent death threats through social media to the applicant. She asked the police to open a criminal case and to grant her protection. The police refused because the threats had not been "real".

The applicant complained about the ineffective investigations into the case and that the collected evidence had not been made available to her. However, up to now, the authorities neither disclosed their investigation efforts towards the applicant, nor punished S. in any way. The applicant therefore alleges that her rights under article 8 of the Convention have been violated.

6. [Liudmila ARION against the Republic of Moldova \(Application no. 23655/14\)](#)

Summary of facts¹: The applicant complains under Article 3 of the Convention about sexual violence caused by a private individual, as well as the alleged insufficiency of the investigation and impunity of the perpetrator. She raises the issue of whether the authorities have complied with their positive obligation to prosecute the perpetrator.

The applicant also complains under Article 14 of the Convention read in conjunction with Article 3 that she was discriminated based on her disability given the lack of special measures allowing her to be heard and thus relying mostly on the perpetrator's statements.

7. [Alexandra Anasztázia HÁMORI against Hungary \(Application no. 48146/16\)](#)

Summary of facts: The application concerns the adequacy of the investigations into allegations of sexual abuse committed to the detriment of the applicant, a minor. The domestic proceedings took place from 2010 until February 2016 and culminated in the acquittal of the suspect. The applicant relies on Articles 3 and 8 of the Convention.

8. [Algina KONOPLIANKO against Latvia \(Application no. 28535/15\)](#)

¹ These are the only facts provided by the Court in their Communication.

Summary of facts: The application concerns following rights of a victim of an unresolved crime:

- (i) the right to have access to a court to claim compensation, and
- (ii) the right to an effective remedy in respect of an allegedly protracted criminal investigation.

On 24 February 2009, the applicant was robbed on the street and sustained serious injuries (broken leg, injuries to the face and head). On the same date criminal proceedings were instituted and she was recognised as a victim (approximate amount of damages claimed: EUR 10,000). She lodged various complaints about the allegedly protracted investigation to which she received negative replies. The perpetrator of the crime remains unknown.

9. [Kálmán BÓDI and others against Hungary \(Application no. 29554/17\)](#)

Summary of facts: The application concerns the allegedly inadequate investigation into an assault carried out by members of a paramilitary organisation to the detriment of the applicants, persons of Roma origin. On 12 December 2016, the Eger District Public Prosecutor's Office ultimately dismissed the applicants' complaint about the suspension of the investigation.

10. [Andrea GIULIANO against Hungary \(Application no. 45305/16\)](#)

Summary of facts: The application concerns the online harassment of the applicant who is a well-known gay rights activist.

Following a provocative performance aimed at a far right group during the Budapest Pride march in 2014, a far-right wing online portal published the applicant's name, photos, home address, work place and Facebook page. Subsequently he received a number of threats through Facebook and his employer was also threatened by members of far right groups telling him to dismiss the applicant.

Following the applicant's criminal complaint, the police opened investigations into defamation, against which the applicant complained stating that the statements in question also constituted hate speech. The investigation was then extended to misuse of personal data and harassment. Since no suspect could be identified, it was suspended in November 2015.

The applicant complained against this decision, but his claim was dismissed by the prosecutor's office on 27 January 2016 on the grounds that the far-right wing online portal was hosted in the United States; international mutual assistance could not be requested and no perpetrator could be identified.

11. [R.B. and N.R. against the Netherlands \(Application no. 45067/18\)](#)

Summary of facts: The application concerns an incident which occurred on 7 September 2016 when the applicants' 23-year-old son X, who was autistic and suffering from schizophrenia, was shot and fatally wounded by police. The police had entered X's apartment at the request of, and together with, *inter alia* a psychiatry resident (arts-assistent psychiatrie) who was to assess whether X should be involuntarily committed to a psychiatric hospital. According to the police officers, X had pulled a knife when they wanted to search him and therefore they had resorted to the use of their firearms.

The applicants' subsequent complaint against the public prosecutor's decision to not institute criminal proceedings against the police officers was rejected by the Amsterdam Court of Appeal on 4 April 2018. The Court considered that although the use of force had not been in line with the relevant official instruction, it was plausible that the officers had used their firearms in legitimate (self-)defence.

II. Judgements (1st of January – 5th of December 2019)

1. [CASE OF X AND OTHERS v. BULGARIA \(Application no. 22457/16\)](#)

Underlying issue: The case concerned investigations conducted by the Bulgarian authorities into allegations of sexual abuse of the applicants in an orphanage in Bulgaria.

Legal matter: Prohibition of torture, inhuman or degrading treatment and right to respect for private and family life

Brief overview of facts: The applicants, a brother (X) and two sisters (Y and Z), were born in Bulgaria, but had become Italian nationals living in Italy at the time of their application. They had been placed in an orphanage in Bulgaria and were adopted by an Italian couple in June 2012 at the age of twelve, ten and nine years old respectively. A few months after their adoption, their parents reported to various Italian authorities and the Italian press that their children had suffered sexual abuse during their stay in the orphanage in Bulgaria. In January 2013, having been apprised of the article in the Italian press, the National Child Welfare Agency in Bulgaria ordered an inspection of the orphanage in question and informed the public prosecutor's office. The same year, a police investigation was carried out, together with another inspection by the child welfare authorities. Those inspections led to the discontinuance of the case, as the public prosecutor's office considered that none of the evidence pointed to the commission of any offences. In January 2014, the Italian Ministry of

Justice formally approached the Bulgarian authorities with the request to open a formal investigation based on information gathered by the Italian prosecutor's office. A further investigation was instigated, after which the regional prosecutor's office reconfirmed the discontinuance decision.

Legal reasoning: The applicants complained that they had suffered sexual abuse in the Bulgarian orphanage. They also submitted that the Bulgarian authorities had failed in their obligations to protect them from such treatment and, subsequently, to conduct an effective investigation. The Court decided to consider the complaints solely under Articles 3 and 8 of the Convention. The Court found that the Bulgarian authorities had acted promptly and diligently as soon as they had been apprised, through the press, of the alleged facts, even though they had not received any formal complaint from the applicants. It also noted that the applicants' parents had not been prevented from taking part in the investigation. It therefore found no blameworthy shortcomings or lack of willingness on the part of the competent authorities to shed light on the events or to identify and prosecute those potentially responsible. On the basis of the evidence before it, the Court also ruled, that the Bulgarian authorities had not failed in their obligation to take preventive action to protect the applicants from a risk of ill-treatment of which they had or should have had cognisance. In this regard, the Court noted that a number of general measures had been adopted to guarantee the safety of the children in the orphanage. Therefore, the Court held that there had not been a violation of Articles 3 and 8 of the Convention.

Finality of the Judgment: This case has been referred to the Grand Chamber on 26 June 2019. Following Article 44 of the Convention, this judgment thus cannot be regarded as final.

[2. CASE OF GÜZELYURTLU AND OTHERS v. CYPRUS AND TURKEY \(Application no. 36925/07\)](#)

Underlying issue: The case concerned a lack of cooperation between Cyprus and Turkey, which resulted in an ineffective investigation in a murder case.

Legal matter: right to life/investigation

Brief overview of facts: The case concerned the killing of Elmas, Zerrin and Eylül Güzelyurtlu. The applicants are all relatives of Elmas, Zerrin, and Eylül Güzelyurtlu, who were shot dead on the Nicosia-Larnaca highway in the Cypriot-Government-controlled areas on 15 January 2005. Elmas was found dead in a ditch and his wife, Zerrin, and daughter, Eylül, in the backseat of their parked car. The killers fled back to the "Turkish Republic of Northern Cyprus" (the "TRNC"). Parallel investigations into the murders were conducted by the authorities of the

Cypriot Government and the Turkish Government, including those of the “TRNC”. The “TRNC” authorities insisted that the case file containing the evidence against the suspects should be handed over so that they could conduct a prosecution. The Cypriot authorities refused. Given the strength of the evidence gathered during their investigation, the Cypriot authorities sought the extradition of the suspects who were within Turkey’s jurisdiction (either in the “TRNC” or in mainland Turkey) in light of domestic proceedings. The extradition requests were returned to the Cypriot authorities without reply. The investigations of both respondent States thus reached an impasse in 2008. The applicants, relatives of the victims, complained that both the Cypriot and Turkish authorities (including those of the “TRNC”) have failed to co-operate and conduct an effective investigation into the killing of their relatives.

Legal reasoning: The Court found that, where – as in the applicants’ case – the investigation of unlawful killings unavoidably implicated more than one State, the States concerned were obliged to cooperate effectively and take all reasonable steps necessary to facilitate and realise an effective investigation into the case overall. However, it was clear from the evidence before the Court, that both Governments had not been prepared to make any compromise on their positions and find middle ground, despite various options having been put forward, including by the United Nations. That position arose from political considerations which reflected the long-standing and intense political dispute between Cyprus and Turkey. As a result, the respondent Governments’ respective investigations, which the Court found adequate up until the impasse, remain open. Nothing has therefore been done for more than eight years to bring to a close what is ultimately a straightforward case.

If there had been cooperation, in line with the procedural obligation under Article 2, criminal proceedings might have ensued against one or more of the suspects or the investigation might have come to a proper conclusion. Therefore, the Court held that the procedural aspect of Article 2 of the Convention had been violated on account of the failure of the two Governments to cooperate.

3. [CASE OF MAMMADOV AND OTHERS v. AZERBAIJAN \(Application no. 35432/07\)](#)

Underlying issue: The case concerned the first applicant, who was an academic, and his complaints about unlawful detention and ill-treatment by officers of the Ministry of National Security in 2007 as well as his subsequent pre-trial detention. He died in detention in 2009 and his wife and son continued the proceedings in his stead, lodging a further complaint concerning his death.

Legal matter: Prohibition of inhuman or degrading treatment, right to liberty and security, entitlement to trial within a reasonable time, right to life/ investigation

Brief overview of facts: The applicants are Novruzali Khanmammad oglu Mammadov, who was born in 1942, his wife, Maryam Aliaga gizi Mammadova, and their son, Emil Novruzali oglu Mammadov. They are Azerbaijani nationals. The case concerned the first applicant, who was an academic specialising in the Talysh language and editor-in-chief of an Azerbaijani-Talysh newspaper. He complained that he had been arrested in 2007, held in arbitrary detention for 24 hours and then sentenced to 15 days' administrative detention which he spent in a location unknown to either his family or lawyer. He alleged that he had been ill-treated during that period and had not been provided with medical care for high blood pressure, prostatitis and an overactive thyroid. He also complained that he had then spent over a year in pre-trial detention without a proper justification until his conviction of high treason and sentencing to 10 years' imprisonment. He died in detention in 2009 of a heart attack. His wife and son alleged that he had died in detention owing to inadequate medical care, notably the delay in his transfer to a specialised medical facility, and that there had been no effective investigation into his death.

Legal reasoning: The Court held that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention as regards Mr Mammadov's ill-treatment. It also held, unanimously, that there had been further violations of Article 3 of the Convention following the deprivation of medical care and the lack of an effective investigation into his allegation of ill-treatment. Additionally, the Court held, that there had been a violation of Article 5 § 1 (right to liberty and security), since the first 24 hours of his detention had not been recorded, and a violation of Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial), because the authorities had failed to give "relevant" and "sufficient" reasons to justify his pre-trial detention. The Court held furthermore that only the procedural aspect of Article 2 (right to life) had been violated given the authorities' failure to conduct an effective investigation into his death.

4. [CASE OF A AND B v. CROATIA \(Application no. 7144/15\)](#)

Underlying issue: The case concerned a complaint, asserting that the Croatian authorities had failed to provide a proper response to allegations of child sexual abuse.

Legal matter: Right to respect for private and family life, procedural aspects of the prohibition of torture

Brief overview of facts: The applicants, A and B, namely a mother and her daughter, are Croatian nationals who were born in 1984 and 2009 respectively. In June 2014, A noticed B, then four and half years old, playing with her genitals, and the child also said that she had played like that with her father, C, every night before going to bed. A called a telephone hotline

and made an appointment to visit a special child protection clinic. A subsequently reported C to the police, which investigated her allegations. The child was examined by medical and psychological specialists during the course of the proceedings, in which the father also accused A of emotionally and physically abusing the child. Among other steps, the police interviewed a paediatrician who had treated B and two teachers in her kindergarten. She was also examined by a gynaecologist, who found no injuries consistent with sexual abuse, and later by a team of specialists – a paediatrician, a psychologist, and a psychiatrist – from the child protection clinic. The team did not find clear signs of sexual abuse and saw elements of pressure from the mother and the possibility of inducement by her. It recommended support for the child and counselling for the parents. The police carried on their investigations, interviewing the father in August 2014. He denied abusing his daughter and made a counter-allegation that A had been physically punishing the child. Psychological reports were also drawn up in November and December 2014. In December 2014, the State Attorney's Office decided to close the case, finding that it could not conclude that C had committed any prosecutable offence. An investigating judge refused A's subsequent request to open an investigation in October 2015, a decision that was upheld on appeal in December of the same year. In August 2014, the welfare centre in charge of the case ordered measures to protect B's interests, including supervision of parental care of both A and C.

Legal reasoning: The Court found no culpable disregard, discernible bad faith or a lack of will on the part of the police or the prosecution in performing their duty under the law. It was also satisfied that the authorities had done everything that could reasonably have been expected of them to protect the rights of the applicant, a child allegedly victim of sexual abuse, and to act in her best interests. There had therefore been no violation of the procedural aspect of Article 3 and Article 8 of the Convention in the particular circumstances of the case.

5. [CASE OF VAZAGASHVILI AND SHANAVA v. GEORGIA \(Application no. 50375/07\)](#)

Underlying issue: The case concerns the murder of the applicants' son by Georgian police and the lack of a proper investigation into the circumstances of the murder.

Legal matter: Right to life

Brief overview of facts: The applicants, Mr Yuri Vazagashvili and Ms Tsiala Shanava, were Georgian nationals, both born in 1953. Mr Vazagashvili was murdered in 2015. Ms Shanava lives in Tbilisi and has continued the application in her own name and that of her late husband. The applicants' son, Z.V., 22 at the time, and his friend, A.Kh., 25 at the time, were shot dead by police while Z.V. was driving his car in May 2006. The third passenger, B.P., then 22, was seriously injured but survived. The police operation involved at least 50 officers, including

senior officials from the criminal police unit of the Ministry of the Interior and masked officers of a riot police unit. They were armed with machine guns and they shot more than 70 bullets at Z.V.'s car, with some 40 bullets hitting their target. The police initially stated that Z.V. and his friends had been intercepted on their way to carry out a robbery, but an investigation into excessive use of force was opened three days after the incident. The applicants complained regularly to the Tbilisi city prosecutor that the investigation was not being conducted thoroughly and impartially. In April 2007, the prosecution authority discontinued the criminal investigation, mainly based on statements by officers who had taken part in the operation and on ballistics tests. The applicants gathered their own evidence and asked the Chief Public Prosecutor to reopen the investigation, which he did. The applicants were not granted victim status in that process. In October 2015, the Tbilisi City Court convicted five former senior officers of the Ministry of the Interior, including the ex-deputy head of the criminal police unit (I.P.), of following crimes: aggravated murder, perverting the course of justice in a criminal case by fabrication of evidence, malfeasance by a public official and false arrest. In particular, the court found that I.P. had had a personal grudge against A.Kh. and had organised a police operation to take his revenge. The police had fabricated evidence, such as the allegation that shots had been fired from the victims' car, which was the reason the police had given for opening fire themselves. Other criminal police unit officers had been involved. In particular, senior police officer G.Ts. had approached the victims' car and had killed Z.V. and A.Kh. by shooting them in the head. In January 2015, the first applicant, Mr Vazagashvili, was killed in an explosion caused by an improvised device planted at his son's grave, which he was visiting at the time. In November 2015, the Tbilisi City Court convicted a policeman, G.S., of the first applicant's murder. In support of the conviction, the Court established that the first applicant's nongovernmental organisation, Save a Life, formed to highlight police criminality, had published an article in a national newspaper with a list of officers believed to have been implicated in various offences. G.S. had figured at the end of the list.

Legal reasoning: The Court took up the question of whether the applicants could still claim to be a victim of a violation of the Convention as several police officers had been convicted for the murder of the applicants' son and of perverting the course of justice. It joined that admissibility question to the merits of the case as being closely linked to the issue of the effectiveness of the investigation, which it then examined under the procedural limb of Article 2.

The Court found in particular that the first investigation into the killing had been flawed as it had been carried out by the police officers involved in the shooting. The second investigation, which had led to convictions, had only taken place several years after the crime and had been based, to some extent, on investigative work carried out by the first applicant himself.

The Court particularly noted the fact that the first applicant's efforts to disclose police crime and corruption had ultimately led to him being murdered by a police officer, thereby highlighting the consequence of the authorities' lack of diligence in pursuing the perpetrators of the original murder. In concluding that the applicants had retained their victim status under Article 34 of the Convention regardless of the convictions, the Court thus held that there had been a violation of the procedural limb of Article 2. Since the findings of the domestic courts clearly showed that the killing of Z.V. by State agents with malicious intent had been attributable to the respondent State, the Court further held that the substantive limb of Article 2 of the Convention had been violated.

6. [CASE OF LEWIT v. AUSTRIA \(Application no. 4782/18\)](#)

Underlying issue: The case concerned a now 96-year-old Holocaust survivor, who is complaining about defamation by a right-wing periodical and about the failure of domestic courts to protect his right to reputation.

Legal matter: Right to respect for private and family life

Brief overview of facts: The applicant, Aba Lewit, is an Austrian national who was born in 1923 and lives in Vienna (Austria). He is one of the last Holocaust survivors still alive. In the summer of 2015, the periodical *Aula* published an article, in which people liberated from the Mauthausen concentration camp were described as "mass murderers", "criminals" and "a plague". The authorities opened criminal investigations against the author of the article, but they were ultimately discontinued. In *Aula*'s February 2016 issue, the same author reported on the discontinuation of the criminal investigations and repeated *verbatim* the earlier statements. Mr Lewit, together with nine other survivors, who had all been imprisoned in concentration camps and were liberated in 1945, brought an action under the Media Act ("Mediengesetz") against *Aula* and the author. The claimants argued that they had been defamed and insulted by the 2016 article, even if they had not been named personally. They reiterated that they had all been victims of the National Socialist regime and had been imprisoned in Mauthausen, from which they were liberated after the end of the war, because of their origins, beliefs or faith. They had never committed any criminally significant acts. The Graz Regional Criminal Court dismissed their claim, finding that the claimants could not be individually identifiable in the article's statements given the large number of people liberated from Mauthausen (about 20,000 in 1945). It therefore held that the claimants did not have standing to bring their claim. It also found that the article did not contain any separate, defamatory statements, since it merely described the outcome of the investigation by the public prosecutor's office regarding the article published in 2015. On appeal, the claimants argued that they were indeed recognisable, because only a few former Mauthausen prisoners were still alive and they were known as activist survivors of the Holocaust. The Graz Court of

Appeal dismissed the appeal, without elaborating on the questions of the size of the group and the claimants' legal standing. It merely confirmed the first-instance findings, agreeing that the statements in question did not have a separate, defamatory meaning compared to those published in the 2015 article.

Legal reasoning: The Court found that the Austrian courts had failed to protect the applicant's rights, because they had never dealt with the central issue of his claim: the defamation caused by an article, which had used terms like "mass murderers", "criminals" and "a plague" to describe people, like him, liberated from the Mauthausen concentration camp complex in 1945. Instead, the courts had concluded that he had no standing to bring the case at all, since he could not have been personally affected by statements in which he had not been named given the large number of people liberated from the camp. However, the courts had not examined the fact that far fewer survivors were still alive at the time of the publication of the article. The courts had also concluded that the mere repetition of the statements made in an earlier piece on the same theme had not had separate defamatory meaning. In finding that no explanation had been provided for such finding, the Court concluded that the context and purpose of the two articles was very different. The overall lack of a proper examination of the applicant's defamation claim by the domestic courts had led to a violation of his privacy rights.

7. [CASE OF PISICĂ v. THE REPUBLIC OF MOLDOVA \(Application no. 23641/17\)](#)

Underlying issue: The case concerned the applicants' complaint, alleging that the authorities had failed to ensure access to her three children, who had been taken from her by her abusive ex-husband against her wishes.

Legal matter: Right to respect for private and family life

Brief overview of facts: The applicant, Nelea Pisiță, is a Moldovan national who was born in 1981 and lives in Ialoveni (Republic of Moldova). She has three sons with P., born in 2003 and 2007. In 2012, P. started being aggressive and she left the family home with the children. During proceedings for custody of the children, between July 2013 and November 2015, Ms Pisiță complained nine times to various authorities that P. was manipulating the children and turning them against her. Despite several protection orders issued in the course of those proceedings that barred P. from contacting the children, he took them to his home and refused to return them to their mother. Several psychological reports were drawn up in 2014, showing that the children's attitude to their mother had changed and finding that P.'s alienation of the children from their mother constituted emotional abuse. The local welfare authorities recommended that the children should be separated temporarily from both parents for

psychological assistance, but there was never any follow up. Ms Pisciă was eventually awarded custody of her two younger sons in June 2015. However, the judgment was never enforced because of strong opposition from the children. There were new custody proceedings in 2018, in which the courts decided that the two younger children were to live with P. In rendering this decision, the courts found that the change of custody was in the children's best interests, because of their strong ties to their father.

Legal reasoning: Relying on Article 8 (right to respect for private and family life) of the Convention, Ms Pisciă complained that the authorities had failed to reunite her with her children, despite the judgment in her favour, and to take any action against the father's emotional abuse.

The Court held that there has been a violation of the right to respect for private and family life as a result of the State's failure to enforce the final judgment awarding custody to the mother.

8. [CASE OF M.M.B. v. SLOVAKIA \(Application no. 6318/17\)](#)

Underlying issue: Her mother brought the application to the court on behalf of the applicant. The case concerned her complaint about the authorities' investigation into allegations of sexual abuse by her father.

Legal matter: Right to respect for private and family life

Brief overview of facts: The applicant, Ms M.M.B., is a Slovak national who was born in 2008 and lives in Košice (Slovakia). In 2012, the applicant's mother approached a specialised centre, because she suspected that her daughter had been sexually abused by her father. Psychologists at the centre stated that the applicant's unusual behaviour could be attributable to child abuse. Subsequently, two investigations were instigated during which seven diverging expert reports were drawn up. Some of the experts could not identify any signs of sexual abuse and concluded that the applicant had a vivid imagination, while others found that she could not have invented some of her stories without having experienced them in the past. The experts' assessments of the applicant's mother and father were also conflicting. The seventh expert report, which was requested by the investigating authorities in order to address those divergences, decided that it was highly probable that the applicant had experienced sexual abuse. It said that any inconsistencies in the applicant's revelations of details of her sexual abuse could be explained by the fact that these revelations are an ongoing process with various stages, which could involve changes in her behaviour and previously made statements. It also stressed that her drawings showed a likelihood of sexual abuse. However, in 2015, the investigator discontinued the father's criminal prosecution, because the seventh report's

conclusions were not sufficient to prove that the abuse had occurred. The investigator referred back to the findings in the other reports, indicating that the applicant confused reality with imagination, that the father showed no signs of sexual deviation or aggression and that the mother might have manipulated the applicant.

Legal reasoning: Relying in particular on Article 8 (right to respect for private and family life), the applicant complained that the authorities had failed to carry out an effective investigation into her allegations of sexual abuse. She alleged in particular that the authorities had terminated the prosecution, even though experts had confirmed that she had been abused.

The Court held that there had been a violation of Article 8 of the Convention given the lack of an effective investigation into allegations of sexual abuse of the applicant and the authorities' failure to engage in context-sensitive assessment of conflicting evidence.