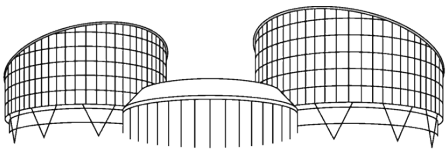

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF T.M. AND C.M. v. THE REPUBLIC OF MOLDOVA

(Application no. 26608/11)

JUDGMENT

STRASBOURG

28 January 2014

FINAL

28/04/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of T.M. and C.M. v. the Republic of Moldova,

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

Josep Casadevall, *President,*
Alvina Gyulumyan,
Ján Šikuta,
Nona Tsotsoria,
Kristina Pardalos,
Johannes Silvis,
Valeriu Griţco, *judges*
and Santiago Quesada, *Section Registrar,*

Having deliberated in private on 7 January 2014,

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

PROCEDURE

1. The case originated in an application (no. 26608/11) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Moldovan nationals, Mrs T. M. ("the first applicant") and Ms C. M. ("the second applicant"), on 30 April 2011. The President of the Section acceded to the applicants' request not to have their names disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicants, who had been granted legal aid, were represented by Mr A. Postica, a lawyer practising in Chișinău. The Moldovan Government ("the Government") were represented by their Agent, Mr L. Apostol.

3. The applicants alleged, in particular, that the authorities had failed to offer them effective protection from acts of domestic violence by not enforcing protection orders issued.

4. On 6 December 2011 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1982 and 2002 respectively and live in Chișinău. The second applicant is the daughter of the first applicant.

A. Background to the case

6. The first applicant and M.M. married in 2001. M.M. became involved in gambling and started behaving aggressively towards the applicants. The first applicant filed for divorce, which she obtained on 25 February 2010.

7. On 22 June 2010 the first applicant complained to the police that she was being verbally abused by M.M., following which he was fined administratively in the amount of 500 Moldovan lei (MDL − approximately 31 euros at the time).

8. According to the applicants, on 5 September 2010 M.M. assaulted the first applicant; he also caused some bruises to the second applicant. A medical report dated 6 September 2010 established that the first applicant had two haematomas on her lower lip and a slight defect to her teeth on the left side. Another report produced on the same day established that the second applicant had two bruises on her right hand. The medical expert noted the applicants' explanations that M. M. had punched the first applicant in the face and had pushed the second applicant to the ground, which had caused her to have pain in her arm. Each of the medical reports also stated that the examination had been carried out at the request of the Buiucani police.

9. On 24 February 2011 the Chişinău Court of Appeal decided that the applicants had the right to a three-quarter share of the family apartment, leaving a one-quarter share to M.M. He allegedly became even more aggressive after that decision was adopted.

10. On 21 March 2011 the first applicant complained again to the police that she was being physically and psychologically abused by her ex-husband. A medical report produced on the same day established that she had two haematomas on her right leg. M.M. was fined MDL 500.

B. The applicants' application for a protection order

11. On 1 April 2011 the first applicant made another complaint concerning M.M. and applied for a protection order.

12. On 5 April 2011 she asked the prosecutor's office to initiate a criminal investigation against M.M. On 6 May 2011 a prosecutor rejected her request, finding that the medical evidence had confirmed that the injuries caused to the applicants were not considered damaging to their health, meaning that the offence of domestic violence, which required at least slight bodily harm or damage to health, had not been committed. The applicants challenged that decision before the Prosecutor General's Office on 12 May 2011.

13. On 11 April 2011 the Buiucani District Court issued a protection order, obliging M.M. to temporarily leave the family home and to avoid coming within 100m of the applicants or their places of work and study.

However, the order was not sent to the relevant authorities and the first applicant did not obtain her copy until 22 April 2011. On that day she brought the protection order to the attention of the local police, the Ministry of Internal Affairs and the Social Assistance Department.

14. On 20 April 2011 a psychological report confirmed that the second applicant was experiencing anxiety and emotional distress. It recommended that she have no contact with her abusive father.

15. Despite two visits by the police aimed at forcing M.M. to leave the family apartment (on 27 and 29 April 2011), M.M. refused to leave and the applicants had to stay several nights with their relatives. The last attempt to evict M.M. on 29 April 2011 failed, when he showed the police a decision of the Buiucani District Court of 29 April 2011 suspending the enforcement of its own decision of 11 April 2011 pending the examination of an appeal lodged by him. After that the police refused to take any action in respect of M.M. until a decision was reached by the courts.

16. On 22 April 2011 the applicants asked to be referred to a refuge for victims of domestic violence, the staff of which established that the applicants had been damaged psychologically as a result of the violence they had suffered at the hands of M.M.

17. On an unknown date the applicants appealed against the District Court decision of 29 April 2011. On 17 May 2011 the Public Order and Police Department of the Ministry of Internal Affairs ("the Department") also appealed against the decision, submitting that the court had been obliged by law to take a decision in respect of the applicants' complaint within twenty-four hours, which it had manifestly failed to do. Moreover, the law provided that objections to a decision to issue a protection order could not suspend the enforcement of such an order; however, the court had suspended the enforcement of the order of 11 April 2011. Furthermore, the order had not been forwarded to the police and social services immediately, as was required by law. That failure to take a decision and to enforce the protection order eventually issued had put the applicants at risk of further ill-treatment.

18. On 24 May 2011 a criminal investigation was initiated against M.M., who was accused of stealing jewellery from the first applicant.

19. On the same day the Chişinău Court of Appeal rejected the appeals lodged by the applicants and the Department and allowed the appeal lodged by M.M., quashing the decision of 11 April 2011 and implicitly annulling the conditions of the protection order. The court found that the lower court had (i) failed to follow a special procedure to deal with the applicants' application and had not specified the reasons for issuing the protection order, (ii) had not verified whether the alleged aggressor had been properly summoned to the court hearing, and (iii) had failed to obtain a report from social services and the police before issuing the protection order. Moreover, the lower court had not had the power to suspend the enforcement of the

protection order as it had done. Therefore the decision of 29 April 2011 was also quashed. Since the lower court had failed to comply with the requirements of the law and had adopted an unlawful decision, the Court of Appeal ordered a re-examination of the case.

20. At the applicant's request, on 4 July 2011 the prosecutor's office initiated criminal proceedings against M. M. on charges of domestic violence.

21. On 15 July 2011 the Buiucani District Court rejected the applicants' application for a protection order. It found that the second applicant had explained that she loved both parents equally; that the father had said horrible things and tried to make them leave the apartment; and that there had been instances when her father had hit her mother and also when her mother had scratched her father or threatened him with a knife. The court noted that the first applicant had submitted that M.M. had been verbally abusive towards her, but held that there was insufficient evidence to back up her claims. It concluded that there was no evidence of any domestic violence having taken place.

22. On 29 September 2011 the Chişinău Court of Appeal issued a protection order in favour of the applicants, similar to that of 11 April 2011. It was officially served on M. M. on 6 October 2011. On 28 December 2011 a police officer confirmed that the order had been complied with.

23. On 30 September 2011 the prosecutor discontinued the criminal investigation against M. M. On 30 December 2011 that decision was annulled by a higher-ranking prosecutor.

24. On 27 February 2012 a prosecutor proposed to discontinue the proceedings concerning the alleged theft of the jewellery. The parties did not inform the Court of any other developments in the two criminal cases, except for a statement by the applicants that in October 2012 they were told that the investigation into their allegations of domestic violence was ongoing.

II. RELEVANT DOMESTIC AND INTERNATIONAL MATERIALS

25. The relevant provisions of the domestic law and the relevant international materials were summarised in *Eremia v. the Republic of Moldova* (no. 3564/11, §§ 29-37, 28 May 2013).

26. In addition, in its Report "Violence against Women in the Family in the Republic of Moldova" (2011) the National Statistics Bureau of the Republic of Moldova[1], provided statistical data concerning violence against women committed by their husbands or life partners. It follows from that

1. With assistance from the United Nations Development Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and the United Nations Population Fund, report found at <http://www.statistica.md>.

report, *inter alia* that, depending on their age, 41% to 52% of the women interviewed had suffered physical or sexual violence, while 50% to 66% had suffered psychological violence (page 120), with a total prevalence of victims of some form of domestic violence of 63% (page 79). The report also concluded that violence against women was deeply rooted and widespread in society and was repeated down the generations. The abuser's conduct was accepted by society and served as a means of control over the women. In contrast to violence within the family, only 6% of the women interviewed declared that they had been subjected to a form of violence by persons other than their husbands or life partners. Most of the cases of such reported violence had been caused by other male members of the victim's family (fathers, stepfathers). The report also found that in most cases domestic violence was not a single incident, but took the form of repeated assault. It was also revealed that a certain percentage of violence against women went unreported, either because the victim considered that she could handle it alone or because of fear and shame. The report concluded that violence against women was rooted in their inequality with men, and that there was widespread social acceptance of the phenomenon. Less than half of the victims interviewed were aware of the legislation aimed at protecting them from domestic violence (Law no. 45, see paragraph 30 in *Eremia*, cited above). Of the women who were aware of the legislation, less than half believed it was efficient. The majority of victims of domestic violence preferred to call the police rather than doctors or social workers, but they were also the least satisfied with the manner in which the police acted on their complaints.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

27. The applicants complained that the authorities had ignored the domestic abuse to which they had been subject, and had failed to speedily enforce the binding court order designed to offer them protection. They relied on Article 3 of the Convention, which reads as follows:

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

A. Admissibility

28. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes

that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

29. The applicants argued that the State had failed to discharge its positive obligations under Article 3 of the Convention to protect them from domestic violence and to prevent the recurrence of such violence. The authorities had been informed of M. M.'s actions, but had only fined him, which had had no effect on his behaviour. The failure to immediately remove M. M. from the common residence had resulted in the applicants being put at a constant risk of further ill-treatment.

30. The authorities' slow response had also been attributed to the fact that there had been no methodological instructions about the manner in which cases of domestic violence should be dealt with. Such instructions had not been adopted until mid-2012. The State had intervened in such cases only when serious bodily harm or damage to the victim's health had been caused, and the law-enforcement agencies had generally viewed such cases as a private matter not requiring their intervention, as established in a number of domestic surveys.

31. The applicants submitted that their initial application for a protection order had not been examined for ten days, despite the law expressly providing a time-limit of twenty-four hours within which the courts had to take a decision in that regard. Furthermore, the order eventually issued had not been immediately sent for enforcement by the police and when the first applicant had eventually obtained a copy she had had to bring it to the attention of the relevant authorities herself. The police had received a copy of the order on 22 April 2011, but no resolute action had been taken to enforce it until 29 April 2011, when its enforcement had been suspended by the court because of M. M.'s appeal, even though that should not have had the effect of suspending its enforcement. The resulting delay of 180 days between the application for the protection order (1 April 2011) and the issuing of a new, proper order (29 September 2011) could not be considered reasonable.

(b) The Government

32. The Government submitted that the authorities had taken all reasonable measures to protect the first applicant from the risk of violence and to prevent such violence from recurring. In particular, M. M. had been

ordered on more than one occasion to pay a fine of MDL 500. The Government claimed that there had been no real and imminent risk to the applicants' health prior to their formal complaint of 11 April 2011, and thus there had been no positive obligations on them to offer specific protection prior to that date.

33. After 11 April 2011 the authorities had taken all necessary measures by issuing a protection order and informing M. M. of his obligations and responsibility under that order, as well as by initiating a criminal investigation against him. After the new protection order had been issued on 29 September 2011, M. M. had left the common residence and the first applicant had declared not having had any objection to the manner in which the police had enforced the protection order.

34. The Government therefore argued that the complaints under Articles 3 and 8 of the Convention were inadmissible.

2. The Court's assessment

(a) General principles

35. The Court reiterates that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim (see *Costello-Roberts v. the United Kingdom*, 25 March 1993, § 30, Series A no. 247-C, and *Kudła v. Poland* [GC], no. 30210/96, § 91, ECHR 2000-XI).

36. It further reiterates that Article 1 of the Convention, taken in conjunction with Article 3, imposes on the States positive obligations to ensure that individuals within their jurisdiction are protected against all forms of ill-treatment prohibited under Article 3, including where such treatment is administered by private individuals (see *A. v. the United Kingdom*, 23 September 1998, § 22, *Reports of Judgments and Decisions* 1998-VI, and *Opuz v. Turkey*, no. 33401/02, § 159, ECHR 2009). This obligation should include effective protection of, *inter alia,* an identified individual or individuals from the criminal acts of a third party, as well as reasonable steps to prevent ill-treatment of which the authorities knew or ought to have known (see, *mutatis mutandis*, *Osman v. the United Kingdom*, 28 October 1998, § 116, *Reports* 1998-VIII; *E. and Others v. the United Kingdom*, no. 33218/96, § 88, 26 November 2002; and *J.L. v. Latvia*, no. 23893/06, § 64, 17 April 2012).

37. It is not the Court's role to replace the national authorities and to choose in their stead from among the wide range of possible measures that could be taken to ensure compliance with their positive obligations under Article 3 of the Convention (see, *mutatis mutandis*, *Bevacqua and S.*

v. Bulgaria, no. 71127/01, § 82, 12 June 2008). At the same time, under Article 19 of the Convention and in accordance with the principle that the Convention is intended to guarantee not theoretical or illusory, but practical and effective rights, the Court has to ensure that a State's obligation to protect the rights of those under its jurisdiction is adequately discharged (see *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, § 61, 20 December 2007).

38. Furthermore, Article 3 requires that the authorities conduct an effective official investigation into the alleged ill-treatment, even if such treatment has been inflicted by private individuals (see *M.C. v. Bulgaria*, no. 39272/98, § 151, ECHR 2003-XII, and *Denis Vasilyev v. Russia*, no. 32704/04, §§ 98-99, 17 December 2009). For the investigation to be regarded as "effective", it should in principle be capable of leading to the establishment of the facts of the case and to the identification and punishment of those responsible. This is not an obligation of result, but one of means. In cases under Articles 2 and 3 of the Convention where the effectiveness of the official investigation has been at issue, the Court has often assessed whether the authorities reacted promptly to the incidents reported at the relevant time. Consideration has been given to the opening of investigations, delays in taking statements and to the length of time taken for the initial investigation (see *Denis Vasilyev*, cited above, § 100 with further references, and *Stoica v. Romania*, no. 42722/02, § 67, 4 March 2008).

39. Interference by the authorities with private and family life may become necessary in order to protect the health and rights of a person or to prevent criminal acts in certain circumstances (see *Opuz*, cited above, § 144). To that end, States are to maintain and apply in practice an adequate legal framework affording protection against acts of violence by private individuals (see *X and Y v. the Netherlands*, 26 March 1985, § 22 and 23, Series A no. 91; *Costello-Roberts*, cited above, § 36; *D.P. and J.C. v. the United Kingdom*, no. 38719/97, § 118, 10 October 2002; *M.C. v. Bulgaria*, cited above, §§ 150 and 152, ECHR 2003-XII; *Bevacqua*, cited above, § 65; and *Sandra Janković v. Croatia*, no. 38478/05, § 45, 5 March 2009).

(b) Application of these principles in the present case

(i) Whether the applicants were subjected to treatment contrary to Article 3 of the Convention

40. In the present case, the applicants produced medical evidence showing that they had both been ill-treated (see paragraph 8 above). A further similar incident against the first applicant was confirmed in a medical report produced on 21 March 2011 (see paragraph 10 above). There was at least one other confirmed incident involving verbal abuse (see paragraph 7 above).

41. Moreover, the Court cannot disregard the first applicant's fear of further assaults which she must have felt, given M.M.'s previous history of abuse and the fact of having to share the apartment with him. Evidence of such fear can be found in the applicants' seeking of refuge outside their home (see paragraph 16 above). Similarly the second applicant, having suffered both a direct assault and verbal abuse, as well as having witnessed her mother being abused, was subjected to suffering beyond the minimum threshold of application of Article 3 of the Convention, particularly considering her tender age (she was eight years-old at the relevant time) and the findings of a psychological report (see paragraph 13 above).

42. In such circumstances, the Court finds that Article 3 of the Convention was applicable to the present case. It must therefore determine whether the authorities' actions in response to the applicants' complaints complied with the requirements of that provision.

(ii) Whether the authorities complied with their positive obligations under Article 3 of the Convention

43. As recalled earlier (see paragraphs 35-39 above), the States' positive obligations under Article 3 include, on the one hand, setting up a legislative framework aimed at preventing ill-treatment and punishing those responsible for such ill-treatment and, on the other hand, applying the relevant laws in practice when they are aware of an imminent risk of ill-treatment of an identified individual or when ill-treatment has already occurred, thereby affording protection to the victims and punishing those responsible for ill-treatment.

44. In respect of the first obligation, the Court notes its previous finding that the authorities have put in place a legislative framework allowing them to take measures against persons accused of domestic violence (see *Eremia*, cited above, § 57, *Mudric v. the Republic of Moldova*, no. 74839/10, § 48, 16 July 2013, and *B. v. the Republic of Moldova*, no. 61382/09, § 50, 16 July 2013).

45. The Court must determine whether the domestic authorities were aware, or ought to have been aware, of both the violence the applicants had been subjected to and of the risk of further violence, and if so, whether all reasonable measures had been taken to protect them and to punish the perpetrator. In verifying whether the national authorities have complied with their positive obligations under Article 3 of the Convention, the Court must point out that it will not replace the national authorities in choosing a particular measure designed to protect a victim of domestic violence (see, *mutatis mutandis*, *A. v. Croatia*, no. 55164/08, § 61, 14 October 2010 and *Sandra Janković*, cited above, § 46).

46. The Court considers that the authorities were well aware of M. M.'s violent behaviour (see paragraphs 7-12 above), which became even more evident when the domestic courts issued the protection order on

11 April 2011 (see paragraph 13 above). Despite the lack of a formal complaint about domestic violence, it is clear from the medical reports and the fines imposed (see, for instance, paragraph 8 above), that the police knew of the applicants' allegation that M. M. had abused them. In such a situation, it was the duty of the police to investigate of their own motion the need for action in order to prevent domestic violence, considering how vulnerable victims of domestic abuse usually are. However, the authorities were apparently incapable of offering any kind of protection in the absence of a formal request by the applicants, even where they had become aware of acts of physical ill-treatment, including against an eight-year old child (see paragraph 8 above). The fact that relatively few victims of domestic violence know about Law no. 45 and implicitly about protection orders (see paragraph 26 above) only compounds the problem.

47. The prosecutor's position that no criminal investigation could be initiated unless the injuries caused to the victim were of a certain degree of severity (see paragraph 12 above) also raises questions regarding the efficiency of the protective measures, given the many types of domestic violence, not all of which result in physical injury, such as psychological or economic abuse.

48. After being assaulted for a second time on 21 March 2011 and applying for a protection order, the first applicant had to wait ten days for the court to deal with her application, despite there being a twenty-four-hour time-limit established by law for doing so. When the order was eventually issued, it was not sent immediately to the applicants, nor to the police for enforcement, which exposed the applicants to a further risk of ill-treatment. Furthermore, despite all the evidence in the file, both the courts and the prosecutor's office refused to offer effective protection until 29 September 2011. It follows that the applicants were not given effective protection until a year after the first incident involving physical harm had been reported, and half a year after the formal application for such protection had been made.

49. In view of the manner in which the authorities had handled the case, notably the authorities' knowledge of the risk of further domestic violence by M. M. and their failure to take effective measures against him during several months, the Court finds that the State failed to observe its positive obligations under Article 3 of the Convention. There has, accordingly, been a violation of that provision.

II. ALLEGED VIOLATIONS OF ARTICLE 8 OF THE CONVENTION ALONE AND TAKEN IN CONJUNCTION WITH ARTICLE 13, AS WELL AS UNDER ARTICLE 13 TAKEN IN CONJUNCTION WITH ARTICLE 3

50. The applicants complained of a violation of Article 8 of the Convention, which includes protection of a person's physical and

psychological well-being. By not protecting them from domestic violence, the authorities had failed to discharge their positive obligations under that provision. They also submitted that they had not had effective remedies at their disposal in respect of their complaints under Articles 3 and 8 of the Convention.

51. The Government contested those arguments.

52. The Court considers that, in the light of its findings of a violation of Article 3 of the Convention, the complaint under Article 8, as well as Article 13 taken in conjunction with Articles 3 and 8 must be declared admissible, but not raising any separate issue.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLES 3 AND 8

53. The applicants further complained that the authorities' failure to offer them effective and timely protection had amounted to gender-based discrimination, based on the authorities' preconceived ideas about the role of women in society. They relied on Article 14 of the Convention, which reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. Admissibility

54. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

55. The applicants submitted that they had suffered discrimination based on their gender, since domestic violence affected mostly women. The domestic authorities had largely tolerated such violence and in the present case had not intervened promptly, had allowed delays and had failed to exercise due diligence in protecting the applicants against domestic violence.

56. The Government submitted that the present case was to be distinguished from others such as *Opuz* (cited above) since in the present

case there had been no general and discriminatory judicial passivity leading to a climate conducive to domestic violence. On the contrary, the authorities had reacted promptly by starting a criminal investigation against the abuser. More generally, the State had taken a number of steps aimed at improving the system for the protection of victims of domestic violence, as detailed in paragraphs 29 and 30 in the case of *Eremia* (cited above).

2. The Court's assessment

57. The Court points out its finding that the State's failure to protect women against domestic violence breaches their right to equal protection of the law and that this failure does not need to be intentional (see *Opuz*, cited above, § 191).

58. In the present case, the Court notes that the first applicant was subjected to violence from her husband on a number of occasions (see paragraphs 7-10 above) and that the authorities were well aware of these attacks (see paragraph 46 above).

59. The Court also notes that a prosecutor refused to start a criminal investigation because it did not regard the injuries on the first applicant's body as severe enough (see paragraph 12 above), which underlines the failure to realise, or to explain to the law-enforcement authorities, the specific nature of domestic violence, which does not always result in physical injury. In addition, the authorities took a long time to consider the first applicant's application for a protection order and then failed to send it for enforcement (see paragraph 13 above). Thereafter, the police did not take resolute action to remove the abuser from the common residence, following which a court suspended enforcement of the order, despite the urgency of the situation (see paragraph 15 above), a decision characterised by the authorities as contrary to the law (see paragraph 17 above). In the meantime the first applicant was forced to move into a refuge (see paragraph 16 above).

60. The authorities' passivity in the present case is also apparent from their failure to consider protective measures before a formal application to that end was made, or to initiate a criminal investigation against M. M. before an official complaint about that was made (see paragraphs 11 and 20 above). Considering the particular vulnerability of victims of domestic violence, who often fail to report incidents, it was for the authorities to verify whether the situation warranted a more robust reaction of the State and to at least inform the first applicant of the existing protective measures.

61. The Court finally questions the attitude of the domestic court which, having examined the same materials of the case as those analysed in respect of the Article 3 complaint above and having cited the second applicant's statements that her father had verbally abused and hit her mother, found no evidence of domestic violence.

62. In the Court's opinion, the combination of the above factors clearly demonstrates that the authorities' actions were not a simple failure or delay in dealing with violence against the first applicant, but amounted to condoning such violence and reflected a discriminatory attitude towards her as a woman. The findings of the United Nations Special rapporteur on violence against women, its causes and consequences (see paragraph 37 in *Eremia*, cited above), as well as statistical data gathered by the National Bureau of Statistics (see paragraph 26 above) only support the impression that the authorities do not fully appreciate the seriousness and extent of the problem of domestic violence in Moldova and its discriminatory effect on women.

63. Accordingly, in the particular circumstances of the present case, the Court finds that there has been a violation of Article 14 in conjunction with Article 3 of the Convention in respect of the first applicant (see *Eremia*, cited above, § 90 and *Mudric*, cited above, § 64).

64. The Court considers that the complaint under Article 14 taken in conjunction with Article 8 raises essentially the same issues as those raised under Article 14 taken in conjunction with Article 3 of the Convention. Therefore, while this complaint is admissible in principle, the Court will not examine it separately. It also considers that the second applicant's complaint, while admissible in principle, does not raise a separate issue from that examined under Article 3.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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

66. The applicants claimed 20,000 euros (EUR) in damages for the suffering caused to them by their humiliation and beatings, and by the authorities' failure to promptly afford them protection.

67. The Government argued that the amount claimed was unjustified, because in their view the authorities had taken all reasonable measures to prevent violence against the applicants. They also submitted that the amount was excessive when compared with the Court's previous similar case-law. They invited the Court to reject the applicants' claims.

68. Having regard to the seriousness of the violations found above, the Court considers that an award for non-pecuniary damage is justified in this

case. Making its assessment on an equitable basis the Court awards the applicants jointly EUR 15,000.

B. Costs and expenses

69. The applicants claimed EUR 3,840 for legal costs. They submitted a time sheet in respect of their lawyer's work (32 hours at EUR 120 per hour).

70. The Government considered excessive the rates charged by the lawyer. They noted that in *Boicenco v. Moldova* (no. 41088/05, § 176, 11 July 2006) the Court had accepted as reasonable a rate of EUR 75 per hour, in view of the complexity of the case and the extensive input by the lawyers. The present case was not so complex in nature.

71. 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 have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession, the above criteria and to the fact that the applicants have been given legal aid by the Council of Europe, the Court considers it reasonable to award the sum of EUR 2,150 covering costs under all heads.

C. Default interest

72. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds* that there is no need to examine the complaint under Article 8 of the Convention alone or in conjunction with Article 13, as well as under Article 13 taken in conjunction with Article 3 of the Convention;

4. *Holds* that there has been a violation of Article 14 of the Convention taken in conjunction with Article 3 in respect of the first applicant;

5. *Holds* that there is no need to examine the first applicant's complaint under Article 14 of the Convention taken in conjunction with Article 8, as well as the second applicant's complaints under Article 14 taken in conjunction with Articles 3 and 8;

6. *Holds*

(a) that the respondent State is to pay the applicants jointly, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 2,150 (two thousand one hundred and fifty euros), 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;

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

Done in English, and notified in writing on 28 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President