



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

THIRD SECTION

**CASE OF TUNIKOVA AND OTHERS v. RUSSIA**

*(Applications nos. 55974/16 and 3 others – see appended list)*

JUDGMENT

Art 3 (substantive and procedural) • Positive obligations • Failure to take adequate measures to protect victims of domestic violence and conduct an effective investigation due to continuing structural problem • Domestic legal framework lacking a definition of “domestic violence”, adequate substantive and procedural provisions to prosecute its various forms, and any form of protection orders • Deficient legal framework preventing authorities from taking a comprehensive view of a continuum of violence and dealing with it at a systemic level  
Art 14 (+ Art 3) • Discriminatory effects on women of continued failure to adopt legislation to combat domestic violence and provide any protective measures  
Art 46 • Pilot judgment • Detailed general measures indicated by the Court comprising all areas of State action to address comprehensively structural and discriminatory lack of protection of women against domestic violence

STRASBOURG

14 December 2021

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



**In the case of Tunikova and Others v. Russia,**

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

Georges Ravarani, *President*,

Georgios A. Serghides,

Dmitry Dedov,

Darian Pavli,

Peeter Roosma,

Andreas Zünd,

Frédéric Krenc, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the four applications (see the numbers and dates of introduction in the appendix) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by four Russian nationals (“the applicants”) whose particulars are set out in the appendix;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning the State’s obligation to provide protection from domestic violence and to declare inadmissible the remainder of application no. 53118/17;

the decision to give priority to the applications;

the parties’ observations;

Having deliberated in private on 23 November 2021,

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

## INTRODUCTION

1. The case concerns complaints about the Russian authorities’ alleged failure to protect the applicants from acts of domestic violence and to carry out an effective investigation into these acts, as well as the discriminatory impact of gender-based violence on women.

## THE FACTS

2. The Government were initially represented by Mr M. Galperin, Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in this office.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

CIRCUMSTANCES OF INDIVIDUAL APPLICATIONS

**A. The case of Ms Tunikova (application no. 55974/16)**

4. Ms Tunikova was represented before the Court by Mr Gleb Glinka and Ms Maria Voskobitova, lawyers practising in Moscow.

5. In 2011 Ms Tunikova met D. and they started living together. According to her, in 2012 D. assaulted her for a first time. He kicked and punched her and tried to strangle her. In 2013 she endured more incidents of verbal and physical abuse. Ambulance workers advised her to file a complaint with the police. D. heard their discussion and held his temper for several months.

6. On 10 August 2014 a violent argument erupted between Ms Tunikova and D. He allegedly hit her on the head and started pushing her through the kitchen towards the open balcony of their 15th-floor flat. Fearing that he would throw her off the balcony, she grabbed a kitchen knife and stabbed him. He let her go and called an ambulance and the police.

7. Ms Tunikova was charged with grievous bodily harm and spent the night at the police station. She was not feeling well and was examined several times by doctors. They diagnosed her with a concussion and noted abrasions on her head, shoulders and back. After her release, she was treated in the city hospital for seven days.

8. On 21 October 2014 Ms Tunikova filed a private-prosecution complaint against D. on the charge of causing “minor bodily harm”, an offence under Article 115 of the Criminal Code. A magistrate of the Vykhino-Zhulebino district in Moscow heard Ms Tunikova and her witnesses and discontinued the proceedings on the basis that the facts of the case disclosed indications of a publicly-prosecutable offence, that of threatening death or bodily harm under Article 119 of the Criminal Code, which the district police were competent to deal with. On 17 January 2015 the Vykhino district police declined to open criminal proceedings. In their view, it had not been shown that the threat of death had been sufficiently “real” or that Ms Tunikova had reasons to fear for her life.

9. On 4 February 2015 Ms Tunikova resubmitted a private-prosecution complaint against D. to the same magistrate. On 5 May 2015 the magistrate acquitted D. of the charges. He attached decisive importance to the statements by two police officers who had been called to the scene on 10 August 2014 and had not seen any injuries on Ms Tunikova, and to the 17 January 2015 decision refusing the institution of criminal proceedings.

10. Counsel for Ms Tunikova filed an appeal. He pointed out in particular that the acquittal had been pronounced by the same magistrate who had already decided on Ms Tunikova’s previous complaint. On 18 August 2015 the Kuzminskiy District Court in Moscow granted the appeal and assigned the case to another magistrate.

11. On 1 December 2015 the new magistrate discontinued the private-prosecution case on the grounds that Ms Tunikova and her counsel had not shown up at the hearing. On 16 March 2016 the Kuzminskiy District Court upheld that decision on the grounds that Ms Tunikova had been sixteen minutes late for the hearing and that the law did not distinguish between “significant” and “insignificant” tardiness. On 6 July 2016 the Moscow City Court refused Ms Tunikova leave to appeal to the cassation instance.

12. On 26 June 2017 the Kuzminskiy District Court found that Ms Tunikova had inflicted grievous bodily harm on D. and that her use of force in self-defence had not been justified. She was sentenced to imprisonment and a fine but released from serving the sentence due to a general amnesty act.

### **B. The case of Ms Gershman (application no. 53118/17)**

13. Ms Gershman was represented before the Court by Ms Vanessa Kogan and Mr Egbert Wesselink of the Stichting Justice Initiative, a non-governmental organisation based in Utrecht, the Netherlands.

14. In 2012 Ms Gershman married O. In 2014 their daughter was born.

15. According to Ms Gershman, on 23 November 2015 O. kicked and punched her. She complained to the police; a medical assessment recorded large bruises on her shoulders and ribs. Citing the fact that the injuries did not reach the threshold of gravity required for public prosecution, the police declined to open criminal proceedings. She was told to mount a private prosecution case for “battery” under Article 116 of the Criminal Code.

16. Between 24 January and 5 July 2016 O. allegedly assaulted Ms Gershman several times both inside and outside their residence, including in the presence of their daughter. Hematomas and abrasions on Ms Gershman’s body were recorded in medical documents; she was unable to work for seven days from 19 to 26 July 2016. On 5 and 17 July 2016 she reported the events to the police which declined to institute criminal proceedings on account of the minor nature of her injuries.

17. On 6 May and 16 June 2016 Ms Gershman filed three private-prosecution claims with magistrates in the Vidnoe and Cheremushki districts in Moscow. She complained of multiple counts of “battery” and three assaults occasioning “minor bodily harm”. Her claims were dealt with as follows.

18. On 29 September 2016 the Vidnoe district magistrate referred the complaint concerning five instances of “battery” to the police because the offence of “battery” inflicted by family members had been reclassified as a publicly prosecutable offence (see paragraph 58 below). On 14 March 2017 the police investigator discontinued the criminal proceedings following another legislative amendment which removed the “battery” inflicted by family members from the sphere of criminal law (*ibid.*).

19. On 8 December 2016 the Vidnoe district magistrate acquitted O. of two assaults which had allegedly taken place on 24 April and 3 May 2016. The magistrate had taken evidence from both parties, their witnesses, ambulance workers and police officers who had been called to the scene, and examined video recordings of the incidents which were found to contradict Ms Gershman's account of events. On 1 March 2017 the Vidnoe Town Court upheld the acquittal on appeal.

20. On 13 January 2017 the Cheremushki district magistrate acquitted O. in respect of the 5 April 2016 incident in which he had allegedly punched Ms Gershman and caused her to fall on the stairs. The magistrate ruled that she had failed to prove that she had not been injured at a later point in time, after the incident had already ended.

21. In parallel proceedings, on 31 May 2016 Ms Gershman asked the police to institute criminal proceedings against O. for "tormenting", an offence under Article 117 of the Criminal Code (see paragraph 60 below). She listed the recurrent instances of ill-treatment and attached medical evidence. On 6 June 2016 the police rejected her request. They found that O.'s conduct did not constitute "tormenting" because he did not have "intention to cause systematic injury". On 26 August 2016 the supervising prosecutor ordered the police to carry out an additional inquiry. The inquiry yielded no new elements and concluded with the decision not to prosecute, which was issued on 1 December 2016. The supervising prosecutor set aside that decision on 13 January 2017 and ordered the police, within twenty days, to assess the severity of Ms Gershman's injuries, obtain a statement from her, and identify witnesses. It is unclear whether the police complied with the prosecutor's instructions.

22. On 3 January and 23 April 2017 O. allegedly assaulted Ms Gershman during her visitation meetings with their daughter. Following the first attack, she sustained a concussion and bruising on her head and back, and was unable to work from 5 to 18 January 2017. She reported both assaults to the police which declined to investigate on the grounds that "battery" no longer constituted a criminal offence. Ms Gershman sought to prosecute O. in administrative proceedings: a case under Article 6.1.1 of the Code of Administrative Offences (see paragraph 58 below) was opened on 2 November 2017 but discontinued on 1 January 2018 on the grounds that O.'s whereabouts could not be established.

23. On 26 November 2019 O. allegedly assaulted Ms Gershman in the courtroom during a child custody hearing. She sustained a concussion and bruising on her scalp and took a fifteen-day sick leave. On 4 December 2019 the police refused to open a criminal investigation into "repeat battery" under Article 116.1 of the Criminal Code (see paragraph 58 below).

**C. The case of Ms Petrakova (application no. 27484/18)**

24. Ms Petrakova was represented before the Court by Ms Mari Davtyan, a lawyer practising in Moscow.

25. In 2006 Ms Petrakova married A. They had two children and lived together in the flat of which A. was the owner. According to her, between late 2007 and April 2015 – when their marriage was terminated by divorce – A. assaulted Ms Petrakova more than twenty times. The police declined to investigate her reports on the grounds that the threats had not reached the threshold of being “real” and that an offence of “battery” was subject to private prosecution. Ms Petrakova was to pursue charges against A. in a magistrates’ court.

26. On 28 April 2015 Ms Petrakova asked the district police chief for protection. She listed all alleged assaults by A., attached medical evidence and pleaded with the police to intervene. She emphasised that A. had beaten, humiliated and insulted her, that he had threatened to kill her and burn their joint property, and that she lived in constant fear. The police interviewed Ms Petrakova and A. and, on 8 May 2015, issued a decision refusing to institute criminal proceedings which reproduced the text of previous decisions. On 1 July 2015 a supervising prosecutor annulled that decision and ordered an additional inquiry which was to include in particular a medical assessment of her injuries. On 22 July 2015 the police issued a decision with the identical text. According to it, obtaining Ms Petrakova’s medical record and carrying out a medical assessment “turned out to be impossible within the established time-frame”.

27. On 10 May 2015 Ms Petrakova reported to the police that A. had taken her mobile phone and punctured the tires of her car. On 23 June 2015 a hospital informed the police that Ms Petrakova and a female friend had been treated there for bruises and abrasions. On that day A. attacked them while her property was being valued. The police refused to investigate both incidents. With regard to the assault, they used the same wording as before, and, with regard to the damage to her phone and vehicle, they stated that it was insignificant.

28. On 5 August 2015 a magistrate of the Vykhino-Zhulebino district in Moscow discontinued Ms Petrakova’s private prosecution case against A. on the basis of a general amnesty act.

29. On 13 October 2015 a supervising prosecutor weighed in on the matter of Ms Petrakova’s complaints. He directed the police to take note of A.’s repetitive pattern of assaults and launch an investigation into the offence of “tormenting” under Article 117 of the Criminal Code. The police opened a criminal case and took a statement from Ms Petrakova. She detailed the twenty-three cases of assault since 2007 and her unsuccessful reports to the police. She indicated that A. possessed an air gun and a hunting rifle. The police obtained medical records, commissioned medical examinations,

interviewed Ms Petrakova's friends who had witnessed some assaults, and took statements from A. who accepted in part her account of the events.

30. In parallel civil proceedings, Ms Petrakova sued A. for compensation in respect of non-pecuniary damage. On 8 February 2016, on leaving the civil court, A. assaulted her, punched her in the face and ripped her jacket. On 17 February 2016 the police declined to open criminal proceedings, citing minor nature of the damage.

31. On 1 April 2016 the investigator in charge of the criminal case issued two decisions. Both decisions reproduced the text of Ms Petrakova's statement relating to the twenty-three incidents of assault. In the first decision, the investigator expressed a view that the systematic element of "tormenting" implied that beatings should be not just repetitive but also "internally consistent with the perpetrator's desire to cause particularly torturous physical or mental suffering to the victim". The acts by A. had not contained any such element, they had been "ordinary household conflicts caused by personal animosity in connection with their living under the same roof". Since Ms Petrakova had not suffered actual bodily harm, the investigator held that three incidents of assault should be characterised as "battery" rather than "tormenting". The second decision refused institution of criminal proceedings without specifying to which of the twenty-three incidents it referred.

32. On 21 July and 31 August 2016 magistrates in the Ryazanskiy and Vykhino-Zhulebino districts in Moscow, respectively, discontinued private prosecution cases against A. in relation to the 23 June 2015 and 8 February 2016 assaults. They held that since the divorce Ms Petrakova and A. had no longer been "family members", whereas, owing to legislative changes in 2016, battery committed by strangers was not a criminal offence.

33. On 6 September 2016 a magistrate of the Vykhino-Zhulebino district found A. guilty of two instances of criminal "battery" with regard to the assaults of 22 December 2014 and 11 March 2015, and sentenced him to 120 hours' community service.

34. On 18 November 2016 the Kuzminskiy District Court, on appeal by Ms Petrakova's counsel, quashed the 31 August discontinuation decision and the 6 September judgment on the grounds of the incorrect legal characterisation of A.'s acts. The case was returned to the magistrate who, in turn, sent it back to the prosecutor's office.

35. On 4 April 2017 the police received the file from the prosecutor's office. Seven days later they adjourned the proceedings on the grounds that A.'s whereabouts could not be established. On 28 April 2017 the adjournment decision was set aside. On 13 May 2017 the investigator issued the decision to discontinue the proceedings by reference to the 2017 changes in the legislation by which battery committed by family members had been reclassified as an administrative offence.

36. On 17 November 2017 the investigation was resumed. On 25 November and 1 December 2017, first the supervising prosecutor, and later the Kuzminskiy District Court established that the length of the investigation had exceeded a reasonable time, that the decisions of 1 April 2016 had been premature and incomplete, and that there had been no progress in the case since 28 March 2017. On 17 December 2017 the investigation was again suspended.

37. On 8 February 2018 the prosecution became time-barred. According to the Government, on 3 September 2019 a deputy head of the Moscow police set aside the suspension decision of 17 December 2017 and ordered the investigation to be resumed.

#### **D. The case of Ms Gracheva (application no. 28011/19)**

38. Ms Gracheva was represented initially by Ms Mari Davtyan and later also by Ms Valentina Frolova, lawyers practising in Moscow and St Petersburg.

39. In 2012 Ms Gracheva married D. and they had two children. In 2017, their relationship deteriorated and she decided to apply for divorce.

40. According to her, on the night of 30 October 2017 D. checked her mobile phone and accused her of having an affair. He allegedly punched and kicked her, ripped up her passport and took her mobile phone. In the morning he took her to the district police inspector Sh. to apply for a new passport. He stayed in the inspector's office the entire time she needed to fill in the application. The following day Ms Gracheva went to her mother and told her about the abuse. Her mother took photos of the injuries and suggested that she report the abuse to the police but Ms Gracheva demurred, fearing retaliation against herself and her children.

41. D. continued to control Ms Gracheva's movements and insisted on driving her to the office and back home. On the way home, he suddenly changed direction. When she asked him to let her out of the car, he refused and locked the doors.

42. On 3 November 2017 Ms Gracheva moved to her mother's place, together with the children. She went to see Inspector Sh. and told him that it was her husband who had ripped her passport. Sh. replied that he knew that D. was "that kind of man". D. continued to stalk Ms Gracheva in front of her house and followed her movements around town using the feed from public CCTV cameras.

43. On 10 November 2017 Ms Gracheva accepted D.'s offer of a ride. Once in the car, he locked the doors, took her mobile phone and showed her a knife. He stopped the car in the woods, put the knife to her throat and demanded that she confess to adultery. He said that he would kill her and melt her body in acid. In the end, he took her to the office unharmed.

44. On the following day Ms Gracheva told her mother about the incident. Her mother filed a police complaint on her behalf. Police inspector Z. phoned her to arrange a meeting. At 9 p.m. she visited his office and gave a statement about the assaults, threats and kidnapping. On 19 November 2017 the police took a statement from D.

45. On 29 November 2017 another police inspector, G., summoned Ms Gracheva to make a statement. He accepted photographs of the injuries her mother had taken. According to Ms Gracheva, he repeatedly suggested that she should withdraw her complaint, claiming that D.'s conduct was a "manifestation of love".

46. As D. testified later, on or about 1 December 2017 he had formed a plan to punish Ms Gracheva for alleged infidelity by chopping off her hands. He had bought an axe and a set of elastic bands to stop bleeding. He had stashed them in the boot of his car and scouted the woods for a secluded place.

47. After Ms Gracheva filed for divorce, D. put his plan into action. On the morning of 11 December 2017 he locked her in the car and took her to the location, tied her hands and with several blows of an axe hacked off both of her hands. She went numb from shock and offered no resistance.

48. D. applied elastic bands to the stumps to stop bleeding and took her to the emergency ward of the Serpukhov town hospital. From there, he went to the police and turned himself in. He was eventually charged with kidnapping and threats of death in connection with the incident of 10 November, and with kidnapping and causing grievous bodily injury with respect to the assault of 11 December.

49. Ms Gracheva suffered a permanent loss of her right hand which was amputated at the wrist; her left hand had been salvaged and reattached but only regained a limited range of motion and function.

50. By judgment of 15 November 2018, as upheld on appeal on 21 January 2019, the Serpukhov Town Court found D. guilty as charged and sentenced him to fourteen years' imprisonment. During the trial, the court heard testimony from district inspectors G. and Z. When asked what protective measures he had recommended to Ms Gracheva, Inspector G. replied that he had suggested that she "limit her communication" with D.

51. Ms Gracheva sought to pursue criminal proceedings against Inspector G. for professional negligence. On 21 February 2018 the Serpukhov Investigations Committee opened a criminal case which was closed on 21 May 2018. The investigator found that Inspector G. and Mr D. had given "concordant evidence" to the effect that, even if criminal proceedings against D. had been instituted and a measure of restraint applied, it "would not have swayed [D.'s] resolve to commit assault on Ms Gracheva". Inspector G. had not therefore committed any wrong, as there had been no causal link between his actions and the assault on Ms Gracheva.

52. On 7 June 2018 the supervising prosecutor ordered the investigator to resume the investigation. On 13 October and 30 December 2018 the

investigator suspended the proceedings, claiming that he was unable to contact Inspector G. who had gone on a mission to another region.

53. Counsel for Ms Gracheva complained to a court about an ineffective investigation. On 16 May 2019 the Serpukhov Town Court declared that it lacked jurisdiction to give an assessment of whether or not the investigation had been effective.

## RELEVANT LEGAL FRAMEWORK

### I. CRIMINAL LAW

#### A. Assault: Articles 105 to 115 of the Criminal Code

54. Chapter 16 of the Criminal Code covers offences against the person, including murder and manslaughter (Articles 105 to 109) and three levels of assault occasioning actual bodily harm (Articles 111 to 115). “Grievous bodily harm” (Article 111) may involve the loss of a body part or the termination of pregnancy; “medium bodily harm” (Article 112) leads to a long-term health disorder or loss of ability to work, and “minor bodily harm” (Article 115) covers injuries that take up to twenty-one days to heal. Article 115 covers both “non-aggravated” and “aggravated” forms of “minor bodily harm”; the latter include those committed for racial, ethnic, social or “disorderly” (*хулиганские*) motives or with the use of a weapon.

55. Causing a loss of life, grievous, medium or aggravated minor bodily harm is subject to public prosecution; the offence of non-aggravated “minor bodily harm” is liable to private prosecution, meaning that the institution and pursuance of criminal proceedings is left to the victim who is expected to collect evidence, identify the perpetrator, secure witness testimony and bring charges before a magistrates’ court. Private prosecution proceedings can be terminated at any stage up until the delivery of judgment in the event that the victim has agreed to withdraw the charges.

#### B. “Battery”: Article 116 of the Criminal Code and Article 6.1.1 of the Code of Administrative Offences

56. Other forms of assault which may cause physical pain without resulting in actual bodily harm are treated as “battery” (*нобу*) under Article 116. This provision has recently been amended a number of times.

57. Up until 3 July 2016 any form of “battery” constituted a criminal offence punishable by a fine, community service, or up to three months’ detention. Aggravated battery could be punished with a longer period of deprivation of liberty. Prosecution of the offence was left to the private initiative of the victim. The law did not differentiate between various contexts

in which the offence could be committed, whether within the family or between strangers.

58. On 3 July 2016, Article 116 was changed in a number of ways.

First, the ordinary, “non-aggravated” form of battery was decriminalised and reclassified as an administrative offence under the new Article 6.1.1 of the Code of Administrative Offences. Article 6.1.1 includes the same provisions as the initial Article 116 but provides administrative penalties for first-time offences in the form of a fine, community service, or up to fifteen days’ deprivation of liberty.

Second, the new form of “aggravated battery” was created. It included in particular battery committed in respect of “close persons”, that is to say spouses, parents, siblings and domestic partners, and was punishable by a deprivation of liberty. That form of battery became subject to a mixed “public-private” prosecution regime which applies to some other offences, such as rape. Under this regime, proceedings are instituted at the victim’s initiative, but the investigation and prosecution are led by the authorities and cannot be discontinued even if the victim withdraws the complaint.

Third, the new Article 116.1 was added to the Criminal Code. It created a new offence of “repeat battery” defined as battery committed by a person who has been convicted of the same actions in administrative proceedings within the previous twelve months and whose actions do not constitute aggravated battery under Article 116. The offence can only be prosecuted privately and is punishable by a fine or up to three months’ detention.

59. On 7 February 2017 the reference to “close persons” was removed from the definition of “aggravated battery” in the text of Article 116 for the purpose of decriminalising acts of battery inflicted by spouses, parents or partners. The only remaining forms of aggravated battery now include battery committed for racial, ethnic, social or disorderly motives.

### **C. “Tormenting” and threats of death: Articles 117 and 119**

60. The offence of “tormenting” (*истязание*) under Article 117 is defined as “the causing of physical or mental suffering by means of systematic infliction of battery or other forcible actions which do not result in grievous or medium bodily harm”. The act of “tormenting” is punishable by up to three years’ deprivation of liberty.

61. Threats to kill or cause grievous bodily harm “if there was reason to fear that the threat might be carried through” constitute a publicly prosecutable offence under Article 119, punishable by community service or up to two years’ deprivation of liberty.

## II. INFORMATION ON GENDER-BASED VIOLENCE IN RUSSIA

62. For statistical information, research and documentation relating to gender-based violence in Russia which was available to the Court at the time of delivery of the *Volodina v. Russia* judgment, see paragraphs 40-45 of that judgment (no. 41261/17, 9 July 2019). New relevant information is summarised below.

### A. Reports by Russia’s High Commissioner for Human Rights

63. The 2018 report noted the systemic nature of the problem of violence against women which had remained “an unacceptable and most cruel form of gender-based discrimination”. According to opinion polls, violence against women was an important issue for a majority of Russians (73%); a third of respondents (32%) state that women are likely to have experienced physical violence of a non-sexual nature; female respondents (38%) mention it more frequently than male (25%); and 49% of women polled fear becoming victims of family violence. The High Commissioner reiterated her 2017 recommendation to the Government to develop a comprehensive federal domestic-violence law.

64. In 2019 the High Commissioner reported that legislation on domestic violence had been drafted by a specialist working group set up on commission from the Chairperson of the Federation Council. The legislation aimed to introduce new approaches to protect victims of domestic violence while “preserving the family unit and providing assistance in difficult life situations”. In the spirit of openness and transparency, the legislation was published for discussion on the Federation Council’s website (see paragraph 67 below). The High Commissioner emphasised that domestic violence was “unacceptable in any circumstances” and was “an offence against fundamental human rights”, recognised as such in more than 120 States that had introduced protection orders in their legislation.

65. The 2020 report did not mention the draft legislation. It observed that COVID-19 pandemic and quarantine measures had increased levels of stress in families. The High Commissioner had received nearly twice as many complaints of domestic violence, and a 20% increase in the number of applications had been reported by the Women and Children Crisis Centre in Moscow during the confinement.

### B. National Action Strategy for Women

66. *Research on preventing and combating violence against women and domestic violence in the Russian Federation* (April 2020)<sup>1</sup> was prepared in

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<sup>1</sup> <https://rm.coe.int/publication-research-on-vaw-and-dv-in-situations-of-social-disadvantage/16809e4a04>. Last accessed on the date of the judgment.

the framework of the project “Co-operation on the implementation of the Russian Federation National Action Strategy for Women (2017-2022)”. The project, implemented by the Council of Europe in co-operation with Russia’s Ministry of Labour and Social Protection, High Commissioner for Human Rights and the Ministry of Foreign Affairs, focused in particular on ways of preventing violence against women and domestic violence. The research found as follows:

“[Section 4.1] In Russia, the National Action Strategy for Women [NASW] 2017-2022 and the Action Plan to implement the strategy are the two policy documents that explicitly address the issue of violence against women [VAW], with special attention to domestic (‘family’) violence [DV] and sexual violence. While the policy documents conceptualise domestic violence as a form of violence that has a particular impact on women, they do not elaborate on how VAW stems from inequality and discrimination. The NASW describes VAW as an indication of social disadvantage and characterises it as a problem stemming from substance abuse ... Neither the NASW nor the Action Plan provide definitions of the terms ‘violence against women’ or ‘domestic violence’ that would indicate a recognition of the context in which VAW is perpetrated or take into consideration the experiences of victims/survivors. There is no state policy dedicated exclusively to VAW or to DV. Furthermore, while a draft law is pending approval, there are no definitions of VAW or DV in Russian legislation. In fact, the phrase ‘domestic violence’ only appears in a federal law on the provision of social services, but without a definition of the term.

[Section 4.4] The Ministry of Internal Affairs ... routinely collects information about perpetrators and victims of registered crimes (i.e. sex, age, nature of the injury) as well as the relationship between the victim and the perpetrator (i.e. stranger, known person, spouse, partner, family member ...) ... There are several shortcomings in the data collection methodology and process used by the Ministry of Internal Affairs ... First, there is a lack of consistent terminology. Law enforcement statistics that were reviewed for this study use terms that broadly refer to violence occurring in families and between family members or narrowly to mean violence between spouses ... Second, law enforcement data on DV includes only people who are legally considered ‘family members’ (limited to parents, children, siblings, other blood relatives and spouses) and they exclude non-married partners or former spouses. Third, law enforcement statistics refer only to criminal proceedings, omitting complaints of victims of domestic violence that did not result in criminal proceedings and all administrative offences. Data from other sectors (e.g. victim/survivor admissions to healthcare facilities, emergency medical response records, contact with social services) either do not exist or were not accessible for this study ...

[Section 5.1] A new draft law ‘on prevention of domestic violence’ was published on 29 November 2019 in the Russian Federation Council website for public comments ... The draft sets out an obligation for several relevant statutory agencies (social services, law enforcement etc.) to take a range of preventive measures and introduces protection orders for victims of domestic violence, which is an important step towards their protection from further violence. However, the definition of ‘domestic violence’ provided in Article 2 of the draft law makes it unclear which acts this draft law is intended to cover. It seems reasonable to consider that it intends to cover all acts which do not qualify as administrative or criminal offences; thus, it seems to cover those situations that benefit from the partial de-criminalisation of domestic violence introduced in 2017. If this interpretation is correct, the draft law and the preventive measures contained therein are to be intended as providing a non-criminal law response

to ‘low-level’ domestic violence, which would also mean that impunity for such acts will not be impacted. The draft does not seem to go as far as criminalising all forms of domestic violence, in fact, it does not seem to change the status quo after the reforms in 2016 and 2017 ...

[Section 5.2.2] In terms of investigation, domestic violence complaints are handled under a general instruction that regulates the receipt and registration of reports on crimes and administrative violations [Order of the Ministry of the Interior no. 736 of 29 August 2014]. This instruction contains no specific protocols for how to deal with complaints of domestic violence or other forms of VAW. The text provides no instruction on immediate protection of DV victims or risk assessment.

[Section 6.1] In Russia, district police officers (*участковый*) are a community police force that are most often engaged in dealing with DV cases. They are not specialised in dealing with DV, but one of their specific duties is to conduct ‘preventive work’ with persons who have committed offenses or crimes in the family sphere ... The district police have the authority to register people who are considered disorderly, which includes perpetrators of DV, under prevention control measures (*профилактический учет*) for the duration of one year ... This system is characterised as preventive work, and the focus of police action is on the behaviour of the perpetrator. There is no regulation pertaining to how police are to assess or manage the victim’s safety in the context of DV. No analysis was found to determine the effectiveness of this measure in preventing repeated violence or reducing DV, such as studies of recidivism ... Experts point out that police officers are typically not very active in carrying out this type of prevention work, neither registering offenders nor maintaining contact with those who have been registered. The reasons for police inaction are said to be the heavy caseload of many district officers combined with the low priority assigned to DV cases, or due to personal biases. The lack of attention to the safety of the victim is especially concerning in light of the fact that international practice has demonstrated that the specific actions of initiating or being involved in legal proceedings tend to trigger further and more intensive violence. Aside from procedural inadequacies in the law enforcement system to prevent escalation of domestic violence, it has been widely documented that the police systematically fail to initiate proceedings in DV cases. Due to commonly-held misconceptions and gender stereotypes present throughout the law enforcement and justice systems, police often do not see the need to intervene in what they consider ‘private matters’ and do not recognise domestic violence as meriting preventive measures or investigation. Lawyers who represent survivors of DV report that police, in fact, frequently blame women for the violence or try to dissuade them from making formal complaints.”

### C. Draft legislation on domestic violence

67. On 29 November 2019 a draft law on the prevention of domestic violence was published on the website of the Federation Council<sup>2</sup>. Members of public were invited to submit comments and suggestions within two weeks. Over 11,000 comments were received. As of the date of this judgment, the draft law has not been submitted to the State Duma for consideration.

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<sup>2</sup> <http://council.gov.ru/services/discussions/themes/110611/>. Last accessed on the date of the judgment.

## THE LAW

### I. JOINDER OF THE APPLICATIONS

68. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

### II. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

69. The applicants complained that the State authorities failed to protect them from acts of domestic violence due to a deficient domestic legal framework and a lack of legal remedies against domestic violence and also failed to investigate the acts of violence of which they had been victims. They relied on Article 3 of the Convention, taken alone and together with Article 13, which read, in the relevant parts, as follows:

#### **Article 3**

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

#### **Article 13**

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority ...”

#### **A. Admissibility**

70. The Court considers that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

#### **B. Merits**

##### *1. Whether the applicants have been subjected to treatment falling under Article 3 of the Convention*

###### **(a) Submissions by the parties**

71. The applicants submitted that the various forms of physical and psychological violence to which they had been subjected were sufficiently serious to fall under the scope of Article 3 of the Convention. The authorities' failure to take action capable of deterring the perpetrators from further violence and providing the applicants with means of immediate protection should be recognised as a factor greatly contributing to the psychological suffering experienced by the applicants. The applicants Ms Tunikova, Ms Gracheva and Ms Petrakova claimed that they had been subjected to particularly extreme forms of domestic violence which caused them very

serious and cruel suffering that amounted to “torture” rather than to “inhuman or degrading treatment”. In their view, recognising severe instances of domestic violence as “torture” would emphasise the gravity of the violence in the eyes of the public and the authorities tasked with monitoring and response, empower victims, and discourage or even deter perpetrators.

72. The Government submitted that the present case only concerned the manner in which the State authorities had discharged their positive and procedural obligations under Article 3. No issues under the substantive limb of Article 3 arose since the injuries had been caused by private individuals rather than public officials or other persons acting in an official capacity. Accordingly, the three applicants’ claim that the acts by private individuals, of which they had been victims, should be characterised as “torture” rather than “inhuman or degrading treatment” fell outside the scope of the case before the Court.

**(b) The Court’s assessment**

73. The Court reiterates that in order for ill-treatment to fall within the scope of Article 3 it must attain a minimum level of severity. An assessment of whether this minimum has been attained depends on many factors, including the nature and context of the treatment, its duration, and its physical and mental effects, but also the sex of the victim and the relationship between the victim and the author of the treatment. Ill-treatment that attains such a minimum level of severity usually involves actual bodily injury or intense physical or mental suffering. However, even in the absence of these aspects, treatment which humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or which arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, may also fall within the prohibition set forth in Article 3 (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 86-87, ECHR 2015).

74. In the present case, the four applicants suffered physical violence at the hands of their partners and (former) husbands which was documented in medical records as well as in police reports. Ms Tunikova was hit on her head and suffered a concussion, bruises and abrasions; Ms Gershman indicated having been attacked more than once both inside and outside her home; Ms Petrakova reported multiple assaults over seven years, and Ms Gracheva’s former husband had beaten and mutilated her, leaving her disabled for life (see paragraphs 7, 15-16, 29, 47 above). The causing of physical pain and bodily injury indicates that the treatment complained of went beyond the threshold of severity under Article 3 of the Convention.

75. The Court has also acknowledged that, in addition to physical injuries, psychological impact forms an important aspect of domestic violence (see *Valiulienė v. Lithuania*, no. 33234/07, § 69, 26 March 2013, and *Volodina v. Russia*, no. 41261/17, §§ 74-75, 9 July 2019). Article 3 does not refer exclusively to the infliction of physical pain but also to that of mental

suffering which is caused by creating a state of anguish and stress by means other than bodily assault (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 202, ECHR 2012). Fear of further assaults can be sufficiently serious to cause victims of domestic violence to experience suffering and anxiety capable of attaining the minimum threshold of application of Article 3 (see *Eremia v. the Republic of Moldova*, no. 3564/11, § 54, 28 May 2013; *T.M. and C.M. v. the Republic of Moldova*, no. 26608/11, § 41, 28 January 2014; and *Volodina*, cited above, § 75).

76. The threatening behaviour by the applicants' partners and (former) husbands caused them to fear a repetition of the violence for extended periods of time. Evidence of such fear can be found in their attempts to move away and seek protection from the State authorities (see paragraphs 16, 26 and 41 above). Confrontation with former partners in the settings where it was unavoidable, such as child visitation meetings and court proceedings, led to further attacks on Ms Gershman and Ms Petrakova (see paragraphs 22-23 and 30 above). Ms Gracheva's former husband exhibited controlling and coercive behaviour by monitoring her movements, stalking her in front of her home, locking her in the car and threatening to kill her (see paragraphs 40-43 above). The dismissive attitude of the authorities which offered the applicants no protection, often in the face of urgent requests for help, must have exacerbated the feelings of anxiety and powerlessness the applicants were experiencing because of the perpetrators' threatening behaviour. The unpredictable escalation of violence and uncertainty about what might happen to them increased the applicants' vulnerability and put them in a state of fear and emotional and psychological distress. The Court considers that these psychological aspects were sufficiently serious to amount, in their own right, to treatment falling within the scope of Article 3 of the Convention.

77. There remains an argument by three applicants that the treatment of which they have been victims should be not only described as falling under Article 3 of the Convention but also characterised as constituting "torture". The Court considers that the additional characterisation, although important for the applicants and capable of influencing the public perception of domestic violence, is not necessary in the circumstances of the present case, in which there is no doubt that the treatment inflicted on the applicants attained the necessary threshold of severity to fall within the scope of Article 3 of the Convention (see *Ćwik v. Poland*, no. 31454/10, §§ 82-84, 5 November 2020).

78. It emerges from the Court's case-law as set forth in the ensuing paragraphs that the authorities' positive obligations under Article 3 of the Convention comprise, firstly, an obligation to put in place a legislative and regulatory framework of protection; secondly, in certain well-defined circumstances, an obligation to respond promptly to reports of domestic violence and take operational measures to protect specific individuals against a risk of ill-treatment; and thirdly, an obligation to carry out an effective

investigation into arguable claims concerning each instance of such ill-treatment. Generally speaking, the first two aspects of these positive obligations are classified as “substantive”, while the third aspect corresponds to the State’s positive “procedural” obligation (see *Volodina*, cited above, § 77; *X and Others v. Bulgaria* [GC], no. 22457/16, § 178, 2 February 2021; and *Kurt v. Austria* [GC], no. 62903/15, § 165, 15 June 2021, with further references).

2. *Whether the State authorities discharged their positive obligation*

(a) **The obligation to establish a legal framework**

(i) *Submissions by the parties*

(α) The applicants

79. The applicants submitted that Russia did not have specific legislation capable of addressing the phenomenon of domestic or family violence. Moreover, there was no consensus in the Russian legal or policy spheres as to the scope of the phenomenon: insults, threats, harassment, stalking, economic and psychological violence were not prosecutable under any domestic law and were not even theoretically considered to fall into the ambit of “violence”. Several provisions of the Code of Administrative Offences and the Criminal Code could, in theory, provide a form of protection or liability against incidents of physical violence; in practice, however, they were ineffective at addressing domestic-violence crimes. This was amply illustrated by the factual circumstances of the applicants’ cases. Existing criminal law provisions provided for public prosecution for violence in the public sphere, while relegating violence in the family sphere (minor harm to health, repeat battery and the first instance of battery) to a lesser category of private prosecution, which imposed an excessive burden on victims and often led to their secondary psychological traumatising.

80. The reclassification of “battery” as an administrative offence had indeed led to an increase in convictions. However, Russian statistics did not differentiate between beatings in a domestic context and in other circumstances. Investigation and prosecution of administrative offences fell short of the requirements of a criminal investigation: for example, victims did not have legal means to compel the police to investigate or respond to their motions. Even if the perpetrator was convicted, victims did not have the right to claim compensation in the same proceedings; to do so, they would have to initiate separate civil proceedings which required additional time and resources. In an overwhelming majority of cases where offenders were sanctioned (78,3%), the sanction took the form of a fine in the average amount of around seventy euros. As the crime took place in a family context, the fine was payable out of the family budget which could further discourage victims from coming forward with complaints.

81. No protection measures were in principle available in Russia which had remained only one of a few member States that did not have protection orders for victims of domestic violence. The State protection scheme geared towards protecting witnesses in criminal proceedings did not apply in administrative proceedings and was ill-suited for the purposes of protecting victims of domestic violence. For instance, it could not anyway be applied effectively in the cases of Ms Petrakova and Ms Gershman who had children in shared custody with the perpetrators. General crime prevention measures, such as legal training, awareness raising, discussions and rehabilitation, were not effective because no penalties were prescribed for violations.

(β) The Government

82. The Government submitted that assault on a person of either sex, whether physical, sexual or verbal, is punishable under Russian criminal, administrative and civil law, regardless of whether it is carried out by family members, partners or strangers. Although domestic violence was not defined as a separate criminal or administrative offence, more than forty criminal and at least five administrative legal provisions deal with acts of violence against persons, including when committed by family members. The Criminal Code establishes liability for violent offences ranging from grievous bodily injuries to battery to threats of death; it also provides increased protection to vulnerable persons such as pregnant women and children. The private-prosecution mechanism which leaves prosecution of the offences of “minor bodily harm” and “repeated battery” to the private initiative of the victim reflects the specific substantive features of these offences. They cover acts the public danger of which is inextricably linked to the victim’s subjective perception and cannot be objectively assessed by society or the prosecution authorities on the basis of any formal criteria. This mechanism also reflects the family-friendly approach of Russian law, according to which the State should not interfere with the person’s private and family life, including his or her decision to reconcile with the abuser in order to preserve the family instead of involving State authorities.

83. The reclassification of “battery” as an administrative rather than criminal offence aimed at increasing the inevitability of punishment and general deterrence, as public prosecution in administrative proceedings prevents the victim from withdrawing her complaint in order to reconcile with the perpetrator. This also protects the victim from recurrent violence, as repeated acts of battery are prosecutable as a criminal offence. Statistics confirmed the positive effect of reclassification: 30,000 people were prosecuted for the administrative offence of “battery” in 2016, and 170,000 in 2017. This meant that acts of domestic violence had become more visible. Victims are also able to claim damages from the perpetrator in civil proceedings, relying on the finding of his guilt in the administrative

proceedings. They may lodge an independent civil claim for a violation of the right to the protection of honour and dignity or a breach of the right to privacy.

84. On protection measures, the Government submitted that Russian law contained all necessary mechanisms to prevent acts of violence both before they occurred and after they had been reported to the authorities. With regard to the former, crime prevention legislation established both general measures to identify and eliminate the proximate causes of offending and the factors contributing to it, and individual measures to educate potential offenders and their victims through legal training, preventive discussions, supervision, social adaptation and rehabilitation. The measures focused on changing mindsets which is a particularly important aspect for dealing with domestic violence. The legislation on the protection of participants in criminal proceedings also provided for State protection measures, including security guards, surveillance of the victim's residence, special protective equipment or placement in a secure facility. They could be applied for by victims and private prosecutors alike, including in case of minor offences such as non-aggravated battery.

(ii) *The Court's assessment*

85. The Court will first examine whether domestic substantive law is capable of ensuring that all forms of domestic violence are prosecuted and punished. Secondly, it will consider whether the domestic legal framework provides sufficient measures of protection for victims of domestic violence.

(α) Substantive law

86. The Court reiterates that the obligation on the State in cases involving acts of domestic violence would usually require the authorities to adopt measures in the sphere of criminal-law protection. Such measures would include, in particular, the criminalisation of acts of violence within the family by providing effective, proportionate and dissuasive sanctions. Bringing the perpetrators to justice serves to ensure that such acts do not remain ignored by the competent authorities and to provide effective deterrence against them (see *Volodina*, cited above, § 78, with further references). Different legislative solutions in the sphere of criminal law may be able to satisfy this obligation provided that the protection against domestic violence remains effective. Thus, domestic violence may be categorised in the domestic legal system as a separate offence or as an aggravating element of other offences (*ibid.*, § 79).

87. In its first domestic-violence judgment against Russia delivered on 9 July 2019, the Court found that Russia had not enacted any legislation to address violence occurring in the family context and that Russia's legal framework was incapable of punishing all forms of domestic violence (see *Volodina*, cited above, §§ 80-85). The Court need not revisit this finding, as

the legislative framework has not evolved in the two years since the *Volodina* judgment was adopted. The concept of “domestic violence” or any of its equivalents has not been defined or referred to in any form in the Russian legislation. Acts of domestic violence have not been criminalised as a separate offence or an aggravating form of any other offences. Russian law does not contain any penalty-enhancing provisions relating to acts of domestic violence and makes no distinction between domestic violence and violence committed by strangers.

88. The Court also rejected the Government’s argument that the existing provisions of Russian law were capable of adequately covering the many forms which domestic violence takes (see *Volodina*, cited above, § 81). The circumstances of the present case provide a further illustration of this.

89. First, under Russian law, the forms of domestic violence which do not result in actual bodily injury or cause physical pain – such as stalking, verbal, psychological or economic violence, or any forms of controlling or coercive behaviour – are not prosecutable under any legislation and are not considered even theoretically to constitute an offence against the victim’s physical or psychological integrity (see *Volodina*, cited above, § 81, and compare with *T.M. and C.M. v. the Republic of Moldova*, cited above, § 47). In the instant case, although Ms Gracheva’s husband exhibited controlling and coercive behaviour by locking her in the car, preventing her from driving to work on her own, following her around town or loitering outside her home and office (see paragraphs 41-42 above), such conduct on his part did not constitute any prosecutable offence which could give rise to police intervention. The legislative framework did not equip the authorities with legal tools to deal with early warning signs of domestic violence unless and until the aggressive behaviour of a perpetrator has escalated into the causing of physical injuries, which is what happened in the case of Ms Gracheva who had been mutilated by her husband.

90. Second, even where physical violence has been used, Russian criminal law requires that the victim’s injuries reach a high threshold of severity in order to warrant the involvement of the police and prosecution authorities. Only a deprivation of life and the most severe forms of assault causing a long-term health impairment, disability or incapacity for work of at least twenty-one days, are characterised as publicly prosecutable offences, leaving the prosecution of the other forms of assault to the private initiative of the victim (see paragraphs 54 and 55 above). Within the context of domestic violence, the Court has however considered that the possibility to bring private prosecution proceedings is not sufficient, as such proceedings require the victim’s time and resources and cannot prevent the recurrence of similar incidents (see *Bevacqua and S. v. Bulgaria*, no. 71127/01, § 83, 12 June 2008, and *Volodina*, cited above, § 82). The private-prosecution regime puts an excessive burden on the victim of domestic violence, shifting onto her the responsibility for collecting evidence capable of establishing the

perpetrator's guilt to the criminal standard of proof and for upholding the charges in court. Lengthy delays in private-prosecution proceedings and a much lower likelihood of securing the perpetrator's conviction irretrievably undermine the victims' access to justice (see *Volodina*, cited above, §§ 81-84 and 123). None of the three applicants in the present case who sought to have the perpetrators brought to justice through private-prosecution proceedings were successful in their endeavours. Proceedings were discontinued on formal grounds without a decision on the substance of the complaint or a verification of whether the victims had been afforded adequate redress (see paragraphs 8-11, 17-20, 28 and 32 above). The ensuing impunity of the perpetrators called into question the capacity of the legislative framework to produce a sufficiently deterrent effect to protect women from domestic violence (see, in factually similar situations, *Barsova v. Russia* [Committee], no. 20289/10, § 37, 22 October 2019, and *Polshina v. Russia* [Committee], no. 65557/14, § 37, 16 June 2020).

91. Third, following a series of legislative amendments (see paragraphs 56-59 above), the infliction of physical pain without actual injuries – which is a common form of domestic violence – is no longer considered a criminal offence unless it has been committed for a second time within twelve months of a previous administrative conviction of the same acts (see *Volodina*, cited above, § 81). First offences are only prosecutable under the Code of Administrative Offences. For the Court, the provision that second-time offenders can be prosecuted for a criminal offence of “repeat battery” is wholly insufficient to protect victims from serious and recurrent violence for the following reasons. It reiterates that serious incidents of domestic violence require a criminal-law response even if they take place just on one occasion and that the classification of domestic violence as a minor or administrative offence does not correspond to the serious harm it inflicts on the victims (*ibid.*, § 81). The authorities must act quickly and vigorously against domestic violence, they are not at liberty to wait until a second incident has occurred to initiate criminal proceedings. Moreover, as criminal prosecution depends on the administrative penalty being imposed on the perpetrator during the one-year period preceding a second violent incident, this means that potentially dangerous repeat offenders may never face criminal sanctions for a variety of reasons, including because the authorities failed to sanction the perpetrator on a previous occasion or chose to punish him under another provision of criminal or administrative law, or because more than one year had passed since the previous incident (*ibid.*, § 81). Thus, in Ms Gershman's case, the authorities closed the administrative case against the perpetrator on the basis that they could not find him and, in the absence of an administrative conviction, her criminal complaint under the “repeat battery” provision in respect of a subsequent assault could not proceed, either (see paragraphs 22 and 23 above). Moreover, as the Court noted above, even where a repeat offence falls within the scope of the “repeat battery” provision,

the proceedings fall under the private prosecution regime placing the burden of investigation and prosecution onto the victim.

92. The Government claimed that the decriminalisation of battery was necessary to prevent victims from disrupting proceedings by withdrawing their complaints and that it had a beneficial effect in increasing the number of convictions. The Court is not persuaded by their claims. Statistics on the number of convictions do not distinguish between beatings by family members and by strangers; it is therefore impossible to say what proportion of convictions relates to acts of domestic violence. Even if there had been an increase in convictions of domestic beatings, this may rather indicate that domestic violence had been previously under-reported and under-prosecuted, a finding which coincides with the Court's conclusions in the case of *Volodina* (cited above, §§ 122-24). In *Volodina*, the Court concurred with CEDAW's assessment that the "decriminalisation" amendments, which relegated the first-time beatings occurring in the domestic context to the sphere of administrative law, had been "a step in the wrong direction" leading to impunity for perpetrators of domestic violence (ibid., § 131). Although the range of possible administrative sanctions for "battery" includes imprisonment for up to fifteen days, in a majority of administrative cases the courts preferred giving the perpetrator a fine of around seventy euros (see paragraph 80 above). The Court considers that this sanction can have little, if any, deterrent effect and offers no protection to the victim from a recurrence of domestic violence. As to the argument that convictions had been previously difficult to secure because of the victim's withdrawal of complaints, the Court reiterates that the prosecuting authorities should have been able to pursue the proceedings as a matter of public interest, regardless of the victim's withdrawal of complaints (see *Opuz v. Turkey*, no. 33401/02, § 145, ECHR 2009, and *Volodina*, cited above, § 84). Victims cannot be blamed for the State's failure to establish an adequate legislative framework allowing the perpetrators to be prosecuted and brought to account for acts of violence. The Government did not explain the alleged advantages of decriminalisation of beatings over allowing *ex officio* public prosecution of such offences under criminal law. The latter solution would moreover have been consistent with the Council of Europe's Recommendation Rec(2002)5 and Russia's obligations under the CEDAW Convention (see *Volodina*, cited above, §§ 59, 65 and 84).

93. Fourth, the Court notes that Ms Gershman and Ms Petrakova unsuccessfully sought to bring criminal proceedings against their abusers on the charge of "tormenting" under Article 117 of the Criminal Code. Although this provision does not specifically target domestic violence, it does, at least in theory, sanction the systematic infliction of suffering through beatings and other violent acts which have not caused significant bodily harm (see paragraph 60 above). In the Court's view, this restricted definition falls however short of the requirement of a comprehensive and systematic

approach which is needed for responding to serious cases of domestic violence. This provision only covers certain forms of lesser physical violence which moreover need to be “systematic”; it leaves outside its scope not just many other types of violence but also any isolated or sporadic incidents. Thus, the police refused Ms Gershman’s request for a criminal investigation into “tormenting” on the basis that the abuser’s intention to cause suffering “systematically” could not be established (see paragraph 21 above). In Ms Petrakova’s case, an investigation under Article 117 was initially opened into seven of the twenty-three acts of domestic violence she had reported, but later limited to just three incidents, with the charges being re-classified from “tormenting” to “repeat battery” (see paragraphs 29 and 31 above). It follows that Article 117, both by its design and current practice of application, has been incapable of providing protection against domestic violence.

94. Lastly, the Court notes that, although individual incidents of domestic violence may, by reason of their gravity, fall under various disparate provisions of administrative or criminal law, they will be prosecuted under different regimes and by different authorities. Russian law does not require the authorities to coordinate their actions, exchange information on dangerous perpetrators and consider their behaviour as a whole which are indispensable elements of a comprehensive and systemic approach required to address the complex phenomenon of domestic violence. The lack of a definition of “domestic violence” in Russian law prevents the authorities from taking a comprehensive view of a continuum of violence and treating it as a single course of conduct rather than isolated incidents (see *Galović v. Croatia*, no. 45512/11, §§ 117-19, 31 August 2021).

(β) Protection measures

95. There is a common understanding in the relevant international material that comprehensive legal and other measures are necessary to provide victims of domestic violence with effective protection and safeguards (see *Kurt*, cited above, § 161, with further references). The Court needs accordingly to be satisfied that, from a general point of view, the domestic legal framework is adequate to afford protection against acts of violence by private individuals in each particular case. In other words, the toolbox of legal and operational measures available must give the authorities involved a range of sufficient measures to choose from, which are adequate and proportionate to the level of risk that has been assessed in the circumstances of the case (*ibid.*, § 179).

96. In *Volodina*, the Court noted that in nearly all Council of Europe member States, victims of domestic violence can apply for immediate protection measures, known as “restraining orders”, “protection orders” or “safety orders”, which aim to prevent a recurrence of domestic violence and protect the victim by requiring the perpetrator to leave the shared residence and refrain from approaching or contacting the victim. Russia however has

remained among only a few member States whose national legislation does not provide victims of domestic violence with any equivalent or comparable measures of protection (see *Volodina*, cited above, §§ 88-89). To date, the situation has not changed: no form of protection orders has been made available to victims of domestic violence in Russia.

97. The State protection scheme to which the Government referred is not an adequate substitute for protection orders in the context of domestic violence. As the Court has previously found, this scheme seeks to address the risk of attacks on participants in criminal proceedings by mostly unidentified criminal associates. However, the risk of continuous domestic abuse is different and is normally not connected to a person's participation in criminal proceedings as such. In domestic violence cases, the identity of the perpetrator is known and a protection order is designed to keep him away from the victim so that she can carry on as normal a life as possible under the circumstances. By contrast, State protection measures involve highly disruptive and costly arrangements, including a full-time security detail, relocation, a change of identity, or even plastic surgery. Such drastic measures not only place a burden on a victim of domestic violence, rather than on the perpetrator, but are typically unnecessary in the context of domestic violence where the existence of a protection order, together with strict monitoring of the abusive partner's compliance with its terms and sufficiently dissuasive sanctions for breaking them, could have ensured the victim's safety and fulfil the State's obligation to protect her against the risk of ill-treatment (see *Volodina*, cited above, § 89).

98. The law does not provide for any protection available to victims of assaults in the administrative proceedings, and access to measures of restraint which can theoretically be imposed on perpetrators in criminal proceedings is severely constrained by the lacunae in the substantive law which the Court has identified above. The application of such measures requires, as a prerequisite, that criminal proceedings be instituted in respect of an offence prosecutable under the Criminal Code. However, as noted above, many forms of domestic violence do not constitute any offence under Russian law and, even where they do, a measure of restraint can only be applied from the moment the perpetrator has been formally charged. Measures of restraint cannot thus be applied at an earlier stage of proceedings, such as during a "pre-investigation inquiry" which precedes the institution of a criminal case. It is also problematic that a victim cannot apply directly for a measure of restraint and must petition the investigator who has full and exclusive discretion to raise an application to that effect before a court. It is also difficult to expect that such measures can be applied in practice with the urgency that is often essential in domestic violence situations.

99. Lastly, although Russian law provides for several general measures of crime prevention such as re-education, rehabilitation and preventive discussions, they target perpetrators of domestic violence but do nothing for

protecting its victims or addressing their vulnerabilities. None of them have the key features which protection measures must possess in order to provide sufficient safeguards for victims, such as ensuring a physical removal of the perpetrator from shared space and preventing the perpetrator from attempting to enter into contact with a victim by all means (see *Volodina*, cited above, §§ 58 and 88). Unable to access immediate and effective protection, victims are often forced to live under constant threat of escalating violence, as in the present case.

(γ) Conclusion

100. Having thus considered the provisions that the Government proposed as effective to combat domestic violence, the Court maintains the view that the existing Russian legal framework – which lacks a definition of “domestic violence”, adequate substantive and procedural provisions to prosecute its various forms, and any form of protection orders – falls short of the requirements inherent in the State’s positive obligation to establish and apply effectively a system punishing all forms of domestic violence and providing sufficient safeguards for victims (see *Volodina*, cited above, § 85, and *Opuz*, cited above, § 145).

**(b) The obligation to prevent the known risk of ill-treatment**

*(i) Submissions by the parties*

101. The applicants submitted that no protection orders were available to them under Russian law and that the authorities in general had shown no awareness of the particular context of domestic violence. Even minimal protection measures had not been taken against perpetrators in any of their cases. No member of the police or prosecutor’s office to whom the applicants had appealed had any special preparation or qualification for handling cases of domestic violence. The police had remained completely passive in the face of the applicants’ complaints of systematic violence: they had not explained to the applicants how to protect themselves in cases of violence, had not evaluated the risks of the applicants’ situation, had not warned about the danger of repeated acts of violence, had not discussed any safety plans with them, had not offered any form of protective measures, and had not told the applicants where they could receive legal, psychological, or social support. By failing to sanction the perpetrators’ behaviour in any way, the authorities had set the stage for new episodes of violence.

In Ms Gershman’s case, the custody courts had ignored the context of domestic violence when deciding to hold the meetings between her and her daughter in the presence of O. This had led to new episodes of violence on his part during her meetings with the child. The Government’s claim of her aggressive behaviour was unfounded: the court decisions to which they referred had been overturned on appeal as unlawful; in any event, the

authorities have a positive obligation to protect anyone from violent behaviour, including victims who had also been violent. Ms Petrakova had repeatedly appealed to the authorities for assistance. The authorities had not taken any measures to prevent new incidents, even as the situation continued to escalate because A., sensing his impunity, had become more aggressive. They did not apply any measures of restraint even after starting criminal proceedings against A., despite information from Ms Petrakova that he possessed an air gun and a hunting rifle. In Ms Gracheva's case, once her mother had reported D.'s violent and controlling behaviour to the police, the authorities ought to have taken protective measures. However, they had not assessed the risk of repeated violence nor offered her any risk-mitigating strategy. The police officer's advice "to limit communication with her husband" had been a wholly inadequate response in a situation which required active and firm intervention by the authorities rather than shifting the burden of providing her own protection to her. The Government's implication that she had been in any way responsible for an escalation of the violence reflected the Russian authorities' stereotypical attitude to domestic violence as a "private and trivial matter".

102. The Government submitted that, in the case of Ms Tunikova, the authorities had been unaware of the ongoing physical abuse for almost two years until the police had been called in to deal with a violent family conflict. Ms Gershman and Ms Petrakova had failed to apply for the State protection measures during the proceedings in the magistrates' courts, although they could have done so. In addition, Ms Gershman's behaviour had been aggressive and provocative; she had been held administratively liable for attacking her ex-husband who "may have needed protection from her more than she did from him". Ms Gracheva had not followed the police officer's advice to limit her communication with her husband. During her former husband's trial, she had explained that she was trying to "preserve her family and the friendly relations between its members". In this situation, no preventive measures could have been effective as she was unwilling to follow even minimal but reasonable precautions. Her former husband had been found guilty in court proceedings and sentenced to imprisonment.

(ii) *The Court's assessment*

103. The State authorities have a responsibility to take measures for the protection of an individual whose physical or psychological integrity is at risk from the criminal acts of a family member or partner (see *Kontrová v. Slovakia*, no. 7510/04, § 49, 31 May 2007; *M. and Others v. Italy and Bulgaria*, no. 40020/03, § 105, 31 July 2012; and *Opuz*, cited above, § 176). Interference by the authorities with private and family life may become necessary in order to protect the health and rights of a victim or to prevent criminal acts in certain circumstances. The risk of a real and immediate threat which has been brought to the knowledge of domestic

authorities must be assessed, taking due account of the particular context of domestic violence. In such a situation, it is not only a question of an obligation to afford general protection to society, but above all to take account of the recurrence of successive episodes of violence within a family. In many cases where the authorities did not remain totally passive, they still failed to discharge their obligations under Article 3 of the Convention because the measures they had taken had not stopped the abuser from perpetrating further violence against the victim (see the case-law references in *Volodina*, cited above, § 86).

104. The Court has recently clarified the scope of the State's positive obligation to prevent the risk of recurrent violence in the context of domestic abuse (see *Kurt*, cited above, §§ 161 et seq.).

First, the domestic authorities are obliged to respond "immediately" to complaints of domestic violence and to process them with special diligence, since any inaction or delay deprives the complaint of any utility by creating a situation of impunity conducive to the recurrence of acts of violence. In assessing the "immediacy" of the risk, the authorities should take into account the specific features of domestic violence cases, such as consecutive cycles of violence, often with an increase in frequency, intensity and danger over time (*ibid.*, §§ 165-66 and 175-76).

Second, the authorities have a duty to undertake an "autonomous", "proactive" and "comprehensive" risk assessment of the treatment contrary to Article 3. The authorities should not rely solely on the victim's perception of risk but complement it with their own assessment, preferably using standardised risk assessment tools and checklists and collecting and assessing information on all relevant risk factors and elements of the case, including from other State agencies. The conduct of the risk assessment should be documented in some form and communicated to other stakeholders who come into regular contact with the persons at risk; the authorities should keep the victim informed of the outcome of the risk assessment and, where necessary, provide advice and recommendations on available legal and operational protective measures (*ibid.*, §§ 167-74).

Third, once the risk to a victim of domestic violence has been identified, the authorities must take, as quickly as possible, operational preventive and protective measures that are adequate and proportionate to the risk. A proper preventive response often requires coordination between multiple authorities, including the rapid exchange of information (*ibid.*, §§ 177-83).

105. The Court has had regard in particular to the following factors to establish that State authorities ought to have been aware of the risk of recurrent violence: the perpetrator's history of violent behaviour and failure to comply with the terms of a protection order (see *Eremia*, cited above, § 59), an escalation of violence representing a continuing threat to the health and safety of the victims (see *Opuz*, cited above, §§ 135-36), the perpetrator's access to weapons (see *Kontrová*, cited above, § 52), and the victim's

repeated pleas for assistance through making emergency calls, formal complaints and petitions to the head of police (see *Bălșan v. Romania*, no. 49645/09, § 62, 23 May 2017).

106. The above elements were also present in the circumstances of the present case. The police present at the scene of a violent altercation between Ms Tunikova and her partner could observe first-hand the injuries to her head and upper body (see paragraphs 6 and 7 above). Ms Gershman and Ms Petrakova reported the violence of their partners to the authorities shortly after it had started, and their initial reports were followed in each case by many subsequent complaints concerning violence of varying degrees of severity (see paragraphs 15 and 25 above). Their complaints were accompanied by medical documents showing the extent of the violence against them. Ms Petrakova pleaded for protection and indicated that the perpetrator owned weapons, including a hunting rifle (see paragraph 29 above). In the case of Ms Gracheva, first her mother and later the applicant herself reported the events to the police (see paragraph 44 above).

107. The Court finds that in all cases the domestic authorities were aware, or ought to have been aware, of the violence to which the applicants had been subjected and had an obligation to assess a risk of its recurrence and take adequate and sufficient measures for the applicants' protection. However, they failed to comply with that obligation, whether "immediately", as required in domestic violence cases, or at any other time.

108. First, the authorities failed to conduct an autonomous, proactive and comprehensive risk assessment. There are no provisions under Russian law, policy or regulatory framework that provide for any guidance, protocols or instruction on gender-specific risk assessments and risk management in domestic violence cases. The police in Russia do not use any risk assessment methodology to assess the risk of domestic violence threats being carried out and the risk of repeated violence, including the risk of lethality or serious harm to health. At no point in time did the authorities conduct a documented risk assessment of the applicants' situation. They did not take into account the perpetrators' history of violence or access to weapons. Having received no special training in dealing with domestic violence, the police officers and prosecution authorities showed no awareness of the specific character and dynamics of domestic violence when dealing with the applicants' complaints. It is immaterial that there was no recurrence of violence in Ms Tunikova's case, as in order to determine whether this obligation has been fulfilled, the authorities must be able to show that they have undertaken a proactive and autonomous risk assessment, which they failed to do in her case and in those of the other applicants.

109. Second, the authorities remained totally passive and did not take any protective measures to prevent further incidents of violence against the applicants. As the Court has found above, this was primarily due to the deficient Russian legal framework which has no mechanism for the protection

of domestic violence victims such as protection orders (see paragraph 97 above). However, the domestic authorities failed to discharge their obligation to take measures to mitigate the risk of further violence even within the scope of the existing legal framework. Certain reasonable and adequate measures, such as the immediate opening of a criminal investigation in respect of publicly-prosecutable offences, such as threats of death or “tormenting”, and the application of criminal-law restraints to the suspect where appropriate, could have had a deterrent effect on the perpetrator and prevented an escalation of violence. The authorities could have offered Ms Gracheva alternative accommodation pending resolution of criminal proceedings or adjusted custody arrangements for Ms Gershman to avoid her confrontation with the former husband. Regardless of whether or not Ms Tunikova and Ms Gershman were also violent against their partners, the Court reiterates that the obligation to protect a victim from the partner’s recurrent violence exists independently of the fact that she may also have been violent towards him (see *Kaluczka v. Hungary*, no. 57693/10, § 61, 24 April 2012).

110. As the applicants’ cases show, the authorities did not consider that domestic violence complaints merited active intervention. They did not provide the applicants with any protection measures and assumed that victims of domestic violence should be able to defend themselves. In Ms Gracheva’s case, one police inspector told her that her husband’s controlling and coercive behaviour was a “manifestation of love” and advised her to withdraw her complaint and “limit her communication with him” (see paragraphs 45 and 50 above). In other cases, confronted with the applicants’ reports of assault, the police had taken no meaningful steps to investigate their complaints or secure evidence and directed them instead to initiate a private prosecution case, leaving them to fend for themselves (see paragraph 15 and 25 above). As a result, the applicants were denied the effective protection against violence to which they are entitled under the Convention. The risks of recurrent violence in their cases had not been properly assessed or taken into account. However, even if the risks had been properly assessed and documented, no adequate and effective mechanisms in Russian law were available to ensure the victims’ safety. The Court emphasises that imposing a severe penalty for a violent offence after it has been committed – as it happened in the case of Ms Gracheva – does not eliminate or attenuate the responsibility of the domestic authorities for their earlier failure to provide her with adequate protection measures.

111. The Court finds that the Russian authorities failed in their duty to carry out an immediate and proactive assessment of the risk of recurrent violence against the applicants and to take operational and preventive measures to mitigate that risk, to protect the applicants and to censure the perpetrators’ conduct. They remained passive in the face of serious risk of ill-treatment to the applicants and, through their inaction and failure to take measures of deterrence, allowed perpetrators to continue threatening,

harassing and assaulting the applicants without hindrance and with impunity (compare *Volodina*, cited above, § 91, and *Opuz*, cited above, §§ 169-70).

**(c) The obligation to carry out an effective investigation**

*(i) Submissions by the parties*

112. The applicants submitted that their cases demonstrated a pattern of State inaction, passivity and negligence in the investigation of domestic violence. Confronted with allegations of ill-treatment, the authorities, if they reacted at all, had limited themselves to conducting “pre-investigative inquiries” which would usually lead to a refusal to investigate. Three applicants had no other choice but to attempt to prosecute the perpetrator in private prosecution proceedings, a procedure that cost them resources, time and renewed psychological suffering yet did not yield any results. In private-prosecution proceedings, the applicants had to summon and question possible witnesses in court; lodge an application to request and obtain medical records and expert evidence; question the witnesses for the defence and the defendant himself; and formulate a possible sentence. Despite being victims of the ill-treatment, they had to prove that the defendant was guilty “beyond a reasonable doubt” which was a highly difficult standard for individuals to satisfy without the support of law enforcement, especially in cases concerning domestic violence. In Ms Tunikova’s case, the juggling of jurisdiction between the police and the magistrate greatly affected the speed and tone of the initial stages of the proceedings and affected the applicant as a victim of domestic violence, as her fear, depression and distress were greatly increased. At the final hearing, her counsel had telephoned the court clerk several times to warn about their being late because of a traffic jam, but when all of them appeared in court, the decision on dismissing the case had already been issued. The police had not opened a criminal case into Ms Gershman’s allegations. In private-prosecution proceedings, the magistrates had not considered the history of abuse but had rather dealt with the episodes as isolated incidents. In the case of Ms Petrakova, an investigation on the charge of “tormenting” had been limited to just three violent incidents; no investigation had been conducted into the other twenty incidents. The recharacterisation of the offences from “tormenting” to “battery” had ignored the systematic nature of the violence against her. The case had been eventually closed without notifying Ms Petrakova, and her former partner had gone unpunished. In the case of Ms Gracheva, her mother had first reported the assault and kidnapping in November 2019. The police had not visited the scene, had not questioned any witnesses, had not collected footage of CCTV cameras and had not searched her husband’s car. Nine police officers had been disciplined or dismissed because of their failure to arrange for a prompt examination of the reports. The lack of police reaction at the most crucial initial stage – before irreparable harm had been caused to Ms Gracheva – had

led to an escalation of violence because her husband had realised that he could act with impunity. She invited the Court to hold that prosecution of State agents for negligence formed part of the obligation to carry out an effective investigation.

113. The Government submitted that the domestic authorities had discharged the obligation to carry out an effective and diligent investigation into all instances of ill-treatment which the applicants had reported to them. In Ms Tunikova's case, the private-prosecution proceedings against the perpetrator were discontinued because she was late for the hearing. The courts had correctly decided that her failure to appear in time disclosed an unwillingness on her part to pursue the matter. In the Government's view, this indicated that she was partly responsible for the alleged violation. In the case of Ms Gershman, the police had been unable to verify her allegations and dismissed the case for lack of evidence of an offence. She had reported the incidents to the police with a significant delay of between two and twenty-eight days. In the latter case, it could not be said that the investigation was ineffective as the police had been unable to gather evidence due to the considerable lapse of time and had had no choice but to rely on the account of events provided by the victim and the perpetrator. In addition, Ms Gershman had not applied for judicial review of the police's decision, implying that she was satisfied with the outcome of the proceedings. The courts had taken evidence from her in private-prosecution proceedings but had found her allegations unsubstantiated. Ms Petrakova had successfully claimed damages from the perpetrator who had also been convicted under Article 116 of the Criminal Code. However, his conviction had been overturned because of her appeal. The investigation into an offence of "tormenting" was not yet finished. In Ms Gracheva's case, there had been no violation of the procedural obligation under Article 3 of the Convention because her former husband had been tried and convicted. The police officers involved in her case had been disciplined through reprimand, a record of poor performance or dismissal.

*(ii) The Court's assessment*

114. The Court reiterates that the obligation to conduct an effective investigation into all acts of domestic violence is an essential element of the State's obligations under Article 3 of the Convention. To be effective, such an investigation must be prompt and thorough; these requirements apply to the proceedings as a whole, including the trial stage (see *M.A. v. Slovenia*, no. 3400/07, § 48, 15 January 2015, and *Kosteckas v. Lithuania*, no. 960/13, § 41, 13 June 2017). The authorities must take all reasonable steps to secure evidence concerning the incident, including forensic evidence. Special diligence is required in dealing with domestic violence cases, and the specific nature of the domestic violence must be taken into account in the course of the domestic proceedings. The State's obligation to investigate will not be

satisfied if the protection afforded by domestic law exists only in theory; above all, it must also operate effectively in practice, and that requires a prompt examination of the case without unnecessary delays (see *Opuz*, cited above, §§ 145-51 and 168; *T.M. and C.M. v. the Republic of Moldova*, cited above, § 46; and *Talpis v. Italy*, no. 41237/14, §§ 106 and 129, 2 March 2017). The effectiveness principle means that the domestic judicial authorities must on no account be prepared to let the physical or psychological suffering inflicted go unpunished. This is essential for maintaining the public's confidence in, and support for, the rule of law and for preventing any appearance of the authorities' tolerance of or collusion in acts of violence (see *Okkai v. Turkey*, no. 52067/99, § 65, ECHR 2006-XII (extracts)).

115. The Court has established above that the authorities were aware, or ought to have been aware, of the violence to which the applicants had been subjected (see paragraph 107 above). Their allegations were corroborated with evidence, including medical reports and statements by witnesses, and amounted to an arguable claim of ill-treatment, triggering the authorities' obligation to carry out an investigation satisfying the requirements of Article 3 of the Convention (see *Volodina*, cited above, § 93).

116. Responding to the applicants' allegations of assault, the police limited their intervention to short "pre-investigation inquiries" which invariably concluded with a refusal to institute criminal proceedings on the grounds that no publicly prosecutable offence had been committed (see paragraphs 15, 16, 22, 25-27 and 31 above). The Court is not convinced that the authorities made a serious attempt to establish the circumstances of the assaults or took a comprehensive view of a series of violent incidents which is required in domestic-violence cases. The scope of the "pre-investigation inquiries" was confined chiefly to hearing the perpetrator's version of the events. Police officers did not take statements from some witnesses, did not order a forensic examination of injuries and did not collect any other relevant evidence. It is moreover the Court's well-established case-law that a "pre-investigation inquiry" under Russian law is not capable in principle of meeting the requirements for an effective investigation under Article 3. This preliminary stage has too restricted a scope and cannot lead to the trial and punishment of the perpetrator, since the opening of a criminal case and a criminal investigation are prerequisites for bringing charges that may then be examined by a court (see *Volodina*, cited above, § 95, and the case-law cited therein).

117. In most instances, a refusal to initiate a criminal investigation referred to the fact that the injuries sustained by the applicants were not severe enough for launching public prosecution. This was due to lacunae in substantive law that does not criminalise many forms of domestic violence and requires that the injuries involve at least a long-term health impairment or three-week incapacity for work to justify an investigation and public

prosecution (see paragraphs 89 and 90 above). So long as the applicants' injuries had not reached that threshold of severity, their only viable legal option was to seek redress through private prosecution of the perpetrators. The pursuance of private-prosecution proceedings was entirely dependent on their own efforts and determination to bring perpetrators to account. They could not benefit from any assistance by the State authorities, whether in gathering incriminating evidence, drafting legal documents, obtaining statements from witnesses or presenting charges in court. The Court considers that leaving the applicants to their own devices in a situation of known domestic violence is tantamount to relinquishing the State's obligation to investigate all instances of ill-treatment.

118. In addition, the magistrates dealing with private prosecution claims showed no awareness of particular features of domestic violence cases and no genuine will to have perpetrators brought to account. In the first round of proceedings in Ms Tunikova's case, the magistrate accepted that her former partner had engaged in criminally reprehensible conduct but chose to divest himself of the matter on the grounds that the police should deal with it (see paragraph 8 above). Even though Ms Tunikova was represented by counsel, she had been required to appear in person in court at each hearing where she had to relive and retell a single episode of domestic violence over a total of twenty-one months. An unintentional failure to appear for the hearing on time had been treated as a withdrawal of the charges; the magistrate dismissed the matter on procedural grounds, without attributing responsibility for her injuries or verifying that she had been afforded adequate protection (compare *Polshina*, cited above, § 37). The same pattern of seeking to dispose summarily of the matter on formal grounds was present in Ms Gershman's case, in which the magistrates also referred the charges to the police and the police discontinued the proceedings on the grounds that the injuries did not reach the threshold of severity for public prosecution (see paragraph 18 above). One magistrate went as far as to put the burden of proof solely on Ms Gershman by requiring her to prove that the injuries had been caused by her partner's assault and not in some other way at a later point in time (see paragraph 20 above). In Ms Petrakova's case, two magistrates invoked a different ground for not considering her claims, namely that, following her divorce, she was no longer legally related to the perpetrator, while assault by strangers was not a criminal offence (see paragraph 32 above). As a consequence, none of the perpetrators in the three cases was brought to account for the ill-treatment they allegedly inflicted.

119. Even when confronted with indications of publicly prosecutable offences, such as recorded injuries or death threats, the authorities have balked at, or prevaricated in, the obligation to institute criminal proceedings and relied on hasty and ill-founded conclusions to close their inquiries. Thus, they refused to investigate the death threats against Ms Tunikova and Ms Petrakova, claiming that they were not "real" enough to be prosecuted

under criminal law (see paragraphs 8 and 25 above). Those assertions were not corroborated with any findings of fact or based on an autonomous and comprehensive assessment of a risk of lethality or serious injury. In Ms Gracheva's case, a failure to investigate promptly the report of the death threats may have reinforced the perpetrator's sense of impunity, as the investigation into the death threats did not begin until much later, after the perpetrator had caused irreparable harm to her (see paragraphs 47-48 above). The Court reiterates that the prohibition of ill-treatment under Article 3 covers all forms of domestic violence, including the death threats, and every such act triggers the obligation to investigate. Threats are a form of psychological violence and a vulnerable victim may experience fear regardless of the objective nature of such intimidating conduct (see *Volodina*, cited above, § 98). The CEDAW Committee has indicated that, to be treated as such, gender-based violence does not need to involve a "direct and immediate threat to the life or health of the victim" (*ibid.*, § 56).

120. Lastly, the Government contended that other legal remedies, including a civil action for damages against the perpetrator, could have fulfilled their procedural obligations under the Convention. The Court reiterates that a civil claim could have led to the payment of compensation but not to the prosecution of those responsible for the acts of ill-treatment. Accordingly, it would not be conducive to the State discharging its procedural obligation under Article 3 in respect of the investigation of such violent acts (see *Volodina*, cited above, § 100, and the authorities cited therein).

121. In view of the manner in which the authorities handled the applicants' reports of domestic violence – notably the authorities' failure to investigate effectively credible claims of ill-treatment and ensure the prosecution and punishment of the perpetrators – the Court finds that the State has failed to discharge its duty to investigate the ill-treatment that the applicants had suffered.

**(d) Conclusion**

122. There has therefore been a violation of Article 3 of the Convention under its substantive and procedural limbs (see paragraph 78 above). Consistently with its well-established case-law in this type of cases, the Court considers that it is not necessary to examine whether the facts also disclosed a violation of Article 13 (see *Volodina*, cited above, § 102).

**III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION,  
TAKEN IN CONJUNCTION WITH ARTICLE 3**

123. The applicants complained that the State authorities' failure to put in place specific measures to combat gender-based violence against women amounted to discrimination within the meaning of Article 14 of the

Convention, taken in conjunction with Article 3. The relevant part of Article 14 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 ...”

### **A. Admissibility**

124. The Court considers that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

### **B. Merits**

#### *1. Submissions by the parties*

125. The applicants pointed out that the Russian authorities did not have reliable data which would allow them to make assertions about the true extent of domestic violence in Russia. What little statistics were available, they only showed the “tip of the iceberg” as it is often the case that domestic violence is under-reported. In addition to the official statistics for the years 2016-17 which the Court had considered in *Volodina* (cited above, § 41), the applicants submitted statistics for 2018 on “crimes committed within the family or household”. Of a total 34,195 such crimes in 2018, 21,390 (62,55%) were committed against women. Women made up 86% (903 out of 1,044) of victims of “tormenting” (Article 117) and 75% (14,201 out of 18,968) victims of a threat of death or grievous bodily harm (Article 119). Following the decriminalisation of assault in early 2017, there had been a steep decline in the number of victims of “battery” under Article 116 of the Criminal Code (25 recorded victims, of which 16 were women, 7 minors and 2 men). As for “repeat battery” under Article 116.1, 694 (70%) out of a total of 994 victims were women, 283 were minors and 17 were men. Research by non-government organisations operating domestic-violence hotlines and online polls indicated that only 10% of women who faced violence went to the police and of those who did, 97% were unsatisfied with the support they received there. A vast majority of women (75%) who experienced violence said that the violence lasted between one and ten years, in 7% of cases it lasted longer than ten years. In a majority of cases, the violence originated from the caller’s husband or partner (77%) or former husband (14%). The lack of remedies for domestic violence victims in Russia was systematic in nature: since the Court’s judgment in the *Volodina* case, no legal or other remedies had been put into place for victims of domestic violence in Russia, although extensive national discussion had taken place around a new proposal of domestic violence legislation. Despite the shortcomings of the proposed legislation and its inability to offer comprehensive protection to victims of domestic violence, the prospect of its adoption had been met with colossal

resistance in many sectors. The campaign mounted against the draft law had illustrated deep-rooted gender stereotypes promoted by many members of the ruling party, entities aligned with the Russian Orthodox Church and the establishment. In general, the Russian authorities, through their longstanding inaction and regressive rhetoric by State officials at the highest levels, had created a climate conducive to domestic violence which was discriminatory against women. The applicants pointed to the stereotypical attitudes which police officers, prosecutors, witnesses, and judges had manifested in their individual cases by refusing to acknowledge situations of domestic violence as threatening to women's lives and well-being.

126. The Government submitted that the extent of the problem of domestic violence and the severity of its discriminatory impact on women in Russia were "rather exaggerated". According to statistics from the Ministry of the Interior, 33,235 persons had been assaulted by family members in 2018, representing just 10.3% of all victims of violent crime. There were 23,513 women in that group, but only 55% of them had been assaulted by their husbands. This suggested that violence by strangers was a far more urgent problem. General population statistics showed that a majority of victims of violent crime were men. When considering claims of discrimination, the Court should take into account the element of intentionality in the application of discriminatory treatment. That element was absent in the instant case. The applicants did not allege that any State officials tried to dissuade them from bringing the perpetrators to justice or hindered their attempts to seek protection from the alleged violence. Even assuming that a majority of victims were women (although no evidence of this had been submitted by the applicants), male victims of domestic violence were more likely to be discriminated against because they were in a minority and were not expected to seek protection from abuse by family members, particularly those of the opposite sex. The Russian authorities had made sufficient efforts to address the problem of domestic violence and to combat all forms of discrimination in other spheres. The State Concept of Family Policy and the National Action Strategy for Women were aimed at improving existing legal remedies and achieving substantive gender equality in Russia. Within the framework of the strategy, crisis centres for victims of domestic violence had been opened in most regions in Russia, in cooperation with public authorities and non-governmental organisations. Some police officers had been trained in handling reports of domestic violence, applying knowledge of law and psychology.

## *2. The Court's assessment*

127. The Court reiterates that a general policy or a *de facto* situation which has disproportionately prejudicial effects on a particular group may constitute discrimination against that group within the meaning of Article 14 of the Convention even where it does not specifically target that group and

where no discriminatory intent has been established. Violence against women, including domestic violence, is a form of discrimination against women on account of their sex. The State's failure to protect women against domestic violence breaches their right to equal protection of the law, irrespective of whether such failure is intentional or not (see *Opuz*, §§ 185-91, and *Volodina*, §§ 109-10, both cited above).

128. In *Volodina*, on the strength of evidence submitted by the applicant and information from independent domestic and international sources, the Court has found clear indications that domestic violence disproportionately affects women in Russia. Women make up a large majority of victims of domestic offences in the police statistics, violence against women is largely under-reported and under-recorded, and women have a much lesser chance to secure prosecution and conviction of their abusers owing to the domestic classification of such offences (*ibid.*, §§ 119-24). Data provided by the applicants for the period up until the end of 2018 show that this trend has continued unabated. Even according to the Government's account, the number of women victims of violent assaults occurring in a family context is staggering; over 13,000 women have reported abuse by their husbands, while the number of those who have been assaulted by unmarried partners or suffered violence or other forms of abuse without reporting it remains unknown.

129. The Court has further held that the continued failure to adopt legislation to combat domestic violence and the absence of any form of protection orders clearly demonstrate that the Russian authorities were reluctant to acknowledge the seriousness and extent of the problem of domestic violence in Russia and its discriminatory effect on women. By tolerating for many years a climate which was conducive to domestic violence, the Russian authorities have failed to create conditions for substantive gender equality that would enable women to live free from fear of ill-treatment or assaults on their physical and psychological integrity and to benefit from the equal protection of the law (*ibid.*, § 132). Those findings which related to the general situation of women prevailing in Russia at that time, are also applicable in the circumstances of the present case. Since a structural bias has been shown to exist, the applicants did not need to prove that they were also victims of individual prejudice (*ibid.*, § 114).

130. There has accordingly been a violation of Article 14 of the Convention, taken in conjunction with Article 3.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

131. 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. Pecuniary damage

132. Ms Gracheva claimed the following amounts in respect of pecuniary damage relating to her disability: 30,660 euros (EUR) for physical treatment and rehabilitation of her left hand, representing the part not covered by State medical insurance; EUR 692,112 for the purchase, maintenance and repair of an externally-powered German-made prosthetic right hand, to be replaced every three years for life, and EUR 189,747 for loss of earnings based on her previous income in the advertising department at a local newspaper. She referred to the Court’s award in respect of pecuniary damage to a permanently disabled applicant in the case of *Mikheyev v. Russia* (no. 77617/01, §§ 155-62, 26 January 2006).

133. The Government submitted that the present case was to be distinguished from *Mikheyev* in which the applicant’s disability was the product of the ill-treatment by State agents rather than by private individuals. In their view, the relevant authority was *Eduard Popa v. the Republic of Moldova*, in which the Court found no causal link between the procedural violations of Articles 2 and 3 of the Convention and the applicant’s claim for loss of income and purchase of prosthetic aids (no. 17008/07, §§ 58-60, 12 February 2013). Likewise, there had been no direct causal link between the alleged violations and the claim for pecuniary damage in Ms Gracheva’s case. In the alternative, her losses were to be assessed in the light of her entitlement to various disability benefits and the right to free medical care and the purchase of one prosthetic upper limb per year.

134. The Court notes that the case of *Eduard Popa* did not concern the obligation to prevent a risk of ill-treatment; a violation of Article 3 was found on account of the authorities’ failure to carry out an effective investigation into the ill-treatment of the applicant. A situation relevantly comparable to that of Ms Gracheva arose in another Russian case in which a violation of Article 3 resulted from the authorities’ failure to take the requisite measures to prevent harm to an applicant’s life and limb. The police had abandoned the applicant with a head injury lying unconscious on the street, after being assaulted by private individuals, without rendering him any assistance, which resulted in his permanent disability. The Court awarded compensation for a loss of income and future medical expenses (see *Denis Vasilyev v. Russia*, no. 32704/04, §§ 105-22 and 169, 17 December 2009).

135. The Court further reiterates that, as regards positive obligations under Article 3, it is sufficient to establish that the authorities had not taken all steps which could have been reasonably expected of them to prevent the risk of harm of which they had or ought to have had knowledge. The applicant is not required to show that “but for” the failing or omission of the public

authority the ill-treatment would not have occurred (see *Preminyin v. Russia*, no. 44973/04, § 84, 10 February 2011). In other words, to establish a causal link between a lack of protection measures and the harm suffered by Ms Gracheva, it is sufficient to find, as the Court did above, that the domestic authorities had failed to take measures to protect her from the known risk of violence. She did not need also to show that she would not have been harmed had the protection measures been made available.

136. The Court is satisfied that the claim in respect of the previously incurred rehabilitation expenses was properly substantiated and awards the amount claimed under this head to Ms Gracheva. However, the claims concerning loss of future earnings and future medical expenses were not based on actuarial calculations of the capital required to maintain a certain level of income and to fund future expenses. The amounts claimed were obtained by multiplying the costs of prosthetics and past wages by the average life expectancy. This method of calculation is not in line with the Court's approach to the calculation of future losses (see *Mikheyev*, cited above, § 161, and *Denis Vasilyev*, cited above, § 168). It will therefore have to deal with the claim on an equitable basis based on its own assessment of the situation (see *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, § 82, 20 December 2007, and *Denis Vasilyev*, cited above, § 169).

137. Taking into account Ms Gracheva's age, her position as primary caregiver of her minor children, the nature of her disability which restricts the options of accessible employment, and her lifelong dependence on expensive adaptive aids, the Court awards her EUR 300,000 for the loss of earnings and future medical expenses, for a total of EUR 330,660 in respect of pecuniary damage, plus any tax that may be chargeable.

### **B. Non-pecuniary damage**

138. The applicants asked the Court to determine the appropriate amount of compensation in respect of non-pecuniary damage.

139. The Government did not comment on this part of the claims.

140. The Court awards EUR 20,000 each to Ms Tunikova, Ms Gershman and Ms Petrakova, and EUR 40,000 to Ms Gracheva, in respect of non-pecuniary damage, plus any tax that may be chargeable.

### **C. Costs and expenses**

141. The applicants claimed the following amounts in respect of legal costs in the domestic and Convention proceedings: Ms Tunikova EUR 20,500, Ms Gershman EUR 22,084.91, Ms Petrakova and Ms Gracheva each EUR 6,600. They submitted copies of contracts for legal services.

142. The Government submitted that copies of contracts did not show that the expenses had been actually incurred and reasonable as to the quantum.

Ms Tunikova only submitted evidence of payment of 110,000 Russian roubles in domestic proceedings; Ms Gershman did not show that she actually needed the services of three legal teams to represent her, and Ms Petrakova and Ms Gracheva produced no receipts or payment orders.

143. Regard being had to the documents in its possession, the Court considers it reasonable to award EUR 5,000 each to the applicants in respect of costs and expenses, plus any tax that may be chargeable to them.

#### **D. Default interest**

144. 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.

#### **V. APPLICATION OF ARTICLE 46 OF THE CONVENTION**

145. The relevant parts of Article 46 of the Convention read:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution ...”

146. The Court reiterates that a judgment in which it finds a breach of the Convention imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, general measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress as far as possible its effects. With a view to helping the respondent State to fulfil that obligation, the Court may indicate the type of general measures that might be taken in order to put an end to the situation it has found to exist (see *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, § 173, 9 April 2019).

147. The Government submitted that neither the applicants’ individual circumstances nor the current state of Russian law in the sphere of domestic violence indicated the existence of an underlying systemic problem or structural deficiency calling for indication of general measures under Article 46 of the Convention.

148. The applicants replied that the alleged violations of the Convention were not a feature of their individual cases but represented a structural and systemic dysfunction of the State’s legal system in cases of domestic violence. The attitude of law enforcement, investigative and prosecutorial authorities in Russia was characterised by a lack of understanding and knowledge of the dynamics of domestic violence, its systematic nature, the varied forms of physical or psychological violence, its inherent risks and consequences. The existing legal framework was not sufficient to address this

complex problem, and the proposed legislation also fell short of international standards. It failed to establish a sufficiently comprehensive definition of domestic violence, to include in its ambit persons who were not related by blood or by a registered marriage, and to provide for protection orders restricting the perpetrator's physical proximity to the victim and accompanied with dissuasive sanctions for their infringement. The draft law also did not provide for training programmes for police officers, prosecutors and other crucial actors who would be tasked with implementing the legislation.

149. The Court reiterates that a systemic or structural problem stems not just from an isolated incident or a particular turn of events in individual cases but from defective legislation when actions and omissions based thereon have given rise, or may give rise, to repetitive applications to the Court (see *Novruk and Others v. Russia*, nos. 31039/11 and 4 others, § 131, 15 March 2016). The problem underlying the violations of the Convention which the Court has found in the present case stems from the legislation itself, and the findings extend beyond the sole interests of the applicants in the instant case. Unable to secure the protection against domestic violence and an effective investigation of violent incidents at national level, the applicants have been required to seek relief in the Court.

150. Several years after the events in this case and more than two years after the *Volodina* judgment, in which the Court first identified structural defects of Russian law, the situation has not changed. Legislation on domestic violence has not been passed or brought before Parliament. Public discussion on draft law on the prevention of domestic violence has not been followed with concrete action (see paragraphs 63-64 and 67 above). The National Action Strategy for Women for 2017-2022 conceptualises violence against women as "an indication of social disadvantage and characterises it as a problem stemming from substance abuse", without providing a definition of the term "domestic violence" or articulating policy goals (see section 4.1 of the Research on National Action Strategy in paragraph 66 above). No protection measures have been made available in any form to victims of domestic violence, causing them to apply to the Court for an indication of interim measures under Rule 39 of the Rules of Court. The COVID-19 pandemic has further aggravated the situation and brought about a substantial increase in the number of domestic violence complaints (see paragraph 65 above).

151. In view of the continued absence of legislation addressing the issue of domestic violence at national level and the urgency of the matter concerning, as it does, the possibility for victims to live a life free from violence, the Court considers that the Government's obligations under the Convention compel it to introduce legislative and other changes without further delay. The need for such amendments is all the more pressing as large numbers of people affected by violations of a fundamental Convention right have no other choice but to seek relief through time-consuming international

litigation. This situation is at odds with the principle of subsidiarity, which is prominent in the Convention system (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 211, 10 January 2012). For the respondent Government to comply with its Convention obligations, clear and specific changes are required in the domestic legal system that would allow all persons in the applicants' position to obtain adequate and sufficient redress for such violations at domestic level.

152. The Court acknowledges that domestic violence is a complex phenomenon affecting, as it does, all social strata and occurring in a variety of forms, intensity and dynamics, frequently invisible to outsiders and hidden from authorities. To discharge their obligations under the Convention, the domestic authorities must accordingly develop a comprehensive and targeted response encompassing all areas of State action including legislation, public policy, programmes, and institutional frameworks and monitoring mechanisms.

153. The Court has found above that the authorities' failure to address reports of domestic violence stems from lacunae in the substantive and procedural law. To address these shortcomings, the authorities must promptly revise or amend legislation to bring it into compliance with the Convention and international standards on prevention and punishment of domestic violence. They must introduce a legal definition of domestic violence which is sufficiently comprehensive in its scope to cover acts of violence in various forms, including physical, sexual, psychological or economic violence, manifestations of controlling and coercive behaviour, stalking and harassment, whether they take place physically or in cyberspace. The acts of domestic violence should never be considered in isolation but rather as a single course of conduct or a series of related incidents (see paragraph 94 above). The definition of domestic violence should be part of a comprehensive framework for the protection of, and assistance to, all victims which should in particular allocate the responsibilities of State agencies and public officials tasked with responding to, and preventing, domestic violence, create an interagency mechanism for cooperation between State agencies and other stakeholders to prevent domestic violence, establish legal mechanisms for protecting and compensating victims, and fund rehabilitation programmes for perpetrators of domestic violence.

154. Domestic substantive law must criminalise and make punishable by appropriate penalties all acts of domestic violence, including battery and forms other than injuries (see paragraph 86 above). The protection from domestic violence must include all current and former members of a family or domestic unit and current and former spouses and partners, whether living under the same roof or separated. Domestic violence affects married couples as much as people who have not formalised their relationship such as Ms Tunikova in the present case or Ms Volodina in the case of *Volodina*. It does not end with the dissolution of a marriage (see paragraph 32 above, in

which the proceedings were discontinued for the sole reason that Ms Gershman was no longer legally related to the perpetrator after the divorce). The Court notes in this connection the CEDAW's view that "as long as the violence towards a former spouse or partner stems from that person being in a prior relationship with a perpetrator, the time that has elapsed since the end of the relationship is irrelevant, as is whether the persons concerned live together" (see *O.G. v. the Russian Federation*, Communication No. 91/2015, § 7.4, 6 November 2017).

155. Domestic procedural law must enable the authorities to investigate domestic-violence cases of their own motion as a matter of public interest and to punish those responsible for such acts (see *Volodina*, cited above, § 99). Placing the burden of gathering incriminating evidence and upholding the charges in court onto the victim is incompatible with the State's obligation to investigate all cases of ill-treatment under Article 3 of the Convention (see paragraph 117 above). A complaint by a victim, a statement about injuries by a health care professional or reports by third parties about suspected domestic violence should be sufficient to trigger an investigation which should be conducted by the authorities in a diligent and gender-sensitive manner so as to avoid re-traumatising the victims through requiring them to repeat their testimony or confront the perpetrator. Police officers must be provided with protocols and instructions outlining the specific steps to investigate complaints of domestic violence. All allegations of domestic violence must be investigated promptly, thoroughly and impartially, with criminal proceedings being initiated in all cases of domestic violence and perpetrators brought to trial timely and expeditiously. If the victim withdraws the complaint, should that possibility remain in domestic law, the legislation should require the authorities to consider what the reasons for withdrawing the complaint were and whether the seriousness of the attacks would require them to pursue the proceedings (see *Volodina*, cited above, § 84).

156. A protocol for handling domestic violence complaints to be put in place must cover all aspects of the State's positive obligation to protect victims from the risk of recurrent violence (see paragraph 104 above). There should be a requirement that such complaints be processed "immediately", with special diligence required in domestic violence cases, and that risk assessment be "autonomous", "proactive" and "comprehensive". To comply with this obligation, consideration should be given to using standardised risk assessment tools and checklists and documenting the process of risk assessment and the information on all relevant risk factors and elements of the case obtained from the victim and other State agencies. The victim should be informed of the outcome of the risk assessment and given advice and guidance on the available protective measures.

157. As regards adequate and effective measures of protection for victims of domestic violence, the Court considers it particularly important that such measures be made available without further delay. The domestic legislation

should be amended to provide for easily obtainable extra-judicial and judicial protection measures variously known in other jurisdictions as “restraining orders”, “protection orders” or “safety orders” which aim to forestall a recurrence of domestic violence and to safeguard the victim of such violence by typically requiring the offender to leave the shared residence and to abstain from approaching or contacting the victim (see *Volodina*, cited above, § 88, for examples of such measures in selected European jurisdictions). While a variety of legislative solutions can be envisaged, in order to ensure the effective protection of the victim, the Court holds that the protection measures should possess the key features identified by the CEDAW Committee and the UN Special Rapporteur on violence against women (*ibid.*, §§ 56 and 58). In particular, protection orders should be made available independently of any other legal proceedings, such as a criminal case against the perpetrator, and based on a standard of proof with respect to the victim’s evidence which is not the criminal standard of proof. They should require the perpetrator to maintain a specified distance from the victim at all times and prohibit the perpetrator from attempting to contact the victim in any way, whether offline or online. Compliance with the terms of the protection order should be rigorously and continually monitored by the authorities, and failure to comply should be criminalised and accompanied by sufficiently dissuasive and deterrent sanctions.

158. Lastly, with a view to addressing the situation of inequality and de facto discrimination against women which the Court has found to be in breach of Article 14 of the Convention, taken in conjunction with Article 3, the domestic authorities should put into place an action plan for changing the public perception of gender-based violence against women (see Article 2 of the CEDAW Convention and the CEDAW Committee’s General recommendation No. 35 on gender-based violence against women, cited in *Volodina*, cited above, §§ 51 and 55) and disseminate information on available legal and other remedies for victims. Mandatory training in domestic-violence dynamics should be provided for judges, police officers, prosecutors, medical professionals, social workers and other officials who may come into contact with victims. The authorities should also design a monitoring mechanism for accurate collection of comprehensive statistics on prevention and punishment of domestic violence and recording of statistical data on domestic violence disaggregated by sex and age and nature of the relationship between the perpetrator and the victim or victims, including the complaints of domestic violence which did not result in the institution of administrative or criminal proceedings (see the CEDAW Committee’s concluding observations on the eighth periodic report of the Russian Federation, cited in *Volodina*, cited above, § 64, and Section 4.4 of the Research on National Action Strategy for Women in paragraph 66 above).

159. Pending the implementation of the above measures by the respondent State in accordance with Article 46 of the Convention, the Court

will continue to deal with similar cases in a simplified and accelerated form in accordance with its well-established case-law.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 3 of the Convention under its substantive and procedural limbs;
4. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;
5. *Holds* that there has been a violation of Article 14 of the Convention, taken in conjunction with Article 3;
6. *Holds*
  - (a) that the respondent State is to pay, within three months from 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 330,660 (three hundred and thirty thousand six hundred and sixty euros) to Ms Gracheva, plus any tax that may be chargeable, in respect of pecuniary damage;
    - (ii) EUR 20,000 (twenty thousand euros) each to Ms Tunikova, Ms Gershman and Ms Petrakova, and EUR 40,000 (forty thousand euros) to Ms Gracheva, plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (iii) EUR 5,000 (five thousand euros) to each applicant, plus any tax that may be chargeable to them, 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;
8. *Holds* that the respondent State must introduce, without further delay, amendments to the domestic legal and regulatory framework in order to bring it into line with the Court's indications in paragraphs 151-58 of the present judgment.

TUNIKOVA AND OTHERS v. RUSSIA JUDGMENT

Done in English, and notified in writing on 14 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško  
Registrar

Georges Ravarani  
President

**APPENDIX****List of applications**

<b>No.</b>	<b>Application no.</b>	<b>Case name</b>	<b>Lodged on</b>	<b>Applicant Year of Birth Place of Residence</b>
1.	55974/16	Tunikova v. Russia	12/09/2016	<b>Natalya Yuryevna TUNIKOVA</b> 1972 Moscow
2.	53118/17	Gershman v. Russia	17/07/2017	<b>Yelena Vladimirovna GERSHMAN</b> 1978 Moscow
3.	27484/18	Petrakova v. Russia	31/05/2018	<b>Irina Aleksandrovna PETRAKOVA</b> 1980 Moscow
4.	28011/19	Gracheva v. Russia	22/05/2019	<b>Margarita Andreyevna GRACHEVA</b> 1992 Serpukhov