



Bulgarian authorities failed to protect victim of marital murder but allegation of general complacency towards violence against women not made out

In today's **Chamber** judgment¹ in the case of [Y and Others v. Bulgaria](#) (application no. 9077/18) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 (right to life) of the European Convention on Human Rights, and

no violation of Article 14 (prohibition of discrimination) read in conjunction with Article 2 of the European Convention.

The case concerned the complaints brought by the mother and daughters of a victim of marital murder. Ms V. was shot dead in a café in Sofia by her husband just after leaving the district prosecutor's office to complain that he owned a handgun and she feared for her life. She had made several similar complaints in the years and months leading up to the killing concerning her husband's angry, violent and obsessive attitude towards her.

The Court found in particular that the authorities had failed to respond promptly to Ms V.'s credible complaints and to carry out a proper assessment of the risk to her in view of the specific context and dynamics of domestic violence. Had they done so, they would have appreciated that her husband had posed a real and immediate risk to her life and they could have seized his handgun, arrested him for breaching a restraining order and/or placed Ms V. under police protection. All such steps to counter the risk to Ms V. would have been possible under Bulgarian domestic law.

However, the Court found no evidence of complacency towards violence against women either generally in Bulgaria or in the police's handling of Ms V.'s case.

Principal facts

The applicants are Ms Y and her two granddaughters, Ms X and Ms Z. They are Bulgarian nationals who were born in 1948, 2007 and 2012, respectively, and live in Sofia.

On 18 August 2017 the applicants' daughter and mother, Ms V., who was sitting on a terrace in a coffeshop in Sofia, was shot in the head and torso by her husband. She died on the spot. The couple had been *de facto* separated since 2014.

In the two years preceding the shooting Ms V. had complained to the authorities about her husband's threatening behaviour, making in total four written complaints to the police. In her first complaint, lodged in 2016, she alleged that her husband had slashed the tyres of her car after a row in which he had said "I will not give you a divorce; I will shoot you! I will leave the children without a mother!". She also said that she feared for her life as her husband owned a handgun.

After another incident in 2017, when her husband had chased her by car and foot and insulted and threatened her, the Sofia District Court issued a temporary restraining order barring him from coming within 100 metres of her. The courts subsequently issued a final restraining order in Ms V.'s favour.

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

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

No criminal charges were brought in respect of either of these two incidents.

The day before she was killed, Ms V. called the national emergency number to report that her husband was driving behind her car in breach of the protection order and followed this up with a written complaint to the police. She lodged a nearly identical complaint the next day, a few hours before she was killed, with the Sofia district prosecutor's office, specifying again that her husband owned a handgun and that she feared for her life.

After shooting Ms V., her husband immediately surrendered to the police. He was convicted of aggravated murder and unlawful possession of a firearm in 2018. He was sentenced to 13 years and four months' imprisonment and ordered to pay each of his daughters, who had brought civil-party claims against him, 250,000 Bulgarian leva (EUR 127,822).

The police immediately opened an internal investigation into Ms V.'s death. The ensuing report, running to 20 pages, recommended disciplinary action against several officers for neglecting their duties. It appears that ten officers were punished; three were given a reprimand, but there was no information about the punishments given to the others.

Complaints, procedure and composition of the Court

Relying on Article 2 (right to life), the applicants alleged that the Bulgarian authorities had not taken their close relative's complaints about her husband seriously and had failed to take measures to avert the risk to her life. They also alleged under Article 14 (prohibition of discrimination) read in conjunction with Article 2 that such failure to take effective measures had not been an isolated occurrence, but had been because of the authorities' general complacency towards violence against women.

The application was lodged with the European Court of Human Rights on 15 February 2018.

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

Tim Eicke (the United Kingdom), *President*,
Yonko Grozev (Bulgaria),
Armen Harutyunyan (Armenia),
Gabriele Kucsko-Stadlmayer (Austria),
Pere Pastor Vilanova (Andorra),
Jolien Schukking (the Netherlands),
Ana Maria Guerra Martins (Portugal),

and also Ilse Freiwirth, *Deputy Section Registrar*.

Decision of the Court

Article 2 (right to life)

Ms V.'s four written complaints and the emergency call she made the day before her killing all amounted to credible allegations of domestic violence as defined in Bulgarian law.

The authorities had not, however, acted upon those complaints immediately and her emergency call had not been relayed to the police at all. They had in point of fact only responded promptly once – they had dispatched a patrol when Ms V.'s mother had made an emergency call to report her son-in-law's aggressive behaviour towards her and her grandchildren.

Furthermore, even though the courts had found in Ms V.'s favour in restraining-order proceedings, the temporary order had simply been put on file by the relevant police department, with no steps

having been taken to make sure that her husband had complied with it. The final order had not even been brought to the attention of the police.

Indeed, the Sofia police had been concerned solely with the question whether criminal proceedings should be brought against Ms V.'s husband, without assessing whether his conduct portended any risk of harm to Ms V. in the special context of domestic violence and its dynamics.

Most importantly, the internal investigation concluded that the Sofia police had taken no steps to check whether Ms V.'s husband had had a firearms licence or whether he had been in possession of a handgun. Nor, according to the same investigation, had the police paid any attention to the death threats as reported by Ms V.

None of those shortcomings had been remedied by the prosecuting authorities, which took their two decisions not to open criminal proceedings purely on the basis of the written reports by the police with no coordination between the two prosecutors in charge.

Bearing in mind the restraining-order proceedings and the fact that Ms V.'s husband had breached its terms, the authorities should have known that there had been a real and immediate risk to her life. This failure was apparently due in part to lack of training on the dynamics of domestic violence.

Had the authorities carried out a proper assessment, they could have taken any number of steps, consistently with the powers they had under the domestic law to counter the risk to Ms V.'s life. For example, they could have seized the handgun that Ms V.'s husband possessed despite the expiry of his firearms licence, arrested him for breaching the restraining order or placed Ms V. under some form of police protection.

Moreover, there had not been a proper preventive response involving coordination among multiple authorities, such as the prosecuting authorities immediately contacting the Sofia police when Ms V. lodged yet another complaint on the morning she had been killed.

In conclusion, the Court held that there had been a violation of Article 2 of the Convention.

Article 14 (prohibition of discrimination)

As to the applicants' allegation of general complacency towards violence against women, the Court noted that there was no evidence to suggest that the Bulgarian authorities tried to dissuade women from bringing complaints, or that the courts systematically delayed issuing restraining orders or were unwilling to deal with such cases. There was, furthermore, not enough statistical evidence of general complacency on the part of the authorities toward such violence.

Nor was there any evidence of such conduct on the part of the police officers or other officials who had handled Ms V.'s case, and the judicial response to her killing, including a 13-year prison sentence, had been quite quick and had not been lenient. In addition, there had been an internal investigation and disciplinary action taken against the police officers.

Lastly, the Court considered that Bulgaria's refusal to ratify the Council of Europe's Istanbul Convention on violence against women was unrelated to any reluctance to provide women with proper legal protection against domestic violence. In any case, it was not for the Court to give its opinion on what was a political decision.

The Court concluded that, in the circumstances of the case, there had been no violation of Article 14 of the Convention read in conjunction with Article 2.

Article 41 (just satisfaction)

The Court held that Bulgaria was to pay the applicants 24,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,512.88 in respect of costs and expenses.

The judgment is available only in English.

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