



## The authorities failed to protect a woman and her deceased son from domestic violence, but there was no finding of discriminatory treatment

In today's **Chamber judgment**<sup>1</sup> in the case of **Landi v. Italy** (application no. 10929/19) 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.

In the present case Ms Landi alleged that the Italian State had failed to take the requisite action to protect her and her two children from the domestic violence inflicted by her partner, which had led to the murder of her one-year-old son and her own attempted murder in 2018.

The Court noted that the national authorities had failed in their duty to conduct an immediate and proactive assessment of the risk of a repetition of the violent acts committed against Ms Landi and her children, and to adopt operational and preventive measures to mitigate the risk and to protect those concerned. In particular, the authorities had remained passive in the face of the serious risk of ill-treatment of Ms Landi, and their inaction had enabled the applicant's partner to continue to threaten, harass and attack her unhindered and with impunity. The authorities ought to have assessed the risk of renewed violence and adopted appropriate and adequate measures. Such measures could have been adopted by the authorities, pursuant to Italian legislation, whether or not there had been a complaint or any change in the victim's perception of the risk. The authorities had reacted neither immediately, as required in cases of domestic violence, nor at any other time. They had therefore failed to show the requisite diligence and to honour their obligation to protect Ms Landi's and her son's lives.

Nevertheless, the Court did not consider that the impugned shortcomings could be considered, *per se*, as pointing to any discriminatory attitude on the authorities' part. The complaint concerning Article 14 (prohibition of discrimination) read in conjunction with Article 2 was therefore manifestly ill-founded.

The Court awarded the applicant just satisfaction of 32,000 euros in respect of non-pecuniary damage.

### Principal facts

The applicant, Annalisa Landi, is an Italian national who was born in 1988 and lives in Scarperia (Italy).

Ms Landi explained that she had entered into a relationship with her partner (N.P.) in 2010 without knowing that he had suffered from bipolar disorder since the age of 20. In particular, he had displayed progressive mood changes accompanied by severed impulsiveness, irritability and extremely violent behaviour. He had also suffered from obsessive-compulsive disorder. In the past N.P. had been an alcoholic and had been banned from approaching his previous partner.

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](http://www.coe.int/t/dghl/monitoring/execution).

Ms Landi and N.P. had had two children, V. (a girl born in 2011) and M. (a boy born in 2017). Between November 2015 and September 2018 Ms Landi sustained four attacks by her partner, after each of which the Scarperia police intervened. N.P. was hospitalised on a number of occasions after the said attacks, and was prescribed drug therapy on discharge from hospital in February 2018. He had gone to live with his parents, and then had gone back to Ms Landi's home in April 2018. According to the applicant, a doctor had recommended a joint consultation for the couple in order to facilitate N.P.'s treatment.

In the meantime, Ms Landi had lodged, and then withdrawn, several complaints. However, proceedings had been commenced against N.P. on charges of domestic violence, but no orders had been issued for the protection of Ms Landi and her children during the investigation, in the course of which the expert had pointed out that N.P. posed a danger to society on account of his mental health issues and that he should be placed under a regular therapeutic programme.

The fourth attack occurred in September 2018, when N.P. had been disturbed by noise caused by his son and by a telephone call to Ms Landi. He had become angry, and had seized his daughter V. by the hair and thrown her against the wall. He had then fetched a knife from the kitchen and assaulted Ms Landi, stabbing her in the face and body. She had fallen to the floor with her son M., whom she had set down beside her. N.P. had then stabbed his son M. several times, causing his death.

In October 2019 N.P. had been sentenced to 20 years' imprisonment and ordered to pay 100,000 euros to Ms Landi and her daughter V., who had joined the criminal proceedings as civil parties.

## Complaints, procedure and composition of the Court

Relying on Article 2 (right to life) of the Convention, Ms Landi submitted that the Italian authorities had failed to take all the necessary action to protect her and her child's lives.

Relying on Article 14 (prohibition of discrimination) read in conjunction with Article 2, she considered that the lack of legal protection and of an adequate response from the authorities to her allegations of domestic violence amounted to discriminatory treatment on grounds of sex.

The application was lodged with the European Court of Human Rights on 19 February 2019.

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

Marko **Bošnjak** (Slovenia), *President*,  
Péter **Paczolay** (Hungary),  
Alena **Poláčková** (Slovakia),  
Erik **Wennerström** (Sweden),  
Raffaele **Sabato** (Italy),  
Lorraine **Schembri Orland** (Malta),  
Ioannis **Ktistakis** (Greece),

and also Renata **Degener**, *Section Registrar*.

## Decision of the Court

### [Article 2 \(right to life\)](#)

The Court noted that the national authorities had failed in their duty to conduct an immediate and proactive assessment of the risk of the recurrence of the violent acts committed against Ms Landi and her children, and to adopt operational and preventive measures to mitigate the risk and to protect those concerned, as well as to censure N.P.'s conduct. The public prosecutors, in particular,

had remained passive in the face of the serious risk of ill-treatment of Ms Landi, and their inaction had enabled the applicant's partner to continue to threaten, harass and attack her unhindered and with impunity. The national authorities had known, or should have known, of the real and imminent risk to Ms Landi's and her children's lives. They should therefore have assessed the risk of further violence and taken appropriate and adequate action to protect the applicant and her children. However, they had failed in that obligation, as they had reacted neither "immediately", as required in cases of domestic violence, nor at any other time.

The Court held that, relying on the information known to the authorities at the material time to the effect that there was a real and imminent risk of further violence against Ms Landi and her children, in the light of the allegations of escalating domestic violence submitted by the applicant and in view of N.P.'s mental health issues, the authorities had failed to show the requisite diligence. They had not conducted a lethality risk assessment specifically designed for domestic violence, and in particular for the situation faced by the applicant and her children, which would have justified practical preventive measures to protect them from such a risk. In blatant disregard of the wide range of protective measures directly available to them, the authorities, which could have implemented protective measures by alerting the social and psychological services and placing Ms Landi and her children in a women's refuge, had shown little diligence in preventing the violence against the applicant and her children, which had led to the attempted murder of the applicant and the actual murder of her son M. The authorities could have adopted the above-mentioned measures under Italian legislation whether or not there had been a complaint or any change in the victim's perception of the risk.

The Court found that the authorities could not be deemed to have shown the requisite diligence. They had therefore failed in their positive obligation under Article 2 to protect the applicant's and her son's lives.

#### [Article 14 \(prohibition of discrimination\) read in conjunction with Article 2](#)

The Court noted that police officers had on several occasions reported to the public prosecutors on Ms Landi's situation, even after she had withdrawn her final complaint, and they had requested the adoption of protective measures. The Court also considered that the public prosecutors had clearly failed in their duty to adopt preventive measures which could possibly have averted the tragic outcome or at least mitigated the damage. Nevertheless, having regard, in particular, to the proactive attitude adopted by the *carabinieri*, the inertia of the investigating authorities in the instant case could not be considered as a systemic defect.

The Court observed that there was nothing in the present case to suggest that the public prosecutors in charge of the applicant's case had acted in a discriminatory manner or with discriminatory intent *vis-à-vis* the applicant herself. It pointed out that a breach of Article 14 arose only where there were general shortcomings deriving from a clear and systemic failure of the national authorities to appreciate and address the seriousness and extent of the problem of domestic violence and its discriminatory effect on women.

Consequently, the Court concluded that the shortcomings complained of in this case – even though they had originated in serious inertia on the part of the authorities and had been unlawful and incompatible with Article 2 of the Convention – could not be deemed *per se* to point to any discriminatory attitude on the authorities' part. That complaint was therefore manifestly ill-founded and had to be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

#### [Just satisfaction \(Article 41\)](#)

The Court held that Italy was to pay Ms Landi 32,000 euros (EUR) in respect of non-pecuniary damage.

## Separate opinion

Judge Sabato expressed a separate opinion, annexed to the judgment.

*The judgment is available only in French.*

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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.