

## TALPIS v. Italy

Leading | Case | 41237/14 | Pending | Enhanced Procedure | Judgment date: 02/03/2017 | Final judgment date: 18/09/2017

### Case Description:

This case concerns violations of Articles 2 and 3 of the Convention because of the inertia of the authorities in handling the applicant's complaint of domestic violence inflicted on her by her husband in 2012, which led to an escalation of the violence culminating in 2013 in the attempted murder of the applicant and the murder of her son.

The Court criticised in particular:

- the fact that the risk to the life of the applicant and her son was not rapidly assessed by the authorities and that no protective measures were taken;
- the absence of any investigative act (including the hearing of the victim) until seven months after the applicant had filed a complaint;
- the excessive length of the first set of criminal proceedings for aggravated bodily harm brought against the applicant's husband.

The case also concerns a violation of Article 14 taken together with Articles 2 and 3 because of the discriminatory aspect of the failings identified by the Court in the protection of women against domestic violence.

Cases: *Talpis, Landi, J.L.* (see [J.L. v. Italy](#))

### Status of Execution:

The Committee of Ministers examined this case for the second time at its 1383<sup>rd</sup> meeting (September 2020) (DH).

In view of this meeting, the authorities provided an action report on 13 July 2020 (DH-DD(2020)630). The Committee also received two communications from an NGO (*D.i.Re - Donne in Rete contro la violenza*) on 20 April 2020 (DH-DD(2020)375) and 12 August 2020 (DH-DD(2020)708).

In a communication of 31 May 2018 (DH-DD(2018)561), the applicant's representatives claimed further payment of some additional costs incurred by them. These, however, do not represent "taxes", in accordance with the practice of the Committee of Ministers.

#### Individual measures

The sums awarded by the European Court for non-pecuniary damage and costs and expenses, including taxes chargeable in respect of the latter, were paid on time.

At its first examination of the case, the Committee invited the authorities to conclude promptly the criminal proceedings against the aggressor of the applicant and her son, then pending before the Venice Court of Appeal to recalculate the prison term imposed on him.<sup>1</sup>

The Court of Appeal sentenced the aggressor to 20 years imprisonment by a judgment which became final on 3 January 2019.

#### General measures

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<sup>1</sup> The life imprisonment sentence initially imposed had been quashed by the Court of Cassation on 1 March 2018 due to the wrong application of an aggravating factor. The case had been referred to the Venice Court of Appeal to remedy this.

### *1) Measures taken at the time of the Committee of Ministers' first examination of the case (June 2018)*

Following Italy's ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) in 2013 and since the events that had led to the deadly attack in this case, the authorities had adopted a wide range of measures to end gender-based violence. These essentially consisted of aligning the domestic legislation with several requirements of the Istanbul Convention, capacity-building for law enforcement and judges, improving assistance to victims, and sustained public awareness-raising to fight against the socio-cultural perceptions at the root of this problem.

Statistical data provided were showing a significant increase in the reporting and recording of domestic violence cases; promising first results in the application of the newly introduced preventive and urgent protective measures; improvements in the rate of convictions, including for harassment, and a decreasing trend in the length of criminal proceedings.

### *2) First examination by the Committee (June 2018)*

The Committee welcomed the wide range of measures taken by the authorities and encouraged them to continue their efforts aimed at providing a comprehensive response to all aspects of the complex problem of violence against women. In order to assess the impact of the adopted measures the Committee invited the authorities to provide detailed information and statistical data, preferably for the period 2013-2018, on preventive and protection measures, length of criminal proceedings on incidents of domestic violence and harassment and the outcome of such proceedings.

### *3) Developments since the Committee's first examination*

#### A. Legislative measures

To further strengthen the relevant legal framework, Parliament adopted Law No. 69 of 19 July 2019 which, through a comprehensive set of provisions, aims at increasing the effectiveness of the judicial response to violence against women and at reinforcing the protection for victims and capacity-building for law enforcement.

This law increased the sentences envisaged for sexual and domestic violence and stalking and introduced the new crimes of unlawful dissemination of sexually explicit images or videos or revenge porn; deformation of an individual's appearance through permanent facial injuries; and forced marriage. It also criminalised breaches of court injunctions to move away from the family home or not to approach places frequented by the victim. It further introduced in the Code of Criminal Procedure the obligation for the public prosecutor to hear the victim of gender-based crimes at the latest within three days from the filing of the claim.

With regards to victim support and protection, Law No. 69/2019 allocated additional funds to be made available to orphans of victims of domestic violence. It also modified the allocation of funds to ensure a better geographical distribution of anti-violence centres and women's shelters in each region.

To reinforce capacity-building for law enforcement agents, the law stipulates that within a year from its entry into force the Police, the Carabinieri and the Penitentiary Police must have set up targeted mandatory training courses on domestic and gender-based violence for their agents. This comes in addition to the specific training on methods and practices of investigation and assistance to victims already followed by officers assigned to specialised services for violence against women (see DH-DD(2018)347 for details).

#### B. Anti-violence centres network

The authorities provided extensive information on the network of 281 anti-violence centres operating throughout the country which provide a large spectrum of services including reception, psychological support, legal assistance as well as support in finding accommodation and work.<sup>2</sup>

These centres include 4,400 operators and numerous professional figures such as lawyers, psychologists and educators. Compulsory training sessions (e.g. on the Istanbul Convention and women's fundamental rights) are offered in almost all the centres to the operators working there.

Most of them (85.8%) are linked to a women's shelter with which they cooperate with to deal with emergency situations. In 2017, 43,467 women contacted these centres and were provided access to a way out of violence.

### C. Monitoring and cooperation

The authorities continued research and data collection. In this context, in October 2018 a parliamentary commission was established to further investigate the real extent of the phenomenon of femicide and all forms of gender-based violence in Italy.<sup>3</sup>

Further to this, the National Institute of Statistics issued between October 2018 and November 2019, three reports analysing the cultural roots of violence against women,<sup>4</sup> the functioning of anti-violence centres<sup>5</sup> and women victims of homicides.<sup>6</sup> Further monitoring of anti-violence centres and women's shelters was initiated in 2019 and is ongoing.

In their action report the authorities also made reference to the globally positive evaluation of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in its report on Italy published in January 2020 and reaffirmed their commitment to pursuing their efforts in the implementation of the Istanbul Convention in cooperation with the GREVIO.<sup>7</sup>

### D. Action plan 2020-2022 and financial resources

The budgetary law for the year 2020 allocated financial resources for the implementation of the national action plan against violence against women for the period 2020-2022.<sup>8</sup> This in addition to the 20 million euros allocated from State resources at the end of 2019 to strengthen the network of public and private anti-violence centers and shelters already existing in each region.<sup>9</sup>

### E. Impact of the measures adopted

The authorities reported that, while homicide rates have decreased in Italy over the past years, the proportion of women victims, including in circumstances unrelated to gender-based violence, has increased. In 2018, 133 women were killed (10 more than in 2017). In 80% of these cases the perpetrator was someone close to them (e.g. current or former partner or husband). Nonetheless, Italy remains among the European countries with one of the lowest rates of female homicides.

With regards to the response of the judicial authorities, the authorities provided statistical data concerning criminal proceedings on domestic and sexual violence in 2018. With regards to proceedings concluded at trial stage, the data shows a conviction rate between 50 and 60%. Proceedings were discontinued at pre-trial stage in over 50% of the cases.

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<sup>2</sup> The data provided which refer to the situation in 2017 was taken from the Report of the National Institute of Statistics (ISTAT) on anti-violence centres published in November 2019. See <https://www.istat.it/it/files//2019/10/Report-Centri-antiviolenza-2017.pdf>.

<sup>3</sup> The previous parliamentary commission on femicide and all forms of gender-based violence issued its report on 6 February 2018. It contains a very thorough analysis of the phenomenon of violence against women in Italy, statistical data and recommendations.

<sup>4</sup> See : <https://www.istat.it/it/files//2019/11/Report-stereotipi-di-genere.pdf>.

<sup>5</sup> See : <https://www.istat.it/it/files//2019/10/Report-Centri-antiviolenza-2017.pdf>

<sup>6</sup> See: <https://www.istat.it/it/files//2020/03/Report-Le-vittime-di-omicidio.pdf>

<sup>7</sup> See the GREVIO's (Baseline) Evaluation Report on Italy, published on 13 January 2020, available at: <https://www.coe.int/en/web/istanbul-convention/italy>

<sup>8</sup> [https://temi.camera.it/leg18/temi/tl18\\_il\\_contrasto\\_alla\\_violenza\\_contro\\_le\\_donne.html](https://temi.camera.it/leg18/temi/tl18_il_contrasto_alla_violenza_contro_le_donne.html)

<sup>9</sup> Decree of the President of the Council of Ministers of 4 December 2019.

With regards to sexism and the perception of the phenomenon of violence against women, an opinion poll conducted in the context of a study on gender stereotypes and the social perception of sexual violence<sup>10</sup> notably revealed a positive trend.<sup>11</sup>.

Nevertheless, as many as 39.3% of the population believe that a woman can escape sexual intercourse if she really does not want it. The percentage of those who think that women can provoke sexual violence by the way they dress is 23.9%.

#### Latest submissions from D.i.Re - Donne in Rete contro la violenza

In their submissions of 20 April 2020 and 12 August 2020, this NGO observed that despite the efforts of the Italian authorities to tackle domestic violence, the issue remains of serious concern as the effective implementation of the existing comprehensive legal framework continues to be hindered by deep-rooted sexism, prejudice and discrimination against women, paired with inadequate training of law enforcement agencies and the judiciary and lack of adequate risk assessment and management by the competent authorities. The NGO also stressed that Italy does not have a data collection system able to provide an accurate picture of the response given by law enforcement agencies and the judiciary to cases of gender-based violence.

## **Last Exam of the Committee of Ministers:**

### **Reference Texts:**

DH-DD(2020)630, CM/Del/Dec(2018)1318/H46-12

### **Notes/Issues:**

Application	Case	Judgment of	Final on	Indicator for the classification
41237/14	TALPIS	02/03/2017	18/09/2017	Complex problem

### **1383<sup>rd</sup> CM-DH meeting (29 September – 01 October 2020) – Notes :**

#### Individual measures

The just satisfaction was timely and duly paid and the criminal proceedings against the aggressor of the applicant were concluded, as requested by the Committee in its previous decision. In these circumstances, no other individual measures are required.

#### General measures

##### *1) Measures adopted*

<sup>10</sup> See the Report of the National Institute of Statistics (ISTAT) on gender stereotypes and the social image of sexual violence published on 25 November 2019: <https://www.istat.it/it/files//2019/11/Report-stereotipi-di-genere.pdf>.

<sup>11</sup> 7.4% of the respondents consider it acceptable that "a boy slaps his girlfriend because she has flirted with another man", 6.2% that in a couple you get a slap every now and then and 17.7% find it acceptable that a man usually controls his wife/partner's mobile phone and/or social network activity.

It can be noted with satisfaction that after the first examination of this case by the Committee of Ministers in June 2018, the Italian authorities continued their efforts to design and implement holistic policies to prevent and combat violence against women and gender-based discrimination.

The adoption of Law No. 69 of 2019 aimed at strengthening the response of the competent authorities to gender-based violence, in response to the Committee's call, should be welcomed in particular.

Moreover, the diverse areas of intervention touched upon by this legislation (e.g. victim protection and support, awareness raising and training, criminal law response, monitoring and funding) reflect the comprehensive approach adopted by the authorities to address the multiple facets of the complex problem of gender-based violence.

The adoption of the action plan to combat violence against women for the period 2020-2022 and the renewed parliamentary monitoring of this phenomenon are also positive measures which bear witness to the determination of the authorities to end this phenomenon.

## *2) Impact of the adopted measures*

### A. Response of the competent authorities to incidents of domestic violence

At the origin of the violations found lies the inadequacy of the immediate response given by law enforcement agencies and the judiciary to the applicant's report of domestic violence which deprived her of effective protection and paved the way to a tragic escalation of violence.

Against this backdrop it is crucial that the Committee makes sure that the comprehensive legal framework put in place by Italy is applied in an adequate, effective and timely manner and that tangible positive results are attained.

It is regrettable that the authorities have only provided partial information in response to the Committee's last decision which does not allow fully to assess whether the adopted measures have remedied the shortcomings revealed by the judgment. It is therefore crucial that the authorities rapidly provide the comprehensive information and statistical data on the impact of the adopted measures as requested by the Committee.

With regards to protection orders, whose effective implementation represents a key aspect, it is noted with concern that civil and criminal courts appear not to collect relevant statistical data.<sup>12</sup> It seems therefore important that the authorities adopt the necessary measures swiftly to fill this gap and provide detailed information on the practical application of protective measures and examples of relevant judicial and administrative decisions.

With regards to the criminal-law response, the high rate (more than 50%) of criminal proceedings on domestic and sexual violence discontinued at pre-trial stage in 2018 raises concerns. The authorities should be invited to identify the reasons and take any corrective action which may be required in the light of their assessment and also to provide updated follow up information and statistics on the number of criminal proceedings on domestic violence and harassment, their outcome and average length.

Risk assessment and management are fundamental to prevent repetition and escalation of violence and afford effective protection to victims. The events in this case clearly show how the failure to properly assess the dangers run by a victim of violence may bear tragic consequences. It is important to know how the authorities have ensured or envisage ensuring that first responders effectively assess and counter the safety risks faced by a victim in a comprehensive and coordinated manner and based on standardised procedures.

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<sup>12</sup> In its recent report on Italy, GREVIO indicated that data on risk assessment and barring/restraining/protection orders and their violations are missing. See the GREVIO's (Baseline) Evaluation Report on Italy, published on 13 January 2020, available at: <https://www.coe.int/en/web/istanbul-convention/italy> and the submissions of *D.i.Re - Donne in Rete contro la violenza*, (DH-DD(2020)375).

Capacity-building for law enforcement agents and the judiciary on gender-based violence is of paramount importance to ensure their thorough awareness and understating of the phenomenon and their prompt and effective reaction to reported acts of violence. It is thus very positive that recent legislation requires law enforcement agencies to provide mandatory trainings on these issues to their agents. The authorities could be encouraged to pursue their efforts to ensure that agents receive systematic and comprehensive trainings throughout their career, including by usefully drawing on the Council of Europe's expertise and training courses such as the HELP course on violence against women. It remains also important to know whether similar measures have been taken as regards judges and prosecutors.

Anti-violence centres and women's shelters play a key role in the protection of victims of gender-based violence and it is therefore crucial to ensure their adequate capacity and presence throughout the country. In this context the information provided on the existing network and the funds recently allocated to enhance the operation of these structures and ensure an adequate geographical distribution can be positively noted. It remains however important, also in the light of the concerns raised by civil society, that the authorities keep the Committee informed of the impact of the adopted measures and the progress achieved.

## B. Sexism and the perception of the phenomenon of violence against women

The Italian authorities have adopted specific measures to this end (which were positively noted by the Committee. However, recent studies revealed some worrying results<sup>13</sup> and authorities at the highest level acknowledged, as recently as November 2019, that despite the wide range of measures adopted and the progress achieved, violence against women remains a public emergency in Italy.<sup>14</sup> This corroborates the concerns raised by GREVIO and civil society that despite the efforts made so far, prejudices and attitudes which fuel gender-based violence and discrimination still persist in Italy.<sup>15</sup>

The authorities could therefore be strongly encouraged to intensify their efforts, drawing also inspiration from Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism<sup>16</sup> and to keep the Committee informed of the measures adopted and the progress made.

## 3. *Conclusion*

In their action report, the authorities consider that they have fulfilled their obligations under Article 46 and request that the examination of this case be closed. The continuation of the Committee's supervision of the execution of this judgment is however necessary to ensure that the remaining questions, related notably to the implementation of the legal framework put in place to protect women from domestic and gender-based violence, are rapidly addressed.

## **Decisions:**

### The Deputies

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<sup>13</sup> See the Report of the National Institute of Statistics (ISTAT) on gender stereotypes and the social image of sexual violence published on 25 November 2019, available at: <https://www.istat.it/it/files//2019/11/Report-stereotipi-di-genere.pdf>.

<sup>14</sup> Speech by the President of the Republic, International Day for the Elimination of Violence against Women, 25 November 2019 ([https://www.repubblica.it/cronaca/2019/11/25/news/giornata\\_violenza\\_donne\\_96\\_femminicidi\\_panchina\\_rossa-241870984/](https://www.repubblica.it/cronaca/2019/11/25/news/giornata_violenza_donne_96_femminicidi_panchina_rossa-241870984/)).

<sup>15</sup> See the GREVIO's (Baseline) Evaluation Report on Italy, published on 13 January 2020, available at: <https://www.coe.int/en/web/istanbul-convention/italy> and the submissions of *D.i.Re - Donne in Rete contro la violenza*, (DH-DD(2020)375).

<sup>16</sup> See the Guidelines for preventing and combating sexism: measures for implementation annexed to the Committee of Ministers' Recommendation CM/Rec(2019)1 to member States on preventing and combating sexism, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168093b26a>

1. recalled that this case concerns the ineffective and delayed response of the authorities to the applicant's complaints concerning domestic violence inflicted by her husband and the discriminatory aspect of such failings in the protection of women against domestic violence;

*As regards individual measures*

2. in view of the information provided on the payment of the just satisfaction and the completion of the criminal proceedings against the aggressor, considered that no further individual measures are required in this case;

*As regards general measures*

3. expressed satisfaction at the continued efforts of the Italian authorities attesting to their commitment to prevent and combat domestic violence and gender-based discrimination; welcomed in particular the adoption of Law No. 69/2019 which further consolidates the comprehensive legal framework established since the ratification by Italy of the Istanbul Convention in 2013;

4. highlighted the crucial importance of an adequate, effective and swift response by law enforcement agencies and the judiciary to reported acts of domestic violence to guarantee victims' protection and at the same time, of ensuring that victims have effective access to adequate support and assistance;

5. recalling, in this context, their detailed request for statistical information concerning the implementation of the legal provisions criminalising domestic violence and harassment, noted the partial data provided by the authorities and expressed concern at the high rate of proceedings discontinued at pre-trial stage; called on the authorities to examine this issue and to inform the Committee of their findings and conclusions and also to submit all the information previously requested together with updated data on the number of relevant judicial proceedings and their outcome;

6. further called on the authorities rapidly to develop a comprehensive data collection system with regards to protection orders and to provide the following statistical information, supported by relevant administrative and judicial decisions: the number of requests and the average time for their issuance; the number of orders issued and the average time for their enforcement; and the number of judicial proceedings initiated for breaches of such orders and their outcome;

7. invited moreover the authorities to provide information on the measures adopted or envisaged to ensure adequate and effective risk assessment and management by the relevant authorities notably with regards to the repetition and escalation of domestic violence and the victim's corresponding protection needs;

8. noting with interest that law enforcement agencies now are required by law to establish mandatory training on gender-based violence for their agents, encouraged the authorities to pursue their efforts to ensure that these agents receive systematic and comprehensive training in this field throughout their career, also drawing on the Council of Europe's expertise and training courses such as those offered by HELP, and invited them also to provide information on the relevant capacity-building for judges and prosecutors;

9. noting the information provided on the existing network of anti-violence centres and women's shelters and on the funding recently allocated to strengthen it, invited the authorities to keep the Committee informed of the progress achieved in this area, including in ensuring an adequate geographical distribution of these structures;

10. noting with concern that, despite the wide range of measures already adopted, gender stereotypes continue to be present in Italian society, strongly encouraged the authorities to intensify their efforts to eradicate them and achieve changes in cultural behaviours, including by drawing inspiration from the Committee's Recommendation CM/Rec(2019)1 on preventing and combating

sexism; invited the authorities keep the Committee informed of the measures adopted and the progress achieved in this area;

11. requested the authorities to provide information on all the remaining questions identified above no later than 31 March 2021.