

**ANALYTICAL  
NOTE**

NOVEMBER

**2023**

# DOMESTIC VIOLENCE IN MOLDOVA IN THE CASELAW OF THE EUROPEAN COURT OF HUMAN RIGHTS



**LRCM**  
Rights and justice for all



Until 25 November 2023, the European Court of Human Rights (ECtHR) had issued six judgments concerning the lack of protection against domestic violence in the Republic of Moldova.

This analytical note is based on a study of the ECtHR's caselaw concerning Moldovan cases, which is available on [the ECtHR's website](#). Violations are systematized according to articles and typology. Previously, the LRCM prepared [a summary of all judgments issued by the ECtHR](#) in respect of the Republic of Moldova over 26 years (from 12 September 1997 through 11 September 2023).



## Article 3 of the ECHR

(prohibition of torture and inhuman or degrading treatment)

**6**  
ECHR  
violations

2023

■ Luca

2020

■ Munteanu

2014

■ T.M. and C.M.

2013

■ Eremia and others;  
■ Mudric;  
■ B.

## Article 8 of the ECHR

(right to respect for private and family life)

**3**  
ECHR  
violations

2023

■ Luca

2013

■ Eremia and others;  
■ B.

## Cases that determined the violation of the European Convention on Human Rights

### Failure of the national authorities to fulfill the positive obligation to protect applicants:

#### Eremia și alții (28/05/2013) §§ 38-79;

- regular physical and verbal violence from the spouse;
- failure to enforce a restraining order;
- failure to bring the perpetrator to justice;
- assisting children in violence against their mother.

#### Mudric (16/07/2013) §§ 31-55;

- violence from the ex-spouse;
- inexplicable delay in enforcing several restraining orders and referring the batterer for compulsory psychiatric treatment.

#### B. (16/07/2013) §§ 31-75

- systematic physical violence from the ex-spouse;
- the courts' failure to strike a balance between the applicant's right not to be subjected to ill-treatment and her ex-spouse's right to use his apartment, which forced the applicant to choose between continuing to be abused or leaving the home;
- the termination of criminal proceedings for rape because of the withdrawal of the complaint, without checking the severity of the charges.

#### T.M. și C.M. (28/01/2014) §§ 27-49

- physical and verbal violence from the ex-spouse; failure to comply with a restraining order;
- breach of the 24-hour period for issuing a restraining order (which was issued after ten days); failure to send the order to either the applicants or the police;
- failure to provide protection for a full year from the first incidents of violence and for six months from the filing of an official complaint;
- refusal to initiate a criminal case against the aggressive spouse because the injuries were not serious enough.

#### Munteanu (26/08/2020) §§ 68-74

- physical and verbal violence from the ex-spouse;
- the authorities' superficial attitude, which allowed the batterer to ignore court orders that obliged him to leave his place of residence and not approach the applicant;
- unexplained delay (of two months) in applying the protective measure;
- the "partial accusation" of the applicant by the authorities that "she provoked violence against herself by not leaving the house herself".

#### Luca (17/08/2023) §§ 64-95

- physical and psychological violence from the spouse;
- the authorities' failure to conduct an effective investigation into the applicant's allegations;
- the authorities' superficial attitude in ensuring the batterer's compliance with protection measures, because of which he persisted in acts of violence;
- the authorities' failure to carry out a risk assessment and their disregard for evidence of continued acts of violence against the applicant;
- delay in the enforcement of a restraining order;
- lack of prompt measures to assist the applicant in maintaining contact with her children

# DISCRIMINATION IN THE WAKE OF DOMESTIC VIOLENCE

## Article 14 of the ECHR

(interzicerea discriminării)

5

ECHR  
violations

2023

■ Luca

2014

■ T.M. and C.M.

2020

■ Munteanu

2013

■ Eremia and others;  
■ Mudric

### Causes that determined the violation of the ECHR

- Eremia și alții (28/05/2013) §§ 80-91;
- Mudric (16/07/2013) §§ 56-65;
- T.M. și C.M. (28/01/2014) §§ 53-64;

- the authorities' systemic tolerance for domestic violence, which constitutes a discriminatory attitude toward the applicant as a woman.

- Munteanu (26/08/2020) §§ 78-83;
- Luca (17/08/2023) §§ 101-107

- the authorities' actions were not merely an omission or a belated reaction in stopping the violence against the applicant, but encouragement of acts of violence, reflecting a discriminatory attitude toward women.

#### Luca (17/08/2023) §§ 101-107

- by their wording in denying the applicant a restraining order and the investigation into her allegations (for example, "family misunderstandings" or the allegation that the applicant was being "overly dramatic"), the authorities downplayed the seriousness of her situation. The courts have repeatedly made it clear that the applicant had ulterior motives and that she sought protection measures "in revenge" because she was "dissatisfied" with lack of contact with her children. Considering that five years later, based on the same facts, the courts handed down a criminal sentence, it seems clear that at the time of the events in question the protection measures were denied by making use of stereotypes and discriminatory grounds.





Scan and **support**  
the development  
of LRCM activities.

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