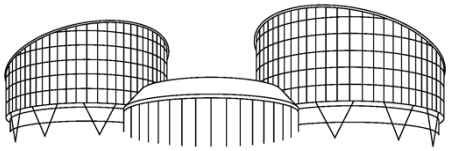

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF Y AND OTHERS v. BULGARIA

(Application no. 9077/18)

JUDGMENT

Art 2 (substantive) • Positive obligations • Authorities' failure to protect life of woman murdered by her husband, despite her several complaints about domestic violence over 9 month period • Inadequate preventive measures, failure to respond immediately and carry out risk assessment on each occasion of complaint Art 14 (+ Art 2) • No evidence that failure to protect life was due to gender-based discrimination in general or in specific case circumstances

STRASBOURG

22 March 2022

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Y and Others v. Bulgaria,

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

Tim Eicke, *President*,
Yonko Grozev,
Armen Harutyunyan,
Gabriele Kucsko-Stadlmayer,
Pere Pastor Vilanova,
Jolien Schukking,
Ana Maria Guerra Martins, *judges*,
and Ilse Freiwirth, *Deputy Section Registrar*,

Having regard to:

the application (no. 9077/18) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Bulgarian nationals, Ms Y, Ms X and Ms Z ("the applicants"), on 15 February 2018;

the decision to give the Bulgarian Government ("the Government") notice of the application;

the decision not to have the applicants' names disclosed;

the parties' observations;

Having deliberated in private on 8 February 2022,

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

INTRODUCTION

1. The applicants are the relatives of a woman killed by her husband, who had been harassing her for several months. The main questions in the case are (a) whether the authorities were under a duty to take reasonable operational measures to protect the woman's life, and if so, whether they complied with that duty (issues under Article 2 of the Convention), and (b) whether the authorities' alleged failure to comply with that duty was a result of their general complacency towards violence against women and hence discriminatory (issue under Article 14 of the Convention read in conjunction with Article 2).

THE FACTS

2. The applicants are Ms Y, who was born in 1948 and lives in Sofia, and her two granddaughters, Ms X and Ms Z, who were born in 2007 and 2012 respectively and also live in Sofia. In October 2017 Ms Y was appointed legal guardian of her two granddaughters. The applicants were represented by Ms A. Kachaunova, a lawyer practising in Sofia and working with the Bulgarian Helsinki Committee.

3. The Government were represented by their Agents, Ms S. Sobadzhieva and Ms M. Dimitrova of the Ministry of Justice.

I. INTRODUCTION

4. On 18 August 2017 Mrs V., who was born in 1975 and was the daughter of the first applicant and mother of the second and third applicants, was shot dead in a café in Sofia by her husband, Mr V., who was born in 1953, from whom she had *de facto* separated in 2014.

II. MR AND MRS V.'S MARRIAGE

5. Mr and Mrs V. got married in April 2009. For Mr V. this was a second marriage; he had two sons from his previous one. The couple had two daughters (the second and third applicants) who were born in 2007 and 2012 respectively. In 2014 the spouses fell out with each other and stopped living together.

6. The two daughters remained with Mrs V., and all three of them lived with her mother (the first applicant) in the first applicant's flat.

III. MRS V.'S COMPLAINTS TO THE POLICE ABOUT MR V.

7. During the two years preceding the shooting on 18 August 2017, Mrs V. complained to the authorities of threatening conduct by Mr V. on several occasions.

A. Incidents on 4, 5 and 14 November 2016

8. Mrs V. first complained to the police on 14 November 2016. Some time after 9 p.m., she called the national emergency number 112 to report that the tyres of her car, which had been parked in front of a community cultural centre where she had been dancing from 8 to 9 p.m. that day, had been slashed. At 9.52 p.m. her call was relayed to the police department in Sofia in charge of the area, and they dispatched a patrol. Mrs V. told the officers that she suspected that the tyres had been slashed by Mr V.

9. As instructed by the officers, later that evening Mrs V. went to the police station to make a written complaint. In a deposition accompanying her complaint she stated that she suspected that the tyres had been slashed by Mr V., from whom she had been *de facto* separated for about two and a half years, because a few days earlier, on 4 November 2016, they had had a row in the course of which he had made death threats against her in her home, in front of her mother (she quoted him as having said: "I will not give you a divorce; I will shoot you! I will leave the children without a mother!"). She went on to say that Mr V. legally owned a handgun, and that she thus feared

for her life. She then added that the morning after that row, on 5 November 2016, the exhaust pipe of her car, which had been parked in front of her home, had been filled with polyurethane foam, which she also suspected had been done by Mr V. Mrs V.'s allegations were confirmed in a deposition by a friend of hers, who had accompanied her to the police station.

10. On15 November 2016 the head of the police department assigned the case to an officer and gave him twenty days to report back. That officer in turn assigned the case to another officer. A little over a month later, on 23 December 2016, having established that Mr V. was living and working in Yambol, the officer placed in charge of the case delegated to yet another officer to write to the Yambol police with a request to get Mr V. to answer several questions about the tyre-slashing incident. On 10 January 2017 the Yambol police wrote back, saying that Mr V. had stated that the car had been purchased by him, and that he had been out of Sofia when its tyres had been slashed and had had nothing to do with it. Based on that statement, and on the absence of eyewitness or surveillance-camera evidence about the incident, on 16 January 2017 the officer in charge of the case proposed that no criminal proceedings be opened, adding that although the incident formally disclosed the elements of a criminal offence, it was too insignificant to amount to one.

11. On 16 March 2017 the Sofia district prosecutor's office agreed with the proposal and refused to open criminal proceedings in relation to the incident.

12. The ensuing internal investigation by the police (see paragraphs 42-43 below) found that, apart from writing to the Yambol police (a task which he had in any event delegated to another officer), for two months the officer in charge of the case had done no work on it. No contemporaneous record existed of his having checked whether Mr V. owned firearms, even though the officer claimed that he had carried out such a check. The letter to the Yambol police had not asked them to inquire whether Mr V. had any firearms or had made death threats against Mrs V. The internal investigation concluded that the police investigation carried out pursuant to Mrs V.'s complaint had thus not been comprehensive, complete or speedy: it had focused exclusively on the slashed tyres. Hence, the officer in charge of it and his immediate superior deserved to be reprimanded.

B. Incident on 1 January 2017

13. Some time around 10.30 a.m. on 1 January 2017, Mrs V.'s mother (the first applicant) called the national emergency number 112 to complain that Mr V. – who had come to the flat where Mrs V., her mother and Mrs V.'s two daughters (the second and third applicants) lived – was trying to take the two children out for a walk even though they were not wearing proper winter clothes, and had acted aggressively when Mrs V.'s mother had confronted him about it. The call was relayed to the police department in charge of the

area at 10.42 a.m., and a police patrol was dispatched to the scene. In their subsequent report, the officers recorded that they had not witnessed a row, and had told Mrs V.'s mother that it was not their role to determine whether or not the children should go out for a walk. The officers had nevertheless cautioned Mrs V.'s mother and Mr V. to act lawfully and to resolve any disputes between them via the proper legal channels. According to the applicants, the reason the 112 call had been made was that Mr V. had entered the flat, tried to pull the children out and pushed Mrs V.'s mother. The applicants further stated that shortly after the visit by the police, Mrs V. had come back home and had allowed Mr V. to take the children out, apparently because she had seen that he was accompanied by his brother, whom she trusted.

C. Incident on 13 February 2017

1. Complaint to the police

14. In the late evening of 13 February 2017, Mrs V. complained to the Sofia police that, following a row between them, Mr V. had chased her, first by car and then on foot, insulting and threatening her. She said that she feared for her life and was scared of leaving her home alone or with her children.

15. In a deposition she made at 1.19 a.m. the following day, 14 February 2017, Mrs V. explained that she had met with Mr V. in his car at his request, to discuss what to do with their daughters. In response to her telling him that she wanted a divorce, he had insulted and threatened her. She had got out of the car at a red light, but he had chased her, first in the car and then on foot. Since this had not been his first display of aggression towards her, the children and her mother, she had feared that he might assault her. She had managed to outrun him and had called a friend living in a nearby building, and Mr V. had given up the chase.

16. In a deposition which she made at 1.33 a.m., Mrs V.'s friend confirmed that she had received a call from Mrs V., who had sounded very frightened, and that she had still been frightened when the friend had gone to her home shortly after that. The friend also relayed Mrs V.'s story about the chase, as heard by her in the course of that visit, and expressed her fear about the risk to Mrs V.'s life.

17. On an unspecified date the officer in charge of the case summoned Mr V. to the police station to obtain from him a statement about Mrs V.'s allegations. When he came to the station on 23 February 2017, Mr V. conceded that he had met with Mrs V. on 13 February 2017, but denied having threatened her physically. The officer in charge of the case nevertheless cautioned him not to make threats or carry out acts of violence against his wife.

18. On 7 March 2017 a junior officer also working on the case recommended, with reference to the information about that incident and about

the earlier ones on 14 November 2016 and 1 January 2017 (see paragraphs 9 and 13 above), that no charges be brought against Mr V. On 22 March 2017 the Sofia district prosecutor's office agreed with the proposal and refused to open criminal proceedings with respect to the incident. It noted that making insults and threats were privately prosecutable offences (see paragraph 64 below), and that there was no evidence that Mr V. had breached the terms of a protection order contrary to Article 296 § 1 of the Criminal Code (see paragraph 53 below), since the incident had taken place four days before the issuing of an interim protection order against him (see paragraph 21 below).

19. When interviewed about his work on the case in the course of the ensuing internal investigation (see paragraphs 42-43 below), one of the two officers in charge of it stated that he had not attempted to obtain further information from Mrs V. or her friend as their initial depositions had been comprehensive enough.

2. Protection-order proceedings

(a) Proceedings before the Sofia District Court

20. On 16 February 2017, three days after the incident on 13 February 2017 (see paragraphs 14-17 above), Mrs V. brought protection-order proceedings against Mr V. in relation to it (see paragraphs 47-50 below).

21. On 17 February 2017 the Sofia District Court issued an interim protection order without prior notice to Mr V., barring him from coming within one hundred metres of Mrs V. until the final disposal of the case. It found, without giving details in that respect, that enough evidence existed of a direct and immediate threat to her life and health.

22. On 15 June 2017 the Sofia District Court, which heard the case in Mr V.'s absence – he did not appear despite having been duly summoned – issued a final protection order against him, ordering him under section 5(1) of the Protection Against Domestic Violence Act 2005 (see paragraph 48 below) to refrain from acts of domestic violence against Mrs V., and barring him from coming within one hundred metres of her and her home and places of leisure for one year. The court also imposed on Mr V. the minimum possible fine: 200 Bulgarian levs (BGN) (equivalent to 102 euros (EUR)) (see paragraph 49 below). It did so on the basis of the incident on 13 February 2017 (see paragraphs 14-17 above). It found that on that date Mr V. had insulted and threatened Mrs V. The court went on to say that in view of the purely psychological nature of the violence, the combination of measures ordered by it appeared sufficient to deter Mr V. from further acts of domestic violence and that it was superfluous to resort to harsher measures or give him a bigger fine (see *реш. № 146709 от 15.06.2017 г. по гр. д. № 9621/2017 г., СРС*).

23. The decision to issue the final protection order was apparently not validly appealed against and, according to the records of the Sofia District Court, became final on 7 August 2017.

(b) Notification of the interim protection order to the Sofia police and steps taken by them in connection with that order

24. According to the records of the Sofia District Court, on 20 February 2017, three days after the interim protection order had been issued (see paragraph 21 above), it sent copies of it to two police departments in Sofia: the one in charge of the area where both Mr V. and Mrs V. had their permanent and current addresses, and also the one in charge of the area comprising the address mentioned as that of Mr V. in Mrs V.'s statement of claim.

25. The court's letter was received by the latter police department on 2 March 2017. On an unspecified later date an officer from the department found Mr V.'s mobile telephone number and called him. Mr V. told her that he did not live there. The officer and another officer nevertheless visited the address and, having inspected the building and spoken to the concierge, confirmed that indeed no one lived in the flat. Accordingly, on 17 March 2017 the police department sent the interim protection order back to the Sofia District Court.

26. The other police department, that in charge of the area where both Mr V. and Mrs V. had their permanent and current addresses in Sofia, received the interim protection order on 27 February 2017. They put it on file but did not take any steps to contact either Mr V. or Mrs V. The ensuing internal investigation (see paragraphs 42-43 below) found that this omission had been contrary to point 20 of the operational guidance on police work under the Protection Against Domestic Violence Act 2005 (see paragraph 55 below).

27. It appears that the final protection order was not sent to the Sofia police. The ensuing internal investigation (see paragraphs 42-43 below) recorded that according to information obtained from the Sofia District Court that had not been done because the court's decision to issue the order had been appealed against before the Sofia City Court.

D. Incident on 17 August 2017

1. Emergency call

28. At 5.49 p.m. Mrs V. called the national emergency number 112 from her mobile telephone. The call lasted three minutes and fifty-four seconds. She told the call handler that Mr V. was acting in breach of the terms of the protection order against him. At first she said that he was driving behind her car, but then, when the call handler prompted her to elaborate, she stated that she could no longer see Mr V. In response to that information, the call handler

told Mrs V. that she should lodge a written complaint with the territorially competent Sofia police department, and that since Mr V. was no longer nearby, it was pointless to dispatch a police patrol to the scene. He added that if Mr V. did anything further to breach the terms of the protection order, Mrs V. should call the emergency number again.

29. The territorially competent police department in Sofia was apparently not informed of the emergency call.

2. Written complaint to the police

30. As instructed by the call handler, just before 7 p.m. on 17 August 2017 Mrs V. went to the police department and lodged a written complaint about the incident. She stated that when driving home after leaving work at 5 p.m., she had seen Mr V. following her in his car, in breach of the final protection order against him (Mrs V. cited the number of the case in which the order had been issued, the order's date, the formation of the Sofia District Court which had issued the order, and the order's terms). Out of fear, she had called a friend and had gone to see her, and when she had parked her car to pick up her friend Mr V. had parked his car one car down from hers and had got out of the vehicle and come to about ten metres from her, in breach of the terms of the protection order against him (see paragraph 22 above). Mrs V.'s friend had then got into her car with her and when they had driven away, Mr V. had kept on driving behind them. The friend had then called the emergency number 112 and Mrs V. had spoken with the operator. After that they had lost Mr V. from sight and had gone directly to the police station. Mrs V. asked the police to take preventive measures before Mr V. did "something fatal" to her.

31. In a deposition made at about the same time, Mrs V.'s friend confirmed the story, adding that Mr V. had been wearing a baseball cap and dark glasses, in an apparent attempt to conceal his identity, and that when he had seen them driving away after the short stop, he had feverishly tried to find something in his car.

32. The duty officer registered the written complaint and reported it to the duty inspector. The inspector checked whether any protection orders were on file with respect to Mrs V. and, having established that this was the case, the following morning reported to the department's deputy head. She assigned the case to another inspector, who in turn assigned it to yet another inspector and gave him twenty days to report back. Apparently no further steps were taken on 18 August 2017.

33. The ensuing internal investigation (see paragraphs 42-43 below) noted that even though Mrs V.'s complaint had contained enough information to give rise to a reasonable suspicion that Mr V. had wilfully disregarded the terms of a protection order contrary to Article 296 § 1 of the Criminal Code (see paragraph 53 below), the duty inspector had, in breach of his duties, failed to take immediate steps to ensure Mr V.'s arrest. He deserved to be reprimanded for that.

3. Written complaint to the prosecuting authorities

34. Just before 12 noon the next day, 18 August 2017, Mrs V., accompanied by her friend, lodged a nearly identical complaint with the Sofia district prosecutor's office, specifying that Mr V. owned a handgun and that she feared for her life. The friend made a deposition in which she confirmed those points.

IV. MRS V.'S SHOOTING AND DEATH ON 18 AUGUST 2017

35. After coming out of the premises of the Sofia district prosecutor's office, at about 1.50 p.m. Mrs V. and her friend went to a coffee shop not far from where Mrs V. lived and sat on its terrace. Shortly before 3 p.m. Mr V., who had apparently spotted them, came up to them and asked Mrs V. whether they could talk about their children. She refused and warned him that she would call the police if he did not go away. He walked away, went back to his car, and parked it close to the coffee shop. He then got out of the car, wearing a handgun on his belt (for which he had had a firearms licence through one of his companies in 1998-2006), and again approached Mrs V. She repeated that she would call the police and started dialling the emergency number 112 on her mobile telephone, whereupon Mr V. shouted that she had ruined his life, pulled the handgun from under his T-shirt and shot her five times in the head and torso. Mrs V. died on the spot. Immediately after that Mr V. went to a police station to surrender.

V. CRIMINAL PROCEEDINGS AGAINST MR V.

36. At the police station, Mr V. was arrested. On 22 August 2017 the Sofia City Court placed him in pre-trial detention, noting, in particular, that the way in which he had shot Mrs V. and his unstable mental state suggested that he might commit further offences if not deprived of his liberty. On 29 August 2017 the Sofia Court of Appeal upheld that decision, agreeing with its reasoning.

37. In late 2017 Mr V. was tried for aggravated murder and the unlawful possession of a firearm. On 5 January 2018 the Sofia City Court convicted him of those offences and sentenced him to a term of imprisonment of thirteen years and four months, to be served under the "severe regime". It also ordered him to pay each of his daughters (the second and third applicants), who had brought civil-party claims against him, BGN 250,000 (EUR 127,822), plus interest, in respect of non-pecuniary damage (see *прис. № 1 от 05.01.2018 г. по н. о. х. д. № 5051/2017 г., СГС*).

38. The court noted, in particular, that a limited liability company run by Mr V. had been granted a firearms licence in 1998 (see paragraph 60 below), and that this licence had been renewed in 1999, 2000 and 2003 but had

expired in 2006, which meant that for the whole subsequent period Mr V.'s possession of his handgun had been unlawful.

39. The court went on to say that it found credible the evidence of Mrs V.'s friend about the earlier threats against her, and that Mrs V.'s complaints to the police and the prosecuting authorities and the protection order issued in her favour were all evidence that she had had serious grounds to fear Mr V. When determining Mr V.'s sentence, the court took the harassment to which he had subjected Mrs V. during the months before her murder and his death threats against her as an aggravating factor.

40. The first applicant, acting on behalf of the second and third applicants, appealed against the sentence, asking the Sofia Court of Appeal to increase it to life imprisonment. She argued, among other things, that the lower court had not sufficiently taken Mr V.'s prior conduct into account. In May 2018 the Sofia Court of Appeal upheld the lower court's judgment in full (see *реш. № 190 от 10.05.2018 г. по в. н. о. х. д. № 240/2018 г., САС*). It held, among other things, that when fixing Mr V.'s sentence the lower court had correctly assessed the harassment to which he had subjected Mrs V. during the months before her murder and his death threats against her as an aggravating factor.

41. Mr V. appealed on points of law, challenging only the decision in relation to his initial prison regime. In October 2018 the Supreme Court of Cassation held, chiefly on the basis of Mr V.'s poor state of health (he was by then suffering from advanced-stage prostate cancer) and the low risk that he presented, that he was to begin serving his sentence under the "general regime", which was more lenient. The court upheld the lower courts' judgments in all other respects, save for the legal characterisation of one of the aggravating elements – relating to the nature of the murder weapon – of the offence (see *реш. № 205 от 19.10.2018 г. по н. д. № 778/2018 г., ВКС, II н. о.*).

VI. INTERNAL INVESTIGATION BY THE POLICE

42. On 25 August 2017 the police opened an internal investigation to assess whether the operating procedures in domestic-violence cases had been properly followed in Mrs V.'s case. The investigation was conducted by four inspectors. They took written statements from a number of officers involved in handling Mrs V.'s complaints and the protection orders in her favour, and obtained various other materials.

43. The investigation report was completed about seven weeks later, on 5 October 2017, and ran to twenty pages. It described in detail all the steps taken by the police in Mrs V.'s case and made various recommendations, including for disciplinary action (see paragraphs 12, 19, 26-27 and 33 above). It appears that ten officers were given disciplinary punishments on the basis of the report's findings. Three of them were punished with a reprimand (the

third harshest punishment available by statute) for a period of six months. There is no information about the punishments given to the other seven officers.

RELEVANT LEGAL FRAMEWORK

I. BULGARIAN DOMESTIC LAW

A. Protection Against Domestic Violence Act 2005

44. Protection from domestic violence in Bulgaria is chiefly governed by the Protection Against Domestic Violence Act 2005, in force since March 2005 and amended several times after that: in December 2009, December 2010, July 2015, and March and December 2019.

45. Section 2 of the Act, as amended in December 2009, defines "domestic violence" as "any act of physical, sexual, psychological, emotional or economic violence, as well as any attempt [to carry out] such violence, [or] coerced restrictions on the private life, personal liberty or personal rights of people who are in kinship or are or have been in a family relationship or been *de facto* spouses".

46. The Act provides for two avenues of redress with respect to domestic violence: (a) protection-order proceedings before the district courts (see paragraphs 47-55 below), and (b) a request to the police (see paragraphs 56-58 below) (section 4(1) and (2)).

1. Protection-order proceedings

(a) Manner in which the proceedings take place before the courts

47. In cases of domestic violence the victim may seek a protection order (sections 4(1) and 8(1)). He or she must lodge the application within one month of the act(s) said to amount to such violence (section 10(1)). The application must be heard no more than a month after its receipt by the court (sections 12(1) and 18(4)). The proceedings take place at first instance before the district courts, and on appeal before the regional courts, whose decisions are final (sections 7 and 17(1) and (6)). The appeal has no suspensive effect (section 17(3)).

48. By section 5(1) and (2), as amended in December 2009, a court to which an application for protection against domestic violence is made may: (a) order the perpetrator to refrain from domestic violence; (b) remove the perpetrator from the family home for a period of time (up to eighteen months); (c) bar the perpetrator from approaching the victim, his or her home, workplace, social-gatherings and places of leisure, under certain conditions and for a period fixed by the court (up to eighteen months); (d) provisionally place the couple's children, if any, with the victim, under certain conditions and for a period fixed by the court (up to eighteen months), unless that goes

against the children's interest; (e) order the perpetrator to attend specialised programmes; and (f) direct the victim(s) to rehabilitation programmes. The court may opt for a combination of any of those measures (section 16(1)).

49. In addition, the court must fine the perpetrator between BGN 200 (EUR 102) and BGN 1,000 (EUR 511) (section 5(4)).

50. If the application contains indications of a direct and immediate risk to the victim's life or health, the court must issue, without prior notice to the perpetrator, an interim protection order. It must do so within twenty-four hours of receiving the application (section 18(1)). The interim order is not amenable to appeal and remains in effect for the duration of the main proceedings (section 19).

(b) Enforcement of interim and final protection orders by the police

51. A court which issues an interim or final protection order containing an injunction of the type mentioned in paragraph 48 (a), (b) or (c) above must send a copy of it to the police department(s) responsible for the area(s) where the perpetrator and the victim have their current address(es) (sections 16(3) and 18(2) of the Protection Against Domestic Violence Act 2005). That department is in charge of ensuring compliance with the order (section 21(1) of the Act, and regulation 6 of the 2010 regulations for the Act's application). If the perpetrator breaches the terms of the order, the officer who establishes the breach must arrest him or her and inform the prosecuting authorities immediately (section 21(3)). The police must act upon being notified by the victim or by anyone who has identified the breach. If their inquiries confirm the breach, they must take the steps required under the Code of Criminal Procedure (regulation 7 §§ 1 and 2). If the breach does not amount to an offence, the police must caution those concerned not to commit further breaches (regulation 7 § 3).

52. By regulation 4 § 3 (2) of the regulations for the application of the 2005 Act, the Ministry of Internal Affairs must keep information about the enforcement of injunctions of the type mentioned in paragraph 48 (a), (b) or (c) above, and by regulation 4 § 4 it must publish that information on its website. However, according to a November 2020 letter by the Ministry, which the Government enclosed with their observations, it did not keep comprehensive statistics about domestic-violence cases since it did not have an automated information system for doing so. According to the same letter, the police had received 2,440 protection orders in 2017, 2,981 in 2018, 3,240 in 2019, and 2,574 in 2020 (until the end of October) for enforcement. According to statistics presented by the applicants (which had been obtained by the Bulgarian Helsinki Committee from the Ministry of Internal Affairs by way of a request for access to public information), in 2020 the police had received a total of 3,057 protection orders for enforcement. The Ministry could not say how many of those had been interim orders and how many final ones. Nor did the Ministry have data about how many times the police had

informed the prosecuting authorities of breaches of such orders under section 21(3) of the 2005 Act.

53. Article 296 § 1 of the Criminal Code makes it an offence (wilfully) not to comply with a protection order (it also makes it an offence to obstruct the enforcement of a judicial decision). The penalty on conviction is up to three years' imprisonment or a fine of up to BGN 5,000 (EUR 2,556).

54. According to statistics presented by the applicants (which they based on the annual reports of the respective prosecutor's offices), the Sofia district prosecutor's office and the Sofia regional prosecutor's office had between them opened sixty-eight cases under Article 296 § 1 in 2017, 106 cases in 2018, and 124 cases in 2019. The Sofia regional prosecutor's office had brought before the courts two alleged offenders under that provision in 2017, ten in 2018 and eleven in 2019. There was no such information about the Sofia district prosecutor's office since it only provided more aggregated numbers. It was unclear how many of those cases had concerned alleged failures to comply with a protection order and how many concerned alleged obstructions of the enforcement of a judicial decision.

55. According to point 17 of the operational guidance on police work under the Protection Against Domestic Violence Act 2005 issued by the Minister for Internal Affairs in April 2012 (see paragraph 57 below), the officers in charge of the area where the perpetrator lives must ensure that he or she complies with an interim or final protection order which enjoins the perpetrator to refrain from domestic violence or bars him or her from approaching the victim, his or her home, workplace, social-gatherings and places of leisure (see paragraph 48 (a) and (c) above). The officer tasked with enforcing the order must, within three days of receiving it, among other things (a) talk to both the victim and the perpetrator, (b) advise the perpetrator that he or she must comply with the measures ordered by the court, and (c) warn him or her that failure to do so may result in arrest and charges under Article 296 § 1 of the Criminal Code (point 20). Any officer who establishes that the terms of a protection order have been breached must arrest the perpetrator under section 21(3) of the 2005 Act (see paragraph 51 above) and immediately inform the prosecuting authorities (point 23).

2. Police protection

56. Section 4(2) of the 2005 Act, as amended in December 2009, provides that if indications exist that the victim's life or health are at risk, he or she may, as well as applying for a protection order, also ask the police to take measures under the Ministry of Internal Affairs Act 2014. Such measures may include entering and inspecting premises with a view to, among other things, providing immediate assistance to people whose life, health or personal liberty are at risk (section 83(1)(3) of the 2014 Act). The earlier versions of section 4(2) of the 2005 Act referred specifically to that type of measure.

57. In April 2012 the Minister for Internal Affairs issued operational guidance (*методически указания*) on police work under the Protection Against Domestic Violence Act 2005.

58. By point 4 of that guidance, a duty officer who gets a report about a domestic-violence incident must, among other things, (a) immediately gather information about the people involved in the incident, its nature, and the possibility that the alleged perpetrator has a firearm and is likely to use it; (b) if possible, dispatch two officers to check the report, and, while they are on their way to the scene, check for previous incidents involving the same people, and the existence of any protection orders or any firearms licences issued to the alleged perpetrator, and convey all that information to the two frontline officers; and (c) remain in constant contact with the alleged victim (or the person who made the report, as the case may be) and advise him or her about any security steps to be taken in the meantime. Even if the officers dispatched to the scene are told that no police intervention is required, they must still visit the scene and report in writing about their visit (point 4.5). They must, if necessary, arrest the alleged perpetrator, arrange for immediate investigation steps, take a statement from the alleged victim, and inform him or her of his or her rights to bring criminal charges or obtain protection (points 5.3, 5.4, 6, 7 and 8.1). They must also advise the alleged victim of the possibility, in the event of a risk to life or health, to request protection from the police (in addition to the possibilities to seek a protection order or complain to the prosecuting authorities – see paragraph 56 above) (point 8.3). They must also track down the alleged perpetrator if he or she is no longer at the scene, take a statement and caution him or her that he or she has broken the law and may bear liability for that (points 13 and 14). The officers must also take statements from any witnesses (point 15).

B. Other potential avenues of protection from domestic violence

59. Article 67 § 1 of the Code of Criminal Procedure provides that a first-instance court dealing with a criminal case may, at the request of the public prosecutor or the victim, bar the accused from (a) coming near the victim; (b) contacting the victim in any way, including by telephone, post, email or fax; or (c) go to inhabited areas, regions or places where the victim resides or which the victim visits. The court must hear the application in public in the presence of the public prosecutor and the parties, and rule by means of a final decision (Article 67 § 3). The prohibition remains in place until the end of the proceedings (Article 67 § 4).

C. Firearms control legislation

60. By section 50(3) of the Firearms, Ammunitions, Explosives and Pyrotechnical Products Act 2010 (which is similar to the provision it

superseded, section 14(1) of the Control Over Explosives, Firearms and Ammunitions Act 1998), both legal persons and individuals may acquire firearms. The same provision makes that acquisition subject to a licence issued by the competent police authority.

61. By section 58(1)(8) of the 2010 Act, such a licence cannot be issued to a person who has been the target of a protection order (see paragraphs 47-50 above) during the previous three years. This has been interpreted to mean both an interim and a final protection order (see *реш. № 2036 от 12.02.2013 г. по адм. д. № 15135/2012 г., ВАС, VII о.*; *реш. № 613 от 17.01.2014 г. по адм. д. № 7770/2013 г., ВАС, VII о.*; and *реш. № 1173 от 04.02.2016 г. по адм. д. № 14670/2015 г., ВАС, VII о.*). If such an order is issued after the firearms licence has been granted, the authority which has issued the licence must withdraw it (section 155(1)), which also entails the immediate seizure of the firearms (section 213(1)).

62. The competent departments of the Ministry of Internal Affairs are in charge of ensuring compliance with the requirements of the 2010 Act (sections 152-54 of the Act, and Regulations No. Iz-2205 of 26 October 2012 on the manner of controlling activities involving firearms, ammunitions, explosives and pyrotechnical devices). They may, in particular, seize firearms (section 153(6)), and are required to do so when the relevant licence has not been renewed and the licence-holder has not surrendered the firearms (section 213a(1) of the 2010 Act).

63. Being in possession of a firearm without the requisite licence is a criminal offence punishable with imprisonment ranging from two to eight years (Article 339 § 1 of the Criminal Code).

D. Criminal offences

1. Making threats

64. Article 144 § 1 of the Criminal Code makes it an offence to threaten someone with an offence against his or her person or property, or against the persons or property of relatives, provided the threat is capable of causing a well-founded fear of its realisation. If the threat is a death threat, the offence is aggravated (Article 144 § 3). Making threats is a privately prosecutable offence, but not when the threats are death threats; they are then publicly prosecutable (Article 161 § 1).

65. By Article 144 § 3 of the Code, as amended in February 2019, the offence becomes aggravated also if committed "in conditions of domestic violence". By Article 161 § 1, as amended also in February 2019, in that case the offence is publicly prosecutable.

66. Article 93 § 31 of the Code, also added in February 2019, defines an offence committed "in conditions of domestic violence" as an offence preceded by systemic physical, sexual or psychological violence; by placing in economic dependency; or by coerced restrictions on the private life,

personal liberty or personal rights of, *inter alios*, an (ex-)spouse or a *de facto* (ex-)spouse.

67. The February 2019 amendments were part of an overhaul of the Criminal Code intended, according to the explanatory notes drawn up by the members of parliament who introduced the amendments in October 2018, to strengthen current and provide new tools in the fight against domestic violence and violence against women.

2. Stalking

68. Article 144a § 1 of the Criminal Code, added in February 2019 as part of the same legislative package (see paragraphs 65-67 above), makes it an offence systematically to follow someone and thus to arouse in him or her a well-founded fear for his or her own or his or her relatives' life or health. Article 144a § 2 provides that "following" within the meaning of the first paragraph includes any conduct of a threatening character against a specific individual, which may consist in chasing that individual, making him or her aware that he or she is under surveillance, or making unwanted contact with him or her. By Article 161 § 2, as amended in February 2019, the offence is publicly prosecutable, but only on the basis of a complaint by the victim to the prosecuting authorities.

69. By Article 144a § 3, the offence becomes aggravated if committed "in conditions of domestic violence" (see paragraph 66 above).

II. ISTANBUL CONVENTION

70. The relevant provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence ("the Istanbul Convention" – 3010 UNTS 107; CETS 210) were set out in *Kurt v. Austria* ([GC], no. 62903/15, §§ 76-86, 15 June 2021).

71. Bulgaria signed that Convention on 21 April 2016. In January 2018 its government proposed that its Parliament ratify it, but, following a heated public controversy about some of the provisions of that Convention relating to the terms "sex" and "gender", in February 2018 a group of members of parliament asked the Constitutional Court to determine whether that Convention was compatible with the Constitution, in a preliminary-consultation procedure provided for by Article 149 § 1 (4) of the Constitution. As a result, in March 2018 the government withdrew the ratification bill.

72. It its judgment, delivered in July 2018 (*реш. № 13 от 27.07.2018 г. по к. д. № 3/2018 г., КС, обн., ДВ, бр. 65/2018 г.*), the Constitutional Court held, by eight votes to four, that the Istanbul Convention was incompatible with the Bulgarian Constitution.

73. The court began by noting that the Istanbul Convention's aims were fully in line with the fundamental constitutional principles of Bulgaria:

humanism, equality, justice, tolerance, respect for human rights, dignity and security. It went on to say that Bulgaria's aspiration to protect all victims of violence, including women and children, to eliminate all forms of discrimination, and to ensure equality was demonstrated by various pieces of legislation: the Criminal Code, the Protection Against Domestic Violence Act 2005 (see paragraphs 44-46 above), the Protection of Children Act 2000, the Equality of Men and Women Act 2016, and the Protection Against Discrimination Act 2003. However, the internal ambiguity of that Convention, in particular Article 3 (c) and Article 4 § 3 (which were key parts of it), with respect to the definition of the terms "gender" and "gender identity", and the apparently distinct meaning which that Convention assigned to the terms "gender" and "sex", meant that it went beyond its stated aim of protecting women against violence, and that it was incompatible with the Constitution, which, as was clear from many of its provisions, was based on the idea that humans could only be male or female. That Convention distinguished between "sex" and "gender", and thus paved the way for the introduction of the notions of "gender" and "gender identity" in the Bulgarian legal system. That ran counter to the Constitution, and to the fundamental rule-of-law requirement that legal notions should not be ambiguous. It was not possible to surmount the problem by making a reservation since that Convention did not permit reservations in relation to the provisions at issue.

74. In a resolution of 28 November 2019 (P9_TA(2019)0080), the European Parliament called on Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania, Slovakia and the United Kingdom to ratify the Istanbul Convention "without delay" (point 2).

RELEVANT REPORTS

75. In its Concluding Observations on the eighth periodic report of Bulgaria (CEDAW/C/BGR/CO/8), published on 10 March 2020, the United Nations Committee on the Elimination of Discrimination against Women ("the CEDAW")[1] stated, among other things:

> "11. The Committee is concerned that women and girls in the State party, in particular those facing intersecting forms of discrimination, have limited access to justice owing to pervasive corruption, social stigma, the inaccessibility of the judicial system, gender bias among law enforcement officers, including the police, the priority given to mediation and reconciliation procedures in cases involving gender-based violence against women, women's limited awareness of their rights and limited knowledge among judges and law enforcement officials of the Convention, the Optional Protocol thereto and the Committee's general recommendations.
>
> ...

[1] Bulgaria signed the 1979 Convention on the Elimination of All Forms of Discrimination against Women (1249 UNTS 13) in 1980 and ratified it in 1982. It signed the 1999 Optional Protocol to that Convention (2131 UNTS 83) in 2000 and ratified it in 2006.

23. ... The Committee also remains concerned by:

...

(f) The lack of awareness about and training on gender-based violence against women and girls among judges, prosecutors, police officers and medical personnel that would enable them to respond effectively to such cases in a gender-sensitive manner;

(g) The absence of comprehensive data on gender-based violence against women and girls, disaggregated by age and relationship between the victim and the perpetrator, including on the number of complaints, prosecutions and convictions, the sanctions imposed against the perpetrators and the remedies provided to victims;

...

24. Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee calls upon the State party:

...

(g) To introduce systematic capacity-building for judges, prosecutors, the police and other law enforcement officers on the strict application of criminal law provisions on gender-based violence against women and on gender-sensitive investigative procedures, as well as systematic training for medical personnel on gender-sensitive treatment of victims;

...

(i) To create a database and systematically collect statistical data on all forms of gender-based violence, including domestic and sexual violence, disaggregated by sex, age, disability, nationality and the relationship between the victim and the perpetrator."

76. In her report concerning her visit to Bulgaria in October 2019 (A/HRC/44/52/Add.1), published on 19 May 2020, the United Nations Special Rapporteur on violence against women, its causes and consequences, stated, among other things (footnotes omitted):

"22. Additionally, under [section] 5(1)(5) [of the Protection Against Domestic Violence Act 2005 – see paragraphs 44 and 48 (e) above], perpetrators of domestic violence may be ordered by the courts to attend specialized programmes for rehabilitation and anger and aggression management. Such orders are mandatory, according to [A]rticle 296 of the Criminal Code, however compliance with such orders has not been enforced and cases of non-conformity are not regularly prosecuted.

...

48. The Special Rapporteur notes that Bulgaria lacks a mechanism for the systematic collection of statistical data or analysis of data and cases related to violence against women, femicide or gender-related killing of women and girls. As a result, the real dimensions and specifics of the problems and issues cannot be easily identified. The Office of the Prosecutor collects data on the number of protection orders issued and, in cases of homicide, data are disaggregated on the basis of sex and the relationship between the perpetrator and the victim. Indirect information on the dimensions of domestic violence cases can be derived from the statistics provided by the regional courts on the number of restraining orders issued in domestic violence cases. According to those data, the number of victims of domestic violence who have sought protection and have received restraining orders from the courts has been consistently increasing in

the last five years, with 2,398 orders issued from January to 30 September 2019. The Special Rapporteur was informed that the higher number of protection orders issued in the past year was partially due to an increased awareness of women's rights, but it also shed light on the widespread and systematic nature of this violation.

...

68. For purposes of training and awareness, the Government should:

(a) Provide mandatory training to law enforcement officers and members of the judiciary, including judges and prosecutors, on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the general recommendations of the Committee on the Elimination of Discrimination against Women and the Committee's jurisprudence on violence against women and interpreting national legal provisions in the light of that jurisprudence;

(b) Strengthen efforts to combat discriminatory gender stereotypes among law enforcement officials dealing with domestic violence;

(c) Conduct continuous training for law enforcement officials on gender equality and determination and assessment of cases of violence against women."

77. In her report concerning her visit to Bulgaria in November 2019 (CommDH(2020)8), published on 31 March 2020, the Commissioner for Human Rights of the Council of Europe stated, among other things (footnotes omitted):

"51. Bulgaria lacks a mechanism for the systematic collection of data on violence against women and domestic violence, which makes it difficult to map the specificities of these phenomena. According to a survey carried out by the EU Fundamental Rights Agency (FRA) in 2014, 28% of women in Bulgaria have experienced physical or sexual violence since the age of 15 and 39% have experienced psychological violence perpetrated by current or former partners. Bulgaria's score for the domain of violence in the European Institute for Gender Equality (EIGE) Gender Equality Index 2017 indicated a higher incidence and severity, as well as lack of disclosure of violence against women, compared to the EU average. Data released by the authorities last year on 25 November, the International Day on the Elimination of Violence Against Women, revealed that some 30[,]000 reports of domestic violence were made to the emergency number 112 during 2019. NGOs have reported in this respect a worrying increase in the past three years of murders of women committed by spouses, partners and close relatives.

...

59. ... [The Commissioner] wishes to highlight, in addition, the importance of awareness-raising and training programmes for professionals involved in the prevention and combating of violence against women and domestic violence, notably for law enforcement authorities, the judiciary and other legal professionals. Despite the capacity-building programmes implemented so far, the Commissioner is concerned about the reports which indicate that prejudice and social tolerance of violence against women and domestic violence are, among other factors, at the root of a systemic failure to adequately protect victims and bring perpetrators to justice.

...

73. Promoting equality between women and men is a crucial tool in the prevention of violence against women and domestic violence. The Commissioner urges the

> authorities to fight sexist prejudices based on the idea of [the] inferiority of women or on stereotyped roles for women and men in society, which fuel misperceptions and social tolerance of violence against women and domestic violence and significantly hinder, at a systemic level, the authorities' capacity to adequately protect victims and ensure the accountability of perpetrators. She calls on the authorities to fight any discrimination against women in law enforcement and the judiciary and enhance capacity-building for all officials in the justice system to ensure a gender-sensitive approach to cases concerning violence against women and domestic violence. She draws attention to the Council of Europe Committee of Ministers Recommendation CM/Rec(2019)1 on preventing and combating sexism that provides detailed guidance on addressing sexism in different fields, including in access to justice.
>
> ...
>
> 76. The Commissioner recommends that the authorities systematically collect data on all forms of gender-based violence against women, including domestic violence, disaggregated by relevant factors, including sex, age and the relationship between the victim and the perpetrator, and ensure that accurate and accessible data are available on the number of cases reported, investigations, prosecutions, convictions and the sanctions imposed on the perpetrators, as well as on the remedies provided to victims."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

78. The applicants complained under Articles 2 and 13 of the Convention that the authorities had not effectively protected Mrs V.'s life and that there had been no effective remedy in that respect.

79. In view of the Court's case-law in this domain (see *Opuz v. Turkey*, no. 33401/02, § 205, ECHR 2009; *Branko Tomašić and Others v. Croatia*, no. 46598/06, §§ 70-74, 15 January 2009; and *Talpis v. Italy*, no. 41237/14, § 151, 2 March 2017), the complaint falls to be examined solely under Article 2 of the Convention, the relevant part of which provides:

> "1. Everyone's right to life shall be protected by law. ..."

A. The parties' submissions

1. The applicants

80. The applicants submitted that although Mrs V.'s complaints and her friend's statements had contained enough information to alert the authorities about the risk to Mrs V.'s life, the authorities had not investigated the matter in more depth, as had been their duty, not least because making death threats was a publicly prosecutable offence. Like any other victim of domestic violence, Mrs V. had been vulnerable. Yet the authorities had not taken her allegations seriously and had tried to minimise them. She had brought the protection-order proceedings precisely because she had feared for her life.

81. On the evening of 17 August 2017, the authorities had not tried to find Mr V. or investigate the alleged breach of the protection order against him.

Had they done so, they could probably have prevented Mrs V.'s murder, especially since there was nothing to suggest that Mr V. had been hiding. They had had eighteen hours to take such steps. Their failure to act had not been due to a lack of police manpower but rather to the low priority given to offences under Article 296 § 1 of the Criminal Code. Had the authorities investigated Mr V.'s earlier actions properly, they could have ascertained his intentions and acted to protect Mrs V.'s life. Their obligation to do so could not be balanced against other considerations.

2. The Government

82. The Government argued that the data available to the authorities before Mrs V.'s shooting could not reasonably have alerted them that Mr V. would kill her. The incidents in the previous years had been minor and had not involved violence against her. None of the reported earlier incidents had intimated a threat to Mrs V.'s life. Nor had there been anything to suggest that she had been particularly vulnerable or the victim of systemic abuse; the applicants' assertions on the point overstated her situation.

83. Moreover, when complaining about the earlier incidents, Mrs V. had not provided enough information to enable the authorities to appreciate the seriousness of the threat against her. For instance, she had not described the text messages Mr V. had sent her, or given enough detail about the couple's internal dynamics and his obsessive and jealous attitude. The information she had passed on to the authorities just before her killing had been corroborated by a single witness who was a close friend of hers and could not be seen as an objective observer of the relationship between the spouses. The authorities had thus not been in a position to take legal action against Mr V. consistently with their obligation to respect his presumption of innocence and his right to respect for his private and family life.

84. It appeared that Mrs V. had brought the protection-order proceedings to secure the successful outcome of possible divorce proceedings rather than to shield herself from any immediate threat. The court dealing with that case had duly examined all the materials that Mrs V. had put before it. At the time the authorities had been justified not to bring charges against Mr V.

85. The way in which the authorities had handled the information about the chase on 17 August 2017 had been adequate. The data available to them had not been indicative of a real risk to Mrs V.'s life, or capable of suggesting the ensuing rapid escalation of aggression on the part of Mr V. It appeared that his illness, coupled with his despair over his personal situation – of which the authorities had been completely unaware – had made his conduct highly volatile. The events and the verbal exchange immediately preceding the shooting had not hinted at the possibility of murder either.

86. Furthermore, the shooting had happened just a few hours after Mrs V. had made her most recent complaint. In view of the difficulties of policing a big city like Sofia and the absence of any history of violent behaviour by

Mr V., the authorities could not have been expected to act on that complaint within such a short time. The omissions noted by the ensuing internal investigation did not mean that Mr V.'s violent act could reasonably have been foreseen.

87. Lastly, the relevant legal framework presented no defects, since Bulgarian law expressly criminalised failure to comply with a protection order. Given how events had unfolded, it would have been impossible to prevent Mrs V.'s death even if stalking had been criminalised or the Istanbul Convention ratified.

B. The Court's assessment

1. Admissibility

88. The complaint is not manifestly ill-founded or inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) General principles

89. The positive obligation under Article 2 of the Convention to take preventive operational measures to protect someone whose life is at risk from violence by another individual was first articulated in *Osman v. the United Kingdom* (28 October 1998, §§ 115-16, *Reports of Judgments and Decisions* 1998-VIII). As held in that judgment, if the authorities know or ought to know of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party, they must take measures within the scope of their powers which, judged reasonably, might be expected to avoid that risk. The scope and content of that duty in the context of domestic violence were recently clarified in *Kurt v. Austria* ([GC], no. 62903/15, §§ 157-89, 15 June 2021). They can be summarised as follows (ibid., § 190):

(a) The authorities must respond immediately to allegations of domestic violence;

(b) When such allegations come to their attention, the authorities must check whether a real and immediate risk to the life of one or more identified victims of domestic violence exists by carrying out an autonomous, proactive and comprehensive risk assessment. They must take due account of the special context of domestic violence when evaluating the risk's reality and immediacy;

(c) If the risk assessment reveals that a real and immediate risk to life exists, the authorities must take preventive operational measures to avert that risk. Those measures must be adequate and proportionate to the assessed level of the risk.

(b) Application of those principles

(i) Timeframe for the assessment of the authorities' response

90. During the approximately nine months preceding Mrs V.'s killing, the Sofia police received one emergency call and three written complaints from her (see paragraphs 9, 14 and 30 above). They were also sent copies of the interim protection order issued in favour of Mrs V. by the Sofia District Court (see paragraphs 24-26 above). The day before she was killed, Mrs V. also called the national emergency number, but that call was not relayed to the Sofia police (see paragraph 28 above). In addition, about three hours before her killing Mrs V. lodged a complaint with the prosecuting authorities (see paragraph 34 above). During the early phase of that nine-month period, the Sofia police also received one emergency call from Mrs V.'s mother (the first applicant) (see paragraph 13 above). Since all four written complaints and the emergency call on the eve of the killing concerned arguable assertions of domestic violence against Mrs V., as defined in the domestic law of Bulgaria (see paragraph 45 above), the authorities' response to them must be assessed as from the point when she first contacted them about the matter on 14 November 2016 (see *Talpis*, cited above, § 111).

(ii) Whether the authorities responded immediately

91. The authorities only responded immediately on one of those occasions (see paragraph 97 below).

92. It is true that on 14 November 2016 the Sofia police did respond to Mrs V.'s complaint about her car's tyres being slashed quite quickly. But all they did on that occasion was to note down her allegations and direct her to make a written complaint (see paragraph 8 above). When she did so, they only sought to obtain further evidence in relation to the complaint more than a month later, and all they did in that respect was to write a letter to their colleagues in Yambol and then note down the response. Indeed, as recorded by the ensuing internal investigation, that was the only step they took throughout the entire two months during which they were handling the case (see paragraphs 9-10 and 12 above)

93. It then took the Sofia police nine days to interview Mr V. about the allegations that he had chased and threatened Mrs V. on 13 February 2017 and to caution him in that regard (see paragraphs 14 and 17 above).

94. It is true that the Sofia District Court issued an interim protection order in favour of Mrs V. one day after she brought protection-order proceedings against Mr V. (see paragraphs 20-21 above, compare *N.P. and N.I. v. Bulgaria* (dec.), no. 72226/11, § 82, 3 May 2016, and contrast *Bevacqua and S. v. Bulgaria*, no. 71127/01, §§ 70, 74 and 76, 12 June 2008, and *Kalucza v. Hungary*, no. 57693/10, § 64, 24 April 2012), and that a final protection order followed in due course (see paragraph 22 above). But it then took three days for that court to send copies of the interim protection order to the Sofia

police, and a further seven, respectively ten, days for those copies to arrive in the respective police departments (see paragraphs 24-26 above). More importantly, the Sofia police department competent to enforce the interim protection order simply put it on file, and took no steps with a view to ensuring that Mr V. would comply with it (see paragraph 26 above). As for the final protection order, it was apparently not even brought to the attention of the police (see paragraph 27 above).

95. Mrs V.'s emergency call, made on the day before her death, 17 August 2017, was not relayed to the police or acted upon at all (see paragraphs 28-29 above).

96. Mrs V.'s third written complaint, made about an hour after that emergency call, was not acted upon on the evening it was received or the following day, when she was killed by Mr V. (see paragraphs 30 and 32 above, and compare *Bljakaj and Others v. Croatia*, no. 74448/12, §§ 125-27, 18 September 2014). The nearly identical complaint Mrs V. lodged with the prosecuting authorities the following day, about two and a half hours before she was killed, was apparently not acted upon immediately either (see paragraph 34 above).

97. The only occasion on which the police did respond quickly by dispatching a patrol was when Mrs V.'s mother (the first applicant) called them in relation to her argument with Mr V. about whether he could take the couple's two daughters (the second and third applicants) out for a walk on 1 January 2017 (see paragraph 13 above).

(iii) Quality of the risk assessment carried out on each of those occasions

98. There is nothing to suggest that on any of the above-mentioned occasions the Sofia police attempted to analyse Mr V.'s conduct through the prism of what it could portend about his future course of action (compare *Opuz*, cited above, § 147). They did not carry out even basic documenting showing that they had conducted such a risk assessment (see *Kurt*, cited above, § 174). Nor do they seem to have informed Mrs V. of the outcome of any such assessment (ibid.). They appear to have been concerned solely with the question whether Mr V.'s acts ought to trigger a public prosecution against him, and appear to have handled Mrs V.'s complaints without in any way appreciating that her allegations with respect to Mr V. suggested that the case concerned the special context of domestic violence and its typical dynamics. Nor was such an assessment carried out when the police received the interim protection order in Mrs V.'s favour (see paragraph 26 above, and, *mutatis mutandis*, *Levchuk v. Ukraine*, no. 17496/19, §§ 80 and 86, 3 September 2020).

99. Even assuming, however, that some sort of risk assessment did take place, albeit informally, on each or at least some of the above-mentioned occasions, that assessment was not autonomous, proactive or comprehensive, as those requirements have been explained in *Kurt* (cited above, §§ 169-74).

100. Perhaps most importantly, the ensuing internal investigation found no contemporaneous evidence that following Mrs V.'s complaint on 14 November 2016 in which she mentioned that Mr V. had a handgun the Sofia police had checked whether he had been granted any firearms licences or – in the light the firearms licensing system operating in Bulgaria (see paragraph 60 above) – any companies associated with him had been granted such licences (see paragraph 12 above, and contrast *Kurt*, cited above, § 197). Nor did the police take any other steps to check whether he had a handgun, as specifically asserted by Mrs V. (see paragraph 9 above, and compare *Kontrová v. Slovakia*, no. 7510/04, § 53 *in fine*, 31 May 2007), and which subsequently turned out to be the case. Nor did they take any steps in that respect when they received the interim protection order against Mr V. in February 2017, even though according to their own operational guidance (see paragraphs 26 and 58 (a) above) this should have been done.

101. The ensuing internal investigation also noted that the police had not paid any attention to the death threats reported by Mrs V. on 14 November 2016 (see paragraph 12 above), whereas those, combined with the tyre-slashing incident, could have been seen as a clear red flag heralding future risk to her from the actions of Mr V. In the context of domestic violence, death threats should always be taken seriously and assessed as to their credibility (see *Kurt*, cited above, § 200).

102. The ensuing internal investigation furthermore noted that the police officer in charge of handling Mrs V.'s complaint of 13 February 2017 had not sought to obtain any further information apart from that contained in the written depositions of Mrs V. and her friend (see paragraph 19 above, and compare *Tkhelidze v. Georgia*, no. 33056/17, § 54, 8 July 2021).

103. None of those omissions was remedied by the prosecuting authorities. They appear to have taken their two successive decisions not to open criminal proceedings against Mr V. solely on the basis of the written reports by the police (see paragraphs 11 and 18 above, and contrast *Kurt*, cited above, § 201). Moreover, although the two decisions were taken by the same prosecutor's office a mere six days apart from each other, it does not appear that the prosecutors in charge of each of the two cases sought somehow to coordinate their work. In particular, there is nothing to indicate that they attempted to analyse whether the relatively rapid succession of incidents involving threatening behaviour by Mr V. towards Mrs V. suggested that she might be at risk from his future conduct – even though in his proposal to the prosecuting authorities that no charges be brought against Mr V. the police officer in charge of the second case did refer to the tyre-slashing incident under investigation in the first case (see paragraph 18 above).

104. As regards more specifically the emergency call on 17 August 2017, it is unclear why the call handler who took it assumed that no immediate response was necessary simply because Mr V. had apparently left the scene (see paragraph 28 above).

(iv) Whether the authorities knew or ought to have known that there was a real and immediate risk to the life of Ms. V.

105. Had the authorities carried out a proper risk assessment, in particular on 17 August 2017, it is likely they would have appreciated – based on the information available to them at that time – that Mr V., who was alleged to have access to a handgun and had been repeatedly displaying the signs of an angry, violent and obsessive attitude towards Mrs V., could pose a real and immediate risk to her life, as those notions are to be understood in the context of domestic violence (see *Kurt*, cited above, §§ 175-76, and compare *Tkhelidze*, cited above, § 53). After all, in February 2017 the Sofia District Court had found Mrs V.'s allegations about the incident on 13 February 2017 sufficiently credible to issue an interim protection order in her favour the day after she brought the protection-order proceedings (see paragraphs 20-21 above). Although that court did not explain the basis for its decision, it is significant that under Bulgarian law such an order may only be issued if indications exist of a direct and immediate risk to the victim's life or health (see paragraph 50 above). Perhaps more importantly, on 17 August 2017 Mrs V. credibly complained, by way of both a call to the national emergency number and of a written complaint lodged with the local police department, that Mr V. had breached the terms of the final protection order in her favour (see paragraphs 28 and 30-31 above). The authorities thus ought to have appreciated the reality and immediacy of the risk to Mrs V.'s life. The fact that they did not appears to have been at least in part due to the lack of specific training of the relevant officers. It does not seem that the ones who took charge of Mrs V.'s complaints had been specifically trained on the dynamics of domestic violence, as required under the Court's case-law (see *Kurt*, cited above, § 172).

(v) Whether the authorities took preventive measures which were adequate in the circumstances

106. The only operational measures taken to protect Mrs V. were the interim and final protection orders issued in her favour (see paragraphs 21-23 above). But those orders then remained without any tangible effect. The former was not acted upon in any way by the police department in charge of enforcing it, and the latter was apparently not even brought to the attention of the police (see paragraphs 25-27 above).

107. Had they properly assessed the risk to Mrs V.'s life, the Bulgarian authorities could, consistently with the powers they had, have taken various steps. They could, for instance have:

(a) attempted, by virtue of their powers under sections 153(6) and 213a(1) of the Firearms, Ammunitions, Explosives and Pyrotechnical Products Act 2010, to seize the handgun which Mr V. still possessed despite the expiry of the relevant firearms licence more than ten years previously, and charged

him under Article 339 § 1 of the Criminal Code with the unlawful possession of a firearm (see paragraphs 38 and 62-63 above, and compare *Opuz*, cited above, § 147, and *Kotilainen and Others v. Finland*, no. 62439/12, § 88, 17 September 2020). That step could have been taken as early as November 2016, when Mrs V. first alerted the police that Mr V. had a handgun (see paragraphs 9 and 12 above). It is at least plausible that if Mr V. had been deprived of that firearm, it would have been harder for him to inflict lethal injuries on Mrs V.;

(b) arrested Mr V. under section 21(3) of the Protection Against Domestic Violence Act 2005 for breaching the terms of the protection order against him and brought criminal charges against him in that regard under Article 296 § 1 of the Criminal Code (see paragraphs 33, 51, 53 and 55 *in fine* above), which would have been a plausible course of action on 17 and 18 August 2017;

(c) placed Mrs V. under some form of police protection under section 4(2) of the 2005 Act, especially in the light of her complaints on 17 and 18 August 2017 (see paragraph 56 above).

108. The Government did not specifically argue, or present evidence suggesting that in 2016-17 the Bulgarian authorities had refrained from taking any of those steps or any other measures out of concern to not infringe Mr V.'s rights under Articles 5, 6 or 8 of the Convention or under Article 1 of Protocol No. 1 (see *Kurt*, cited above, §§ 183-89), or owing to manpower or resource shortages. It should be noted in this connection that the ensuing internal investigation recommended that disciplinary action be taken against a number of officers for their failure to work diligently on Mrs V.'s case (see paragraph 43 above).

109. In the circumstances of this case, it is not for the Court to say what measures or combination of measures should have been taken by the Bulgarian authorities to protect Mrs V. from the risk posed by Mr V. to her life. It suffices to note that, as outlined above, the authorities ought to have known at the latest on 17 August 2017, after Mrs V.´s emergency call and her ensuing complaint to the police, that this risk was real and immediate, and that they failed to take any measures at their disposal which, judged reasonably, might have been expected to avoid that risk. Nor is there any evidence that the authorities sought to somehow coordinate their actions in that respect. For instance, it does not appear that the Sofia district prosecutor's office attempted immediately to contact the Sofia police when it received the complaint which Mrs V. lodged with it the morning before she was killed (see paragraph 34 above). A proper preventive response often requires coordination among multiple authorities (see *Kurt*, cited above, § 180).

110. In the light of the above conclusion – that the Bulgarian authorities had in their arsenal sufficient tools to take operational measures designed to counter the risk to Mrs V.'s life – it is superfluous to inquire whether the absence at the relevant time of provisions criminalising stalking, or of provisions making all threats uttered in the context of domestic violence an

aggravated and publicly prosecutable offence (see paragraphs 65-69 above, and compare *Bevacqua and S.*, § 82, and *Opuz*, § 145, both cited above), was also a factor in the authorities' failure to take such measures.

(vi) Conclusion

111. The above considerations lead to the conclusion that there has been a breach of Article 2 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

112. The applicants further complained under Article 14 of the Convention read in conjunction with Article 2 that the failure of the authorities to take effective measures with a view to averting the risk to Mrs V.'s life had not simply been an isolated occurrence, which could be explained by factors specific to her case, but had been due to her being a woman and to the authorities' general complacency towards violence against women.

113. Article 14 of the Convention provides:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. The parties' submissions

1. The applicants

114. The applicants submitted that the authorities had not taken steps to protect Mrs V.'s life owing to their general failure to evaluate and tackle properly domestic violence in Bulgaria.

115. Bulgarian law did not sufficiently protect against such violence. The prosecuting authorities did not keep statistics on such offences, or on the number of times the police had informed the prosecuting authorities about failures to comply with a protection order. The annual programme for preventing domestic violence for 2017 had only been adopted in early 2018. In 2018 the Constitutional Court had given a decision preventing the ratification of the Istanbul Convention. The 2019 amendments to the Criminal Code had been insufficient, in particular as regards preventive measures, and also because they had criminalised domestic violence only if it was systematic. The way in which those amendments had been debated by the legislature suggested that they were merely a façade. Several recent statements by international observers (see paragraphs 75-77 above) and the absence of proper law-enforcement statistics showed that gender-based violence and the manner in which the police and the judiciary responded to it remained a problem.

116. This had also been demonstrated by the failure of the court which had convicted Mr V. to take into account the domestic violence in which he had engaged, his threats against Mrs V., and his having breached the terms of the protection order, and more generally the failure to obtain evidence about the discriminatory motives for his conduct and to explore sufficiently that aspect of the case. The characterisation of Mr V.'s earlier threats as a privately prosecutable offence rather than as publicly prosecutable death threats was further evidence of the authorities' complacence towards the abuse of wives by their husbands. The prison regime fixed for Mr V. by the Supreme Court of Cassation also showed that the courts did not see domestic violence as particularly dangerous. So did the earlier inaction of the authorities in the face of Mrs V.'s complaints, which revealed their insufficient commitment to combat domestic violence and their discriminatory attitude towards its victims.

2. The Government

117. The Government invited the Court to not deal with the complaint.

118. They alternatively submitted that the facts did not disclose any discrimination based on gender. They maintained, with reference in particular to several recent initiatives and projects, that the authorities had made serious efforts to enhance the mechanisms for preventing, investigating, prosecuting and punishing gender-based violence and for supporting its victims. The rules in place before Mrs V.'s murder had also been adequate in that respect. Keeping proper statistics on such violence was admittedly an issue, but this was a problem in other countries as well, and involved considerable challenges. The statistical data produced by the applicants were questionable, and did not show that men in relevantly similar situations were being treated more favourably, or that the laws protecting women from violence were not being properly applied. There were also reasons to suspect that domestic violence against men was underestimated in Bulgaria.

119. The situation at hand was a far cry from that in the cases against Turkey, Lithuania, the Republic of Moldova and Italy in which the Court had found a culture of impunity and official tolerance of violence against women. Even if traces of such a culture did still exist in Bulgaria, it concerned marginalised social groups rather than the one to which Mrs V., a well-educated and independent woman, had belonged. The refusals to open criminal proceedings in response to her complaints about the earlier incidents did not disclose a discriminatory attitude. It was also noteworthy that Mr V. had not attempted to approach her between the issuing of the interim and then the final protection orders against him and the incident on 17 August 2017. The shortcomings recorded by the ensuing internal investigation had not been on a scale suggesting official tolerance enabling Mr V.'s act. The authorities had also subsequently punished him in a fitting manner.

B. The Court's assessment

1. Whether a separate examination of the complaint is necessary

120. This complaint and the one under Article 2 of the Convention taken alone are distinct. It is true that each at its core has to do with the alleged failure of the authorities to take sufficient measures to protect Mrs V.'s life. But the present complaint is based on a broader allegation: that this failure was not an isolated occurrence but was due to the general complacency of the Bulgarian authorities in such cases. It is hence not absorbed by the complaint under Article 2 taken alone, and has to be examined separately (see, for a similar approach, *Opuz*, cited above, §§ 183-202; *Talpis*, cited above, §§ 140-49; and *Munteanu v. the Republic of Moldova*, no. 34168/11, §§ 76 and 80-83, 26 May 2020).

2. Admissibility

121. The complaint is not manifestly ill-founded or inadmissible on any other grounds. It must therefore be declared admissible.

3. Merits

(a) General principles

122. The relevant principles, first articulated in *Opuz* (cited above, §§ 184-91), have been comprehensively set out in *Volodina v. Russia* (no. 41261/17, §§ 109-14, 9 July 2019). They can be summarised as follows:

(a) A difference in the treatment of persons in analogous or relevantly similar situations is discriminatory if it has no objective and reasonable justification;

(b) A general policy which has disproportionately prejudicial effects on a given group may be discriminatory even if it is not specifically aimed at that group and there is no discriminatory intent. Discrimination may also result from a *de facto* situation;

(c) Violence against women, including domestic violence, is a form of discrimination against women. The State's failure to protect women from such violence, irrespective of whether it is intentional, breaches their right to equal protection of the law;

(d) A difference in treatment aimed at ensuring substantive equality between the sexes may be justified and even required;

(e) Once the applicant has shown a difference in treatment, it is for the respondent State to show that that difference was justified. If it is established that domestic violence affects women disproportionately, the burden shifts on to that State to show what remedial measures which it has taken to redress the disadvantage associated with sex;

(f) The kinds of prima facie evidence which can shift the burden of proof on to the respondent State in such cases are not predetermined and can vary.

Such evidence may come from reports by non-governmental organisations or international observers such as the CEDAW, or from statistical data from the authorities or academic institutions which show that (i) domestic violence affects mainly women, and that (ii) the general attitude of the authorities – manifested in, for example, the way in which the women are treated in police stations when they report domestic violence, or in judicial passivity in providing effective protection to women who are victims of it – has created a climate conducive to such violence; and

(g) If a large-scale structural bias is shown to exist, the applicant does not need to show that the victim was also a target of individual prejudice. If, by contrast, there is insufficient evidence of the discriminatory nature of the legislation or the official practices, or of their discriminatory effects, proven bias by officials dealing with the victim's case will be required to establish a discrimination claim. In the absence of such proof, the fact that not all sanctions or measures ordered or recommended in the victim's individual case have been complied with does not in itself disclose an appearance of discriminatory intent on the basis of sex.

(b) Application of those principles

123. It follows from the above principles that the first point for decision in relation to this complaint is whether in this case there is prima facie evidence of the type outlined in paragraph 122 (f) above.

124. It is hardly in doubt that domestic violence in Bulgaria affects predominantly women; this is so in all member States of the Council of Europe (see *Opuz*, § 132, and *Volodina*, § 71, both cited above). However, no evidence has been presented to suggest that the Bulgarian authorities seek to dissuade women who fall victim to such violence from complaining about it, or that the courts systematically delay the issuing of protection orders (contrast *Opuz*, cited above, §§ 195-96).

125. It is true that those authorities do not collect and keep comprehensive statistics about the manner in which the law-enforcement authorities handle domestic-violence cases (see paragraph 52 above). This is a serious omission, in relation to which the CEDAW, the United Nations Special Rapporteur on violence against women and the Commissioner for Human Rights of the Council of Europe have all expressed concern and formulated recommendations (see paragraphs 75-77 above).

126. In view of the lack of proper official statistics, the applicants cannot be expected to come up with such data themselves. They did nonetheless attempt to back their assertion with statistical data, but the statistics which they presented are not in themselves sufficient to corroborate their assertion. It is unclear how the data on the number of cases and prosecutions under Article 296 § 1 of the Bulgarian Criminal Code for Sofia and its region in 2017-19 (see paragraph 54 above) can establish the point. Moreover, that data only covers two regions in the country. Nor can an inference of general

passivity by the authorities be drawn from the data about the number of protection orders which the courts had sent to the police for enforcement in 2017-20 (see paragraph 52 above). Incomplete statistics cannot serve as a proper basis for the sweeping conclusion contended for by the applicants (compare *A. v. Croatia*, no. 55164/08, § 103, 14 October 2010).

127. In the absence of comprehensive statistics, it was however open to the applicants to attempt to substantiate their assertion that the Bulgarian authorities have remained generally complacent in such cases with other kinds of prima facie evidence. Such evidence can come in various forms (see paragraph 122 (f) above). However, although sensitive to the difficulties which can be encountered in such an endeavour, the Court is not persuaded that the evidence to which the applicants pointed is sufficient in that respect.

128. The three international reports on which they relied did urge the Bulgarian authorities to combat any discrimination against women in law enforcement and the judiciary, and expressed concern in that respect. But those reports did not in terms state that the police or other authorities were consistently downplaying or unwilling to deal with such cases, or cite concrete field data on the point (see paragraphs 75-77 above, compare *A. v. Croatia*, § 97, and contrast *Opuz*, §§ 94-97 and 99-104, both cited above). Such reports can carry evidentiary weight in proceedings before the Court only to the extent that they contain specific information about the primary facts under examination, or contextual facts which can serve as a basis for inferences about those primary facts (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 317, 28 November 2017).

129. Nor can it be said that – in contrast with the position in, for instance, Russia – at the relevant time Bulgarian law wholly failed to address the problem of domestic violence (contrast *Volodina*, cited above, §§ 128 and 132), or that, overall, it placed undue obstacles in the way of women who wished to complain of such violence (contrast *M.G. v. Turkey*, no. 646/10, § 117, 22 March 2016). As noted in paragraph 107 above, in the present case that law gave the authorities sufficient tools to take measures to protect Mrs V. It is not for the Court to examine here whether the amendments to Bulgaria's criminal legislation introduced about a year and a half after the events in issue in this case were phrased in a way which failed to provide sufficient protection to victims of domestic violence. According to the Court's case-law, in proceedings originating in an individual application its task is not to review domestic law in the abstract but to determine whether the way in which that law was applied to the applicant gave rise to a breach of the Convention (see, among many other authorities, *Golder v. the United Kingdom*, 21 February 1975, § 39 *in fine*, Series A no. 18; *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 116, ECHR 2012; and *Perinçek v. Switzerland* [GC], no. 27510/08, § 136, ECHR 2015 (extracts)).

130. As for the non-ratification of the Istanbul Convention, the Court is mindful of that Convention's importance for raising the standard in the field of protection of women from domestic violence and thus also for the realisation of *de iure* and *de facto* equality between women and men. The refusal to ratify the Istanbul Convention could thus be seen as lack of sufficient regard for the need to provide women with effective protection against domestic violence. The Court is however not prepared in this case to draw conclusions from Bulgaria's refusal to ratify that Convention in 2018. Firstly, that refusal took place about seven months after Mrs V.'s killing (see paragraph 71 above). Secondly, the refusal – as can be seen from the reasons for the July 2018 judgment of the Bulgarian Constitutional Court which dealt with the question whether that Convention was compatible with the Bulgarian Constitution (see paragraph 73 above) – was based on considerations which the Court finds unrelated to a reluctance to provide women with proper legal protection against domestic violence. It is in any event not for the Court, whose sole task under Article 19 of the Convention is to "ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto", and whose jurisdiction only extends, by Article 32 § 1, to "matters concerning the interpretation and application of the Convention and the Protocols thereto", to pronounce, directly or indirectly, on whether a Contracting State should ratify an international treaty, which is an eminently political decision (see paragraph 74 above, and compare, *mutatis mutandis*, *Perinçek*, cited above, §§ 101-02).

131. In the light of the foregoing, the Court is not persuaded that the applicants have succeeded in making a prima facie case of a general and discriminatory passivity on the part of the Bulgarian authorities with respect to domestic violence directed against women.

132. It must hence be ascertained whether there is any proof of anti-female bias by the State officials dealing specifically with Mrs V.'s case (see paragraph 122 (g) above).

133. There is no evidence that any of the police officers or other officials involved in handling Mrs V.'s complaints in relation to Mr V. attempted to dissuade her from pursuing remedies or from seeking protection against him, or that they otherwise sought to hamper her efforts in that respect or downplay the seriousness of the threat from Mr V. (compare *A. v. Croatia*, cited above, § 97, and contrast *Eremia v. the Republic of Moldova*, no. 3564/11, § 87, 28 May 2013, and *Munteanu*, cited above, § 81), or that they suggested that Mrs V. was herself at fault for the situation she was in (contrast *Bălşan v. Romania*, no. 49645/09, § 81, 23 May 2017, and *Munteanu*, cited above, § 81 *in fine*). On the contrary, the Sofia District Court took just one day to issue the interim protection order which Mrs V. was seeking, and then issued the final protection order against Mr V. in less than four months (see paragraphs 20-22 above). It is true that the Sofia police remained passive in

the face of Mrs V.'s repeated complaints about Mr V.'s threatening conduct, and in response to the interim protection order which they received. But that passivity, although reprehensible and in breach of Article 2 of the Convention (see paragraphs 91-111 above), cannot in itself be seen as disclosing a discriminatory attitude on the part of the authorities (see paragraph 122 (g) above).

134. Nor can it be said that the judicial response to Mrs V.'s killing demonstrated a lenient attitude towards domestic violence. It is true that no charges were brought against Mr V. with respect to his having breached the terms of the protection order in Mrs V.'s favour. He was, however, tried for aggravated murder and the unlawful possession of a firearm (see paragraph 37 above), and the Bulgarian courts dealt with the case against him quite quickly, taking in total about a year and two months to complete it (see paragraphs 36-41 above). They gave him an effective prison sentence of thirteen years and four months, which can hardly be seen as unduly lenient (contrast, *mutatis mutandis*, *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, § 63, 20 December 2007), and they took his conduct towards Mrs V. during the course of the months before her killing as an aggravating factor (see paragraphs 39-40 above). It is not for the Court to gainsay the weight which those courts ascribed to that factor in fixing Mr V.'s sentence. Nor is the Court prepared to draw any inferences from the decision of the Bulgarian Supreme Court of Cassation that Mr V. was to begin serving his sentence under a more lenient regime than that fixed by the lower courts (see paragraph 41 above).

135. The fact that the police carried out an internal investigation after Mrs V.'s death and that disciplinary action was then taken against officers found to have neglected their duties in her case (see paragraphs 42-43 above) likewise tends to suggest that the Bulgarian authorities did not look upon the matter with indifference – although fuller information about the punishments imposed on the relevant police officers would have shed more light on that point.

136. The above considerations, taken as a whole, lead to the conclusion that in the circumstances of the present case there has been no breach of Article 14 of the Convention read in conjunction with Article 2.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

137. 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. Damage

138. The applicants claimed 20,000 euros (EUR) each in respect of the non-pecuniary damage allegedly resulting from the breaches of Articles 2 and 14 of the Convention.

139. The Government stated that the claims were exorbitant, and invited the Court to make an award comparable to those in previous similar cases.

140. Having regard to the nature of the breach of Article 2 of the Convention and ruling on an equitable basis, as required under Article 41, the Court awards jointly to all three applicants EUR 24,000, plus any tax that may be chargeable, in respect of the anguish and frustration they must have suffered on account of the authorities' failure to discharge the obligation to protect the life of their daughter and mother, respectively.

B. Costs and expenses

141. The applicants sought reimbursement of EUR 5,900 incurred in fees for fifty-nine hours of work by their lawyer on the proceedings before the Court, at EUR 100 per hour, as well as of 25.20 Bulgarian levs spent by their lawyer on postage. They asked that any award under this head be made payable to the Bulgarian Helsinki Committee, where their lawyer worked. In support of the claim, they submitted two fee agreements between them and that Committee (the latter superseding the former), a time-sheet and postal receipts.

142. The Government contested the number of hours claimed as excessive. They went on to note that the postage paid in connection with the case had already been covered by the lawyer's fees charged to the applicants.

143. According to the Court's settled case-law, applicants are entitled to the reimbursement of their costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum.

144. In this case, it has not been argued that the rate charged by the applicants' lawyer for her work on the proceedings before the Court was excessive. It was the same as that charged and accepted as reasonable in two recent cases against Bulgaria (see *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, §§ 104 and 108, 16 February 2021, and *Behar and Gutman v. Bulgaria*, no. 29335/13, §§ 115 and 120, 16 February 2021). It can thus be seen as reasonable. By contrast, in the light of the degree of difficulty of the issues thrown up by the case, the number of hours claimed appears somewhat excessive. The applicants are hence to be awarded EUR 4,500, plus any tax that may be chargeable to them, in respect of lawyers' fees.

145. As regards the postage paid in connection with the proceedings before the Court, it is in principle recoverable under Article 41 of the Convention (see *Handzhiyski v. Bulgaria*, no. 10783/14, § 74, 6 April 2021,

with further references). Indeed, under the terms of the fee agreement between the applicants and the Bulgarian Helsinki Committee, they are liable to pay not only the fees for legal work on the case, but also to cover all postal expenses for corresponding with the Court. It follows that the claimed postage, which is equivalent to EUR 12.88, must be allowed in full. To this should be added any tax that may be chargeable to the applicants.

146. As requested by the applicants, both sums awarded under this head, which come to a total of EUR 4,512.88, plus any tax that may be chargeable to the applicants, are to be paid into the bank account of the Bulgarian Helsinki Committee, where their lawyer works.

C. Default interest

147. 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.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 2 of the Convention;

3. *Holds* that there has been no violation of Article 14 of the Convention read in conjunction with Article 2;

4. *Holds*
   (a) that the respondent State is to pay jointly to the three applicants, 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 24,000 (twenty-four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 4,512.88 (four thousand five hundred and twelve euros eighty-eight cents), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the bank account of the Bulgarian Helsinki Committee;
   (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;

5. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 22 March 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Deputy Registrar	Tim Eicke President