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Proving Domestic Violence as Gender Structural Discrimination before the European Court of Human Rights

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Abstract
Since Opuz v. Turkey (2009), the European Court of Human Rights (ECHR) delivered over a dozen judgments in which it examined domestic violence through the prism of gender-based discrimination. Apart from the individual circumstances of the cases, the Court considered the general approach to domestic violence in the defendant states, searching for a large-scale structural gender bias. Hence, although the Court has not directly referred to the notion of "structural discrimination" in relation to domestic violence, it engaged in unveiling this problem within the state parties. Building on the case law of the Court, the article presents and systemizes information that may prove structural gender discrimination in domestic violence cases. It navigates potential applicants through the Court's interpretation and indicates arguments and sources that may support their claims. In particular, it discusses what kind of data and information may demonstrate the general, discriminatory attitude of the authorities towards domestic violence and what sources the applicants may use while seeking the evidence.

Keywords Domestic violence · Gender-based discrimination · Structural discrimination · European Court of Human Rights · European Convention on Human Rights

1 Introduction

The European Court of Human Rights (ECHR) judgment in Opuz v. Turkey [1] has been groundbreaking for many reasons. Most notably, it marked the first instance in which the ECHR held that a state's failure to remedy domestic violence against women could constitute a violation of Article 14 of the European Convention on Human Rights, which addresses gender-based discrimination. Henceforth the ECHR delivered over a dozen judgments in which it examined domestic violence through the prism of gender-based discrimination. Apart from the individual circumstances of the cases, the ECHR considered the general approach to domestic violence in the

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defendant states, searching for a large-scale structural gender bias. Hence, although the Court has not directly referred to the notion of "structural discrimination" in relation to domestic violence, it engaged in unveiling this problem within the state parties. Although such an approach may be beneficial for applicants, it also poses challenges while proving the case. Taking into account that the number of domestic violence cases before ECHR is systematically growing, it is worth considering what elements should be established to support the claim.

Building on the case law of the ECHR, this article aims to present and systemize information that may prove structural gender discrimination in domestic violence cases. It intends to navigate potential applicants through the Court's interpretation and indicate arguments and sources that may support their claims. First, it analyses what kind of data should be presented to demonstrate that domestic violence affects mainly women. Second, it examines information that may show the general attitude of the authorities towards domestic violence. Third, it presents the sources that the applicants may use while seeking evidence. The last part of the article refers to additional factors that may support the applicants' claims. The research is based on a legal analysis of ECHR's judgments in domestic violence cases delivered from 2009 to 2023.

2 Domestic Violence as Structural Gender Discrimination Before the ECHR

The Court applied for the first time a non-discrimination lens to domestic violence in Opuz. Its reasoning in this case relied on the following factors. First of all, it considered the international standards that shaped the concept of violence against women as a form of gender-based discrimination such as the Convention on the Elimination of All Forms of Discrimination against Women (1979, CEDAW Convention). Second, it examined the general approach to domestic violence in Turkey. Third, it examined whether the victims had been discriminated against on account of the authorities' failure to provide equal protection of the law. It concluded that domestic violence affected mainly women and that the general and discriminatory judicial passivity in Turkey created a climate that was conducive to domestic violence and influenced the applicant's situation. The ECHR's reasoning greatly benefited from the Court's evolving perspective towards a substantive understanding of equality. This shift in approach was significantly influenced by previous cases related to racial segregation, particularly concerning Roma children in schools [2, p.886]. A notable example of this is the landmark case of D.H. and Others v. the Czech Republic [3].

The subsequent case law has continued to build on and expand this framework for adjudicating gender discrimination in domestic violence cases. Since Opuz v. Turkey, the ECHR delivered over a dozen judgments which examined the violation of Article 14, mostly in conjunction with Article 2 (right to life) or Article 3 (prohibition of torture) of the European Convention on Human Rights [4]. Its assessments were two-track and focused on the treatment experienced by victims on the one hand and the general attitude of the authorities towards domestic violence on the other. Hence, although the ECHR has not directly referred to the notion of "structural

discrimination" in relation to violence against women [5, p.4], it engaged in unveiling this problem within the state parties.

Structural discrimination, also referred to as "systemic" or "institutional" [6] (see e.g. the partly dissenting opinion of Judge Spano in Talpis v. Italy), occurs when the rules of a society's major institutions reliably produce disproportionately disadvantageous outcomes for the members of certain salient social groups and the production of such outcomes is unjust [7]. Thus structural discrimination is fed by and enforces the vulnerable position of an affected group. The ECHR has regularly acknowledged the particular vulnerability of the victims of domestic violence and the need for active state involvement in their protection [8, par. 57].

While in Opuz v. Turkey the Court laid down the interplay between proving structural and individual discrimination, its subsequent case law demonstrated inconsistencies in finding balance between assessing these two aspects. For instance, in Moldovian cases [9], the ECHR focused on examining whether the way they were tackled by domestic authorities amounted to gender discrimination. Thus, the emphasis was on the individual circumstances of the case, whereas the structural problems played a marginal role, and the Court treated them only as support in assessing whether victims were discriminated against. Hence, as observed by Mačkić, in some cases it was sufficient to show a general and discriminatory passivity by the judicial authorities in a Member State which created a climate that was conducive to discriminatory violence. In others, it was necessary to demonstrate that in the case in question the violence was repeatedly condoned by State officials and, furthermore, that there was a discriminatory attitude towards the victim as a member of a certain disadvantaged group [10, p. 80]. Such inconsistency could be confusing for the applicants and make them uncertain about what kind of argumentation and proof they should provide to the ECHR to demonstrate a violation of Article 14.

In Volodina v. Russia [11], the ECHR provided significant clarifications and relief for the applicants. The Court declared that "once a large-scale structural bias has been shown to exist, the applicant does not need to prove that she was also a victim of individual prejudice. If, however, there is insufficient evidence corroborating the discriminatory nature of legislation and practices or of their effects, proven bias on the part of any officials dealing with the victim's case will be required to establish a discrimination claim." [11, par. 114].

Thus, presenting convincing evidence of structural discrimination is advantageous for the applicants, as it can exempt them from the need to prove individual prejudice. Often, it is challenging to show that specific actions (or inactions) of domestic authorities were motivated by gender bias. Therefore, resorting to proving structural discrimination using publicly available data may be beneficial. If an applicant successfully demonstrates that domestic violence disproportionately affects women, the burden then shifts onto that state to show what kind of remedial measures the domestic authorities have deployed to redress the disadvantage associated with gender and to ensure that women can exercise human rights on an equal footing with men [11, par. 111]. The ECHR indicated that the kinds of *prima facie* evidence that can shift the burden of proof onto the respondent State in such cases are not predetermined and can vary [12, par. 122]. Therefore, it presented its flexibility and openness to the various data and sources. At the same time, it indicated that this

evidence should demonstrate that: 1) domestic violence affects mainly women; and (2) the general attitude of the authorities has created a climate conducive to such violence [12, par. 122].

3 Data Regarding Domestic Violence

It is widely acknowledged that domestic violence primarily affects women across all countries worldwide. This understanding forms the basis of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). The Istanbul Convention, in its preamble, explicitly recognizes that domestic violence affects women disproportionately. Cross-country research, including surveys like the EU-wide study conducted by the Fundamental Rights Agency (FRA) [13], reveals high incidences of women experiencing various forms of gender-based violence, including domestic violence. At first glance, it appears relatively straightforward for an applicant to provide evidence demonstrating that domestic violence predominantly affects women in a particular country. However, due to shortcomings in national data collection, providing the ECHR with convincing numbers may pose a serious challenge.

An analysis of the ECHR's case law yields two primary conclusions concerning the data that supports a victim's claim of structural discrimination. First of all, the ECHR considers a wide range of data and sources which may demonstrate that women prevail among victims of domestic violence. These data can include information collected at various stages of domestic proceedings. For example, sex-aggregated data on victims and perpetrators in cases of domestic violence registered by the prosecutor's office [14, par. 56], data related to the number of protection orders requested [8, par. 46] and/or issued by courts [15, par. 57], or even statistics concerning the number and gender of individuals calling hotlines for victims of domestic violence [15, par. 60]. The data can encompass nationwide statistics [16, par. 60] or be specific to regions, focusing on the location of the reported incidents [1, par. 194]. In cases where victims lose their lives due to domestic violence, the general statistics of women murdered by their relatives become a critical point of consideration [16, par. 107].

Second, the lack of official data is also important information. In Volodina v. Russia, the ECHR dismissed the government's argument that the applicant was somehow at fault for not submitting official data showing that female victims of domestic violence in Russia were discriminated against. The Court noted that the failure to collect adequate information was attributable to domestic authorities [11, par. 118]. Likewise, in Y. and Others v. Bulgaria, the ECHR confirmed that "in view of the lack of proper official statistics, the applicants cannot be expected to come up with such data themselves." [12, par. 126]. Nevertheless, the applicants are expected to provide any data that will underpin their claims. For instance, in Volodina v. Russia, due to a lack of direct criminalization of domestic violence and related statistics, the applicant presented sex-disaggregated police data related to "crimes committed within the family and household" which could be seen as constituting the closest approximation to statistics regarding domestic violence [11, par. 119]. In this case,

the ECHR also noted serious under-reporting and under-recording of domestic violence by the state [11, par. 122].

Two judgments in cases from Bulgaria demonstrate that an applicant is required to exert considerable effort to compensate for the absence of official data and although the ECHR is "sensitive to the difficulties which can be encountered in such an endeavour," [12, par. 127] its assessments are rather strict. In the case of Y and Others, the applicants' claim regarding the lack of official statistics was bolstered by relevant statements from international bodies. These included the Committee on the Elimination of Discrimination against Women (CEDAW), the United Nations Special Rapporteur on violence against women and girls, its causes and consequences, and the Commissioner for Human Rights of the Council of Europe [12, par. 75–77]. The applicant additionally provided a limited number of statistics related to cases under prosecution and the issuance of protection orders. The Court found these data to be too incomplete and unclear to make *prima facie* evidence of gender discrimination. In A.E. v. Bulgaria the very similar argument and statements of international bodies were complemented by reports by the Ombudsperson and by non-governmental organisations demonstrating various data such as numbers of protection orders issued by the courts to women in the context of domestic violence, the number of women killed by their partners, or the number of women who called hotlines [15, par. 56–60]. Moreover, the EU Gender Equality Index findings were presented to demonstrate that violence against women in Bulgaria was higher than the European Union average [15, par. 61]. In the ECHR's opinion, these data effectively compensated for the absence of official statistics. Contrary to the case of Y and Others, they were deemed sufficient to establish a *prima facie* case of gender discrimination [15, par. 119].

4 General Attitude of the Authorities

The ECHR stipulates that, in addition to presenting pertinent data on domestic violence, the applicant must also demonstrate that the general attitude of the authorities has created a climate conducive to such violence [12, par. 122]. In other words, the applicant is required to demonstrate the existence of a large-scale structural bias [12, par. 122]. This proof comprises two elements: an objective element, which involves providing quantitative data indicating a large-scale, structural problem, and a subjective element, which requires demonstrating that this problem stemmed from a biased attitude of the authorities. Presenting an objective element (quantitative data) may be problematic to an applicant if official statistics are missing (see section above). Nonetheless, the more challenging aspect appears to be convincingly indicating that biases underpin a structural problem. In this regard, the position of an applicant is similar to that of applicants in cases related to indirect racial discrimination. In the ECHR's interpretation, "indirect discrimination may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group" [3, par. 184] and does not necessarily require discriminatory intent [3, par. 184]. Although the ECHR does not use the term "indirect discrimination" in cases related to domestic violence, its reasoning

is very similar to this presented in cases where indirect discrimination was considered. For instance, in Tunikova and Others v. Russia, the ECHR reiterated that "a general policy or a de facto situation which has disproportionately prejudicial effects on a particular group may constitute discrimination against that group within the meaning of Article 14 of the Convention even where it does not specifically target that group and where no discriminatory intent has been established." [17, par. 127]. Since discrimination often comes from unconscious prejudice or bias, focus is on the effect of actions [18, p. 85]. Therefore, the task of an applicant is rather to demonstrate what effect a state's actions (or inactions) have had on women than to reveal the intent behind these actions.

The ECHR suggests that the general attitude of the authorities can be demonstrated through the discriminatory nature of legislation, official practices, or their discriminatory effects [12, par. 122]. As far as the legislation is concerned, it is usually in line with the ban on sex discrimination, since domestic laws such as criminal codes generally treat men and women equally. After all, most state parties have developed legal instruments and policies against domestic violence, albeit often imperfectly. Thus, it is primarily the implementation, rather than the law itself, that falls short. Against this background, the case of Volodina v. Russia presents the attitude of a state in which criminal-law provisions were insufficient to offer protection against violence and discrimination against women. In the Court's opinion, the continued failure to adopt legislation to combat domestic violence and the absence of any form of restraining or protection orders clearly demonstrated the authorities' reluctance to acknowledge the seriousness and extent of the problem of domestic violence in Russia and its discriminatory effect on women [11, par. 132]. Furthermore, the ECHR indicated that the absence of any form of legislation defining the phenomenon of domestic violence and dealing with it on a systemic level distinguished this case from the cases against other Member States in which such legislation had already been adopted but had malfunctioned for various reasons [11, par. 128].

These contested aspects are predominantly the official practices or their effects. The case of Opuz v. Turkey serves as a prime example of various state practices that were deemed discriminatory against women by the Court. This case also demonstrates how the public downplay of domestic violence and its victims often manifests throughout all stages of legal proceedings and in the actions of various state authorities, with the police and judiciary at the forefront. In Turkey, the police were found to be hesitant in both preventing and investigating domestic violence, including instances leading to the violent deaths of women. Reports from civil society indicated that women seeking help were frequently sent back, as police officers often viewed their role as mediators who encouraged women to return home and "make peace," rather than as investigators of their complaints. They considered domestic violence as a "family matter with which they cannot interfere" and even when the courts imposed injunctions on the aggressors, they frequently failed to implement them [1, par. 185, 196]. Furthermore, there were unreasonable delays in issuing injunctions by the courts. This resulted from the attitude of the courts in treating domestic violence complaints as a form of divorce action and thus treating them with a suspicion that women might be making such applications when they have not

suffered violence [1, par. 93]. The perpetrators of domestic violence did not seem to receive dissuasive punishments, because the courts mitigated sentences on the grounds of custom, tradition, or honor [1, par. 196].

Another example of discriminatory practice comes also from Turkey. Protective measures for victims of domestic violence, as outlined in its 1998 law, were not applicable to divorced women. The law was amended in 2007 to extend protection to family members, whether married, living separately, or having received a court decision for separation [19, p. 37]. Still, the protection for divorced women was left up to judicial discretion. Moreover, in 2009, the Court of Appeals established that these protection measures could not be extended to divorced women [19, p. 37]. As a consequence, authorities did not grant adequate protection to many women who faced violence from their ex-husbands, such as M.G. who made a complaint to the ECHR [20]. This practice, resulting from family-orientated governmental discourse and policy that prioritizes family life over women's rights [19, p. 37] was found to violate Article 14 in conjunction with Article 3 of the European Convention on Human Rights [20, p. 118].

In other cases, the discriminatory nature of the state practices has been not as straightforward as in the Turkish judgments and stems rather from the overall of state policy and the data behind it. For instance, in Bălșan v. Romania, the Court took into account various factors [8]. These were official statistics illustrating the general approach to domestic violence in Romania, and indicating that domestic violence was widely tolerated and perceived as normal by the majority. The data also revealed that a relatively small number of reported incidents led to criminal investigations, and that the availability of shelters for victims was severely limited [8, par. 83]. The ECHR also took into consideration that the government failed to submit any data on monitoring the impact of the law and practice on preventing and combating domestic violence or the national strategy for thereof. In the ECHR's opinion, the combination of the above factors demonstrated that the authorities did not fully appreciate the seriousness and extent of the problem of domestic violence in the state party [8, par. 84–85].

5 Evidence Sources

As indicated by the case law, a variety of sources can provide statistics and other information that prove a large-scale structural bias in addressing domestic violence. The ECHR has exemplified these sources, noting that they are not predetermined and can vary [12, par. 122]. In general, we may identify four types of sources depending on the kind of entity that the information comes from. These are information produced by state authorities, international bodies, non-governmental organizations, and academic institutions.

The ECHR does not establish any hierarchy of these sources. However, it seems reasonable that data established by the state authorities, if existing and available, were presented by an applicant at foremost. The case law reveals that applicants utilize data collected by various state authorities, including relevant ministries (e.g., of the family [16, par. 107], internal affairs [15, par. 118]), the police [8, par. 37], the

Ombudsman [14, par. 56], an equality body [8, par. 38], or a national statistics office [6, par. 145]. If official data is unavailable or fragmented, the ECHR encourages applicants to substantiate their claims with information provided by other sources.

Findings from international human rights bodies are particularly significant in evidencing domestic violence in a given country. This practice of the CEDAW has been instrumental in shaping the interpretation of the ECHR, as seen in Opuz v. Turkey and the subsequent case law [21, p. 982]. Therefore, utilizing this source appears to be an obvious choice. The monitoring body of the CEDAW Convention possesses a tool not available to the ECHR, namely, a periodic monitoring procedure of domestic law and practice, which includes considering reports from state parties. From 1992 onwards, when its groundbreaking General Recommendation No. 19 on violence against women was adopted [22], the CEDAW regularly presents its assessments and recommendations regarding counteracting domestic violence in the countries under review. These are included in the concluding observations, which are the final products of the process. Considering that the CEDAW Convention has been ratified almost globally, applicants from all countries of the Council of Europe have access to the CEDAW's concluding observations. As evidenced by the case law, the ECHR has extensively utilized this source and taken it into account in its deliberations [1, par. 192], [8, par. 83], [6, par. 145], [11, par. 131]. In some cases, applicants also referred to concluding observations of other UN human rights treaty bodies that addressed domestic violence, such as the Human Rights Committee [14, par. 39], the Committee against Torture, or the Committee on Economic, Social and Cultural Rights [11, par. 62–63].

Other international findings frequently considered by the ECHR originate from the UN Special Rapporteur on violence against women and girls, its causes and consequences [9, par. 89], [14, par. 55]. The rapporteur appointed by the UN Human Rights Council, active since 1994, holds a mandate to undertake country visits in all UN member states. The reports generated following these visits provide a crucial overview of systemic abuses and structural inequalities, set against the backdrop of patriarchy and gender discrimination [23, 142–160].

In addition to the UN, the outputs of the institutions of the Council of Europe prove highly useful. These primarily include reports of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the monitoring body of the Istanbul Convention which constitute extremely valuable sources. GREVIO concluded in 2023 the first round of evaluation of all current states-parties of the Istanbul Convention (so-called baseline evaluation that covers all provisions of the Convention). Its voluminous reports are based on the country visits and on-the-desk research that embraces many sources (the case law, academic productions, NGOs' reports, and media coverages). Should the defendant state be a party to the Istanbul Convention, GREVIO reports stand as particularly pertinent and influential sources of evidence. Thus far, they have been referenced in only a few cases before the ECHR [24, par. 63], [25, par. 64], a fact attributable to the relatively recent introduction of this instrument. Apart from the sources mentioned, other international documents have also been referenced in some cases, i.e., findings of the Commissioner for Human Rights of the Council of Europe [12, par. 125],

reports of the World Health Organization (WHO) [11, par. 121], and Gender Equality Index [15, par. 114].

Information generated by civil society can also provide essential support for discrimination claims. As practice has demonstrated, the ECHR places significant importance on the findings of non-governmental organizations and aligns them with other sources, including official data. Noteworthy, it considers reports of both international, widely recognized NGOs – such as Amnesty International [1, par. 193] or Human Rights Watch [16, par. 117] – and local organizations [15, par. 57].

The academic research also provides useful data. Nonetheless, this source has been surprisingly rarely referred to before the ECHR [16, par.118], [11, par. 122], which may signalize that research related to domestic violence was underdeveloped in the defendant countries or its results were weakly disseminated.

6 Other Factors

Data and their sources as described above are not exhaustive and the ECHR might also consider other factors while assessing if a domestic violence case indicates structural discrimination. Certainly, previous judgments against a defendant country play a role. As evident from the case law, structural biases have predominantly affected several countries with a significant history of domestic violence cases brought before the ECHR. These countries include Turkey, Russia, Moldova, Bulgaria, Italy, and Georgia. Consequently, when a case involving domestic violence arises, it is typically assessed within the context of other cases originating from the same state party. If structural bias was identified in previous cases, it could simplify the process of establishing a claim, assuming that there have been no substantial changes in both the legal framework and practice since those earlier cases. For instance, the ECHR acknowledged its findings from Opuz v. Turkey as valid in subsequent Turkish cases, despite that the presented facts occurred in the period after the Opuz [20, par. 116], [16, par. 115]. By the same token, systemic discrimination revealed in Volodina v. Russia worked for Tunikova and Others v. Russia because applicants provided data demonstrating that "this trend has continued unabated." [17, par. 128].

In some judgments, the ECHR treated individual circumstances of a case as an additional exemplification and confirmation of the structural problems. For instance, in A. and B. v. Georgia, the ECHR stated that "the present case can be seen as yet another vivid example of how general and discriminatory passivity of the law-enforcement authorities in the face of allegations of domestic violence can create a climate conducive to a further proliferation of violence committed against victims merely because they are women." [26, par. 49]. Moreover, the repetitive judgments of the ECHR in domestic violence cases may be per se treated as proof of structural problems. As the Court reiterated in Tunikova and Others v. Russia, "systemic or structural problem stems not just from an isolated incident or a particular turn of events in individual cases but from defective legislation when actions and omissions based thereon have given rise, or may give rise, to repetitive applications to the Court [17, par. 149]. The judgment in A.E. v Bulgaria differed from previous cases

against this country as the ECHR identified a violation of Article 14. The Court emphasized that it was "the third case in respect of Bulgaria in which it has found a violation of the Convention, stemming from the authorities' response to acts of domestic violence against women." [15, par. 118].

Bulgarian cases illustrate that the attitude of a state party towards the Istanbul Convention may play a role in establishing systemic discrimination. The applicants in Y and Others v. Bulgaria argued that non-ratifying the Istanbul Convention by Bulgaria (resulting from anti-gender propaganda and the decision of the Constitutional Court [27, pp. 49–68]) contributed to the general failure to tackle properly domestic violence in Bulgaria [12, par. 115]. The ECHR has recognized the significance of the Istanbul Convention. However, it has distanced itself from this argument by emphasizing that it is not in a position to determine whether state parties should ratify an international treaty, as such a decision is inherently political [12, par. 130]. In a subsequent judgment in the case of A.E. v. Bulgaria, the ECHR reiterated its response to the same argument, but this time with a more assertive statement. It contended that "the refusal of the Bulgarian authorities to ratify the Istanbul Convention … can still be seen as indicative of the level of their commitment to fighting effectively domestic violence." [15, par. 121]. Thus, this argument may be advantageous in cases coming from countries that did not ratify the Istanbul Convention or withdraw as Turkey did.

7 Conclusions

Although the ECHR has not explicitly invoked the term "structural discrimination," the Court's reasoning in domestic violence cases effectively reveals structural/systemic issues amounting to gender discrimination of a structural nature. Beginning with Opuz v. Turkey (2009), the first domestic violence case where a violation of Article 14 was found, the Court combined an assessment of individual treatment faced by victims with an examination of a state party's general approach to domestic violence. In Volodina v. Russia (2019), the ECHR clarified that once a large-scale structural bias has been shown to exist, the applicant does not need to prove individual prejudice. This shift is beneficial, particularly in cases where proving gender bias in the domestic authorities' handling of a case is difficult. Therefore, proving structural discrimination can be advantageous for the applicants.

The Court stated that in domestic violence cases, *prima facie* evidence should show that: (1) domestic violence affects mainly women, and (2) the general attitude of the authorities has created a climate conducive to such violence. It also declared that the types of *prima facie* evidence capable of shifting the burden of proof onto the respondent state in these cases are not predetermined and can vary.

At first glance, proving that domestic violence predominantly affects women might seem straightforward in constructing an argument. Nevertheless, due to deficiencies in national data collection, furnishing persuasive data can be challenging. While the Court does not expect applicants to provide official statistics in the absence of such data, they are still required to support their claims with specific figures. This can include data from various stages of legal proceedings (e.g., the

number of initiated or concluded cases, requests for or issuance of protection orders) and collected by different entities (e.g., police, prosecutors, courts). The absence of official statistics can be compensated for with data from alternative sources, such as NGOs (e.g., the number of calls to hotlines for domestic violence victims). The crucial aspect is to obtain sex-disaggregated data that unequivocally shows a higher prevalence of women among domestic violence victims.

In addition to presenting statistics, an applicant must demonstrate that the general attitude of the authorities has created a climate conducive to domestic violence, indicating the presence of large-scale structural bias. This general attitude can be evidenced by the discriminatory nature of the legislation or official practices, or through their discriminatory effects. Since country legislation usually meets the standards (apart from notable exceptions, such as Volodina v. Russia), it is mostly the implementation that fails. The most appealing examples of discriminatory practices can be found in Turkish cases: regular downplaying and reluctance to prevent and investigate domestic violence, sending victims back by the police, mitigating sentences against perpetrators on the grounds of custom, tradition or honor, and refusal to provide divorced women with protective measures. In other cases, the discriminatory nature of the state practices has not been as straightforward as in Turkey and stemmed rather from the overall of a state's policy against domestic violence and the data behind it. For instance, the Court considered the combination of factors such as statistics demonstrating that domestic violence was tolerated and perceived as normal by most people, a small number of reported incidents that were followed by criminal investigations, and a small number of shelters for victims of domestic violence.

There is a variety of sources at the applicants' disposal. Typically, data submitted to the Court originate from four types of sources: state authorities, international bodies, non-governmental organizations, and academic institutions. If official data is accessible, an applicant should primarily refer to it. This may include data collected by the police, ministries, the Ombudsman, equality bodies, national statistics offices, or other institutions. Information from international human rights bodies can significantly complement or substitute for official data. Three specialized entities have findings of particular relevance: the CEDAW, UN Special Rapporteur on violence against women and girls, its causes and consequences, and GREVIO (for countries that have ratified the Istanbul Convention). All these entities apply a gender lens and provide valuable insights into the structural issues related to domestic violence in a specific state. Reports from non-governmental organizations (both international and local) and academic research can also bolster the evidence.

The case law demonstrates that there may be additional factors the Court considers while assessing whether a domestic violence case signifies structural discrimination. Previous judgments against a defendant country can certainly bolster a claim. If a state has been found to exhibit a discriminatory attitude towards domestic violence, the Court may deem these findings valid for another cases, assuming there has not been a significant change in law or practice. Furthermore, the repetitive judgments of the ECHR in domestic violence cases can themselves be seen as evidence of structural problems within a state party. Finally, although the Court is not in the position to pronounce if states-parties should ratify an international treaty, a state's

reluctance to ratify the Istanbul Convention may be indicative of the level of their commitment to effectively combatting domestic violence.

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