

## Scuderoni v. Italy

### Domestic Violence as a Systematic Failure of Italy

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*Abstract:* This article reflects on the phenomenon of domestic violence starting from the analysis of the recent judgement of the European Court of Human Rights (ECtHR) *Scuderoni v. Italy*, where the victim experienced a violation of the prohibition of ill-treatment and the right to respect for private life and correspondence, as established in Articles 3 and 8 of the European Convention on Human Rights, due to the inactivity of the Italian court which underestimated this problem. The analysis is then followed by a focus on the principal international conventions created to tackle gender – based violence and domestic violence, the Istanbul Convention and the European Convention on Human Rights, whose Articles 3 and 8 were violated by Italy. Ultimately, the phenomenon of domestic violence is analyzed from the Italian point of view, reporting data and measures that have been adopted to stop this form of violence. This is followed by a discussion on the delay of Italian authorities in recognizing domestic violence, the inadequacy of risk assessment to adopt preventive measures and to tackle the problem, with a consideration on the effectiveness of the investigations around the phenomenon of domestic violence.

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*Keywords:* Domestic Violence; Human Rights; Delay of Institutions; Risk Assessment; Investigations.

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## 1. Introduction

Article 3 of the *Convention on Preventing and Combating Violence against Women and Domestic Violence*, the *Istanbul Convention*, reports that domestic abuse, also called “domestic violence”, can indicate all acts of physical, sexual, psychological, or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. In contrast, the United Nations defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”<sup>1</sup>. While gender-based violence can occur in both public and private spheres, domestic violence occurs within the family or between current or former spouses or partners. An analysis conducted by the WHO on behalf of the UN Interagency working group on violence against women in 2018 using data from 2000–2018 across 161 countries and areas found that worldwide nearly 30% of

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<sup>1</sup> Declaration on the Elimination of Violence against Women, UNGA Res 48/104 (20 December 1993) UN Doc A/RES/48/104, art 1.

women (1 in 3), have been subjected to physical and/or sexual violence by an intimate partner, non-partner, or both<sup>2</sup>.

Generally, both men and women can be victims or perpetrators of this form of violence; these events usually happen in a family context, but research consistently shows that women are more likely to experience domestic violence and to suffer more severe consequences compared to men<sup>3</sup>, but also that male perpetrators often use coercion, control, and domination over the female victim<sup>4</sup>. From a legal perspective, victims of domestic violence may seek protection in another state if this is not available in their state of origin. Customary law prohibits violence against women<sup>5</sup>: states must intervene with due diligence and other effective protective measures for all individuals without discrimination. The *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, also known as the *Istanbul Convention*, is the principal international instrument to prevent and fight gender based violence and domestic violence, by establishing a set of obligations<sup>6</sup> and ensuring women's fundamental rights. However, these measures

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<sup>2</sup> World Health Organization, 'Violence against Women Prevalence Estimates, 2018: Global, Regional and National Prevalence Estimates for Intimate Partner Violence against Women and Global and Regional Prevalence Estimates for Non-Partner Sexual Violence against Women' (2021) at 37.

<sup>3</sup> See *id.* (Worldwide, 27% of women aged 15–49 years who have been in a relationship report that they have been subjected to some form of physical and/or sexual violence by their partner).

<sup>4</sup> See Michael Paul Johnson, *Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence*, 12 *Violence against Women* 1003 (2006); Evan Stark, *Coercive Control: The Entrapment of Women in Personal Life* (Oxford University Press 2007); Marieh Tanha, et al., *Sex Differences in Intimate Partner Violence and the Use of Coercive Control as a Motivational Factor for Intimate Partner Violence*, 25 *Journal of Interpersonal Violence* 1836 (2010).

<sup>5</sup> United Nations Committee on the Elimination of Discrimination against Women, 'General Recommendation No 35 on Gender-Based Violence against Women, Updating General Recommendation No 19', (26 July 2017), UN Doc CEDAW/C/GC/35, para 2.

<sup>6</sup> Catherine Briddick, *Resisting Domestic Violence*, 36 *International Journal of Refugee Law* 106 (2024).

will not achieve the intended results without the effective implementation of the convention by multiple States.

The situation related to domestic violence has recently been brought to the attention of the European Court of Human Rights by an Italian woman, Valentina Scuderoni. She has been a victim of this form of violence for nine months, but the Italian institutions did not take effective measures to prevent and tackle this form of violence. In the end, her application was dismissed, since the discussed conduct were regarded as mere “nastiness” in the context of family disputes.

With this decision, Italian institutions contributed to undermining her fundamental rights and failed in their duty to protect the woman due to the delay and the superficial manner in which the matter was addressed. The decision of the Strasbourg Court has restored the woman’s dignity and has condemned Italy for not having adequately protected Mrs. Scuderoni from the physical and psychological violence perpetrated by her former partner. In particular, the importance of a timely recognition of the abuses and the imposition of an appropriate judgment on the perpetrator of the abuse has been underlined in order to protect the woman.

## 2. *The Judgment Scuderoni v. Italy*

### 2.1. *Principal Facts*

Valentina Scuderoni had been denigrated and psychologically abused for nine months by her former partner, who was living with her and their son even after their divorce. In particular, he was “forcing her to stay awake at night by shining a light on her, wrongly accusing her of imaginary behavior, denigrating and psychologically abusing her, causing her a state of acute anxiety and emotional instability”. In addition to this, he prevented her from going to certain parts of the house, constantly moved her possessions, and threatened to throw all her belongings into the street and to kidnap their son.

In February 2018, she initiated civil proceedings against the former partner, describing the abuses of which she was a victim, the threats and the controlling behavior of her ex-husband. Given that the hearing was scheduled for nine months later, she asked the court to set an earlier date. It was only in August 2018 that the Court granted her and her child the exclusive use of their family home and set her former partner's contact rights with the child. She also asked to obtain a protection order, submitting complaints, medical reports, and evidence from the criminal investigation, but the Court rejected the application for protection since they considered that the main allegations concerned certain facts – episodes of sleep deprivation, threats, verbal and physical violence, separation from her son without her consent – which had taken place only in the presence of the aggressor. The latter denied all the accusations against him, claiming that the applicant displayed irrational behavior.

From March 2018, the acts of violence became more persistent and severe, starting with the man illegally accessing Scuderoni's personal and work messaging accounts, up to sending her to the hospital with a "neck and scalp injury", after having violently grabbed her hair. Because of these facts, she lodged several criminal complaints, and, in February 2019, the prosecutor decided to commit the defendant to trial.

Even in this case, there was no justice for the woman: after four years of proceedings, the Italian court characterized the partner's act as nastiness, thinking that his behavior, although objectively aggressive, was an expression of conflict instead of ill treatment.

At this point, Valentina appealed to the European Court of Human Rights, relying on Article 3 (prohibition of ill treatment) and Article 8 (right to respect for private life and correspondence) of the European Convention on Human Rights (ECHR). In particular, she complained that the domestic court had not examined her application promptly and that the criminal investigation had been ineffective. She further complained that the Court had failed to properly assess the

risk of physical and psychological violence and her need for protection.

## 2.2. *Decision of the Court*

In Scuderoni's application, she complained about a "late examination of her appeal by the domestic courts, as well as the rejection by the civil court of her application for a protection order and a lack of effectiveness of the criminal investigation"<sup>7</sup>, invoking Articles 3<sup>8</sup>, 6, and 8<sup>9</sup> of the Istanbul Convention. Valentina Scuderoni claims that domestic violence not only includes physical injuries but also psychological consequences, and Article 3 applies when further aggressions are to be feared. She alleged that in her proceedings gender based prejudices and stereotypes intervened. According to the applicant's position, the authorities would have considered her to be a credible victim only if she had behaved passively and was unable to seek help.

Given the fact that the applicant was a lawyer, she activated all the legal mechanisms and she underlined these prejudices. In this regard, the CEDAW Committee<sup>10</sup> reportedly found out that such stereotypes influence court decisions in cases of gender based violence, affecting women's role, their credibility and behaviour, leading to secondary victimization, but more importantly to failure in the protection of their fundamental rights. In the end, the authorities intervened too late to adequately address the gravity of the situation, therefore preventive measures were not adopted.

The Court considered that the woman's grievances had to be examined from the perspective of Article 3 and Article 8 of the

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<sup>7</sup> *Scuderoni v. Italy*, ECHR 6045/24 (2025).

<sup>8</sup> Art. 3, European Convention on Human Rights.

<sup>9</sup> See *Id.* Art. 8.

<sup>10</sup> United Nations Committee on the Elimination of Discrimination against Women, 'Concluding observations on the eighth periodic report of Italy' (27 February 2024) UN Doc CEDAW/C/ITA/CO/8.CEDAW/C/ITA/8 (2024).

Convention. According to the Court, the mistreatment described in Article 3 must reach a minimum of gravity, usually including bodily injuries or severe physical or mental suffering. However, the Court further explained that, in some cases, if the treatment denigrates the individual, showing a lack of respect for human dignity, or if it makes fear grow, it can be considered relevant for article 3. The Court noted that, in this case, domestic violence was not just composed of a physical dimension, but the psychological dimension was important here as well. As a matter of fact, the conduct of the former partner of the victim contributed to the creation of a growing sense of fear in the victim, to the point that he also materialized some of the threats he had made.

After that, the Strasbourg Court considered the positive obligations that Article 3 places on Italian authorities, which include the obligation to create a legislative framework and to adopt operative measures to protect the victims, as well as the obligation to conduct an effective investigation into defensible allegations of infliction of such treatment. In particular, the authorities must react to the allegations of domestic violence, evaluating the risk for the life proactively and comprehensively, and if this is present, they must take preventive operational measures, adequate and proportional to the risk, as specified in *Kurt v. Austria*<sup>11</sup>.

Despite the seriousness of the allegations made by the woman, the domestic court failed to carry out a domestic violence risk assessment or take preventive measures and dealt with the matter too late.

The ECHR Court considered that the conclusions shared by the domestic courts were questionable, since the harassment, assaults, incessant calls, and the control of the applicant's telephone were considered as simple "nastiness". The conduct of the abuser was considered to be more an expression of conflict and resentment than an act of systematic abuse.

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<sup>11</sup> *Kurt v. Austria*, ECHR 62903/15 (2021).

In addition to this, the Court stressed the diligence required in a domestic violence case and reported that this diligence has been obstructed by an ongoing issue in Italy. According to the GREVIO<sup>12</sup> report, Italian courts continue to require violence to be habitual for the offence of ill-treatment in the family to be made out, basing their stance on Article 572<sup>13</sup> of the Italian Criminal Code. Therefore, courts often dismiss repetitive violence as non habitual, especially when the incidents occur in a short period of time or at the end of the relationship.

According to the Court, the authorities failed in obtaining a comprehensive view of the applicant's situation since they limited their analysis to isolated acts rather than viewing the pattern of the abuse. With the judgment of 23 September 2025, the Strasbourg Court recognized the violation of Articles 3 and 8 of the ECHR Convention, in particular the infringement of Article 3 prohibiting inhuman or degrading treatment or punishment, and Article 8 regarding the right to privacy. They argued that Italian authorities had not evaluated the risk that the former partner could persist in the abuses and did not consider the specific problem of domestic violence during their investigations, despite the evidence they had.

Therefore, this judgment has established a clear principle: States must conduct a careful analysis of situations involving victims of domestic violence and carry out assessments regarding the potential risks of future violence that victims may face. They also cannot intervene solely with the punishment after the crime has been committed, but they must adopt all the measures that are necessary to prevent the risk of further aggressions.

In particular, the Court emphasized the “special diligence required when dealing with complaints of domestic violence”. In the case under examination, Italian authorities had failed to respect, even

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<sup>12</sup> Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), *Baseline Evaluation Report on Italy* (3 January 2020).

<sup>13</sup> Art. 572, r.d. 19 October 1930, no. 1398.



if they had all the information revealing a real and immediate risk of further violence.

Therefore, States must also ensure effective investigations and guarantee that criminal proceedings are conducted in a reasonable period of time. In this case, the Italian court had not intervened in a reasonable time since it examined the recourse after nine months and did not promptly conduct criminal investigations. There is no doubt that the late interventions on this matter had caused significant damage to the health of Mrs. Scuderoni as well as a breach of her human rights, granted by Articles 3 and 8 of the ECHR.

Lastly, the Court pointed out that the specific features of acts of domestic violence, as recognized in the *Istanbul Convention*, needed to be taken into account in domestic proceedings, and that the State, in its response to her complaint, had failed to adequately discharge its procedural obligation to ensure appropriate treatment of the violence suffered.

### 3. Legislative Framework

#### 3.1. The Istanbul Convention

The previously mentioned *Council of Europe Convention on preventing and combating violence against women and domestic violence*, the *Istanbul Convention*, is an international treaty designed to help tackle violence against women and girls. It was adopted in 2011, and entered into force in 2014. This Convention recognizes violence against women as a human rights violation. The *Istanbul Convention* marked a significant point of change as it demanded that the ratifying governments adopt a list of concrete measures to fight all forms of violence against women and domestic violence. Following this path, the Convention has guided towards new important legislative reforms, but also to the development of new and better services for the victims, as well as the creation a positive dynamic for the

evolution of politics, services and the conception of violence against women.

It covers four areas of action, often called the four “Ps”:

1. Prevention: preventing violence against women, including awareness raising campaigns and education in non – violence and equality between women and men;
2. Protection: protecting victims, challenging gender stereotypes, promoting women’s empowerment and programs to teach perpetrators to adopt a non – violent behavior;
3. Prosecution: prosecuting perpetrators, informing victims of their rights, giving them easy access to shelter, and encouraging everyone to report violence to authorities;
4. Policies: implementing related comprehensive and coordinated policies, with dissuasive sanctions for perpetrators, effective public prosecution and introducing laws which criminalize this form of violence.

To ensure the effective implementation of the Convention, a two-pillar monitoring mechanism has been established. It consists of an independent expert body (GREVIO, Group of Experts on Action against Violence against Women and Domestic Violence), which draws up reports on the themes of the Convention, and a Committee of the Parties, that provides the political and administrative framework required for the Convention’s monitoring system to operate effectively.

In order to reach the Convention’s aim, namely to elaborate effective policies to prevent and combat violence against women, a deep understanding of gender-based violence must be obtained through data collection and research.

Following this path, Article 11 of the *Istanbul Convention* establishes that the

“Parties shall undertake to: (a) collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this

Convention; (b) support research in the field of all forms of violence covered by the scope of this Convention to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention”.

In the framework of the Convention, this norm is often underestimated, since the focus is often on the forms of prevention and repression for this violence, but data collection and the following elaboration are essential to measure the progress of the States in implementing the provisions of the Convention<sup>14</sup>.

### 3.2. *The European Convention on Human Rights: Articles 3 and 8*

Another relevant instrument for the judgment analyzed in this article is the *European Convention on Human Rights*, which protects the rights of more than 830 million people in Europe. Coming into force in 1953, this was the first instrument that gave binding effect to some of the rights stated in the *Universal Declaration of Human Rights*. Individuals whose rights are established in the Convention, in cases of violation, are allowed to bring human rights complaints in front of the European Court of Human Rights, in order to make sure that the rights enshrined in it are protected.

In the judgment under exam, the victim, after having unsuccessfully asked for a remedy in front of the national court, applied to the European Court of Human Rights to have the violation of her rights recognized. The Articles that have been examined and violated in this case are, first of all, article 3 of the Convention, which is an absolute right prohibiting torture, inhumane or degrading treatment or punishment. As a result, the State must not engage in torture or other inhumane treatment, as well as prevent such

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<sup>14</sup> See Biljana Brankovic, *Article 11. Data collection and research*, in Sara De Vido and Micaela Frulli (eds.), *Preventing and Combating Violence Against Women and Domestic Violence: A Commentary on the Istanbul Convention* at 196 (Edward Elgar Publishing, 2023).

treatment from happening. In the judgment under examination, it can include abuses committed by the man against the woman that were perpetrated during the couple's cohabitation and throughout the nine months of inaction by Italian authorities.

The other relevant Article for the case is Article 8, which protects the right to respect for private life, family life, the home, and correspondence. In particular, the concept of private life includes control over the body, appearance, relationships and personal choices. The government cannot interfere in the lives of people and must adopt strong measures to protect them. In *Scuderoni v. Italy*, the authorities failed in their mission to protect the woman from ongoing domestic violence and harassment by her former partner, thus violating her right to private life.

#### 4. Domestic Violence in Italy: Data and Legislative Instruments

The first comprehensive research about this form of violence was conducted in 2014 by ISTAT, the Italian National Institute of Statistics, which interviewed more than 24,761 women<sup>15</sup>. Around 13.6% of people interviewed had suffered some form of physical or sexual violence from a current or precedent partner, with a number of victims around 2 million and 800,000<sup>16</sup>. It emerges that psychological and economic violence was reported by between 26.4% and 46.1%<sup>17</sup> of survey respondents. After the COVID 19 pandemic, the cases of domestic violence increased: during the lockdown, calls to 1522 increased by 73% compared to the previous year but, on the

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<sup>15</sup> Istituto Nazionale di Statistica (ISTAT), *Nota metodologica sulla rilevazione della violenza contro le donne* (ISTAT, 2015), available at <https://www.istat.it/wp-content/uploads/2015/06/nota-metodologica-violenza.pdf> (last visited November 19, 2025).

<sup>16</sup> ISTAT, *La violenza contro le donne dentro e fuori la famiglia, Anno 2014* (ISTAT, June 5, 2015), available at [https://www.istat.it/it/files/2015/06/Violenze\\_contro\\_le\\_donne.pdf](https://www.istat.it/it/files/2015/06/Violenze_contro_le_donne.pdf) (last visited November 19, 2025).

<sup>17</sup> See *Ibid.*

other hand, reports of abuse decreased by 43.6%, suggesting both a rise in the actual phenomenon and more difficulty in accessing justice<sup>18</sup>. In 2022, the women who asked for help at CAV<sup>19</sup> were 60,571<sup>20</sup> and the number of complaints increased as well, confirming that in Italy violence is widespread.

Domestic violence also has a social and economic “cost”<sup>21</sup>: not only does it cause pain and suffering to the victims, but it also places large costs on the economy and society as a whole. A recent study conducted by the European Institute for Gender Equality (EIGE) has highlighted how the cost of domestic violence in our country is around 23,445,910,204 euros<sup>22</sup>. However, the extent and the related costs of gender-based violence, encompassing loss of economic output, public spending on health, legal, social and specialized services to mitigate harms, as well as personal impacts on victims, are rarely seen.

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<sup>18</sup> ISTAT, *Violenza di genere al tempo del Covid-19: Chiamate al numero verde 1522* (ISTAT, May 13, 2020), available at <https://www.istat.it/comunicato-stampa/violenza-di-genere-al-tempo-del-covid-19-le-chiamate-al-numero-verde-1522/> (last visited November 19, 2025): To understand domestic violence during the period of the pandemic, see Barchielli, et al., *When “Stay at Home” Can Be Dangerous: Data on Domestic Violence in Italy during COVID-19 Lockdown*, 18 *International Journal of Environmental Research and Public Health* (2021), available <https://pmc.ncbi.nlm.nih.gov/articles/PMC8431219/> (last visited December 13, 2025).

<sup>19</sup> Anti-violence centres established by law 119/2013 with the aim to prevent and contrast violence against women sustaining and protecting even their children.

<sup>20</sup> ISTAT, *I centri antiviolanza e le donne che hanno avviato il percorso di uscita dalla violenza* (ISTAT- November 24, 2022), available at <https://www.istat.it/it/files//2023/11/reportCAV.pdf> (last visited November 19, 2025).

<sup>21</sup> Sofia Braschi, *Il contrasto alla violenza domestica: appunti per una politica criminale evidence-based*, 1 *Rivista Italiana di Diritto e Procedura Penale* 105 (2025).

<sup>22</sup> European Institute for Gender Equality (EIGE), *The costs of gender-based violence in the European Union* (Vilnius, 2021), available at [https://eige.europa.eu/sites/default/files/documents/mh0321358enn\\_002.pdf](https://eige.europa.eu/sites/default/files/documents/mh0321358enn_002.pdf) (last visited November 19, 2025).

Italy has developed over the years an extensive legislation to combat violence against women, including domestic and sexual violence, violence against minors, female genital mutilation, stalking and human trafficking. The most relevant legislative measure is law no. 154 of 4 April 2001 concerning measures against violence in family relationships, introducing new instruments to protect victims. Some of these are: removal from the family home (Article 282-bis of the Italian Criminal Code) and protection orders against family abuse (Article 343-bis of the Italian Civil Code), law no. 38 of 23 April 2009 that added the new offence of persecutory acts (stalking) under Article 612-bis of the Italian Criminal Code, the precautionary measure of the order to stay away from the places frequented by the victim (Article 282-ter of the Italian Code of Criminal Procedure), and the administrative measure of the formal warning given by the local police chief.

Italy also ratified the Istanbul Convention in 2013 and, after some months, the Legislative Decree no. 93/2013 intervened in criminal and procedural areas, and it included the periodic adoption of the Action Plan against gender-based violence. The most incisive measure is Law no. 69/2019 (Red Code), which reinforced legal protection of the victims of these violent crimes, especially domestic and sexual violence, introducing new crimes in the criminal code.

## *5. Analyzing the Decision: the Inertia and Underestimation of Authorities*

### *5.1. Delay in the Action of the Italian Institutions in Criminal Proceedings: Precedents*

As it has emerged from the judgment, one of the main problems related to the ineffectiveness of the protections for the victims of abuse is the delay of Italian courts in recognizing and condemning the crime, as well as the adoption of measures to prevent it. This

emerged in *Landi*<sup>23</sup>, *De Giorgi*<sup>24</sup> and *M.S. v. Italy*<sup>25</sup>; more specifically, the Strasbourg Court recognized a violation of Article 2 of ECHR in *Landi*, while in *De Giorgi* and *M.S.* it found a violation of Article 3. In *Landi*, the applicant and her two children suffered violence from the partner, which led to the murder of her one-year-old son and the attempted murder of the woman. The victim reported the assault to the authorities, but no investigation or proactive measures followed, so she withdrew the complaint. After other episodes of violence, the authorities reported the case to the prosecutor but even then, no proactive measures were taken. While the legal framework was adequate to guarantee protection against acts of violence, prosecutors remained passive, despite knowing the risk of a threat to Mrs. Landi's life. In *De Giorgi*, the Court affirmed that Italian authorities remained inactive in front of their duty to protect the applicant, despite the woman having endured documented domestic violence and threats from the partner over a long period. The authorities knew or should have known the danger but did not act with due diligence, creating a situation of impunity.

In *M.S. v. Italy*, the applicant did not receive protection from the State despite several allegations of ill-treatment and injuries inflicted by her husband. Moreover, many proceedings were time-barred due to delays in the investigations and procedural defaults.

Recently, in *P.P. v. Italy*<sup>26</sup>, Italy was again condemned: the Court, recognizing the physical and psychological consequences of violence aimed at P.P., found a lack of willingness of the state authorities to hold the offender accountable for his actions. In this case, the woman denounced her ex-partner since she suffered domestic violence, physical and psychological abuse, threats, and stalking from him between 2007 and 2009 after the end of their

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<sup>23</sup> *Landi v. Italy*, ECHR 10929/19 (2022).

<sup>24</sup> *De Giorgi v. Italy*, ECHR 23735/19 (2022).

<sup>25</sup> *M.S. v. Italy*, ECHR 32715/19 (2022).

<sup>26</sup> *P.P. v. Italy*, ECHR 64066/19 (2025).

relationship. She complained about the excessive length and lack of effectiveness in the criminal proceedings initiated against her ex-partner, since the final judgment in this case was delivered ten years after she had filed her complaint. The Court recognized a violation of Article 3 of the ECHR, stating that the woman was denied the protection such a situation required, because of the delay and the absence of procedural guarantees, since the authorities did not intervene with the diligence and promptness required.

It emerged that States must establish a system of repression for all forms of domestic violence, to ensure protection also from a procedural point of view, operating with the required diligence.

## 5.2. *The Quality of Risk Assessment and the Preventive Measures*

Risk assessment in gender-based violence is crucial since it helps to understand the existence of the crime and allows for the taking of preventive measures. Without a correct evaluation of the risk, the consequences could be serious: this is clear looking at the judgment under examination, where the authorities did not conduct a proper risk assessment, despite the constant state of fear that characterized the daily life of the woman, making the continuous violence possible.

The “need” for protection, for the victim of domestic violence, becomes a “right” to protection, related to an “obligation” of protection over public authorities<sup>27</sup>. The centrality of the protection activated by public authorities is recognized in Article 18 of the Istanbul Convention<sup>28</sup>, according to which it is necessary to plan the

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<sup>27</sup> Valentina Bonini, *Protezione della vittima e valutazione del rischio nei procedimenti per violenza domestica tra indicazioni sovranazionali e deficit interni*, Sistema Penale, file 3/2023, available at <https://www.sistemapenale.it/it/articolo/bonini-protezione-della-vittima-e-valutazione-del-rischio-nei-procedimenti-per-violenza-domestica-tra-indicazioni-sovrnazionali-e-deficit-interni> (last visited November 19, 2025).

<sup>28</sup> Article 18, Council of Europe. *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, OJ L 143i (November 2014).



required legislative action or other measures to protect all the victims of violence. This involves imposing procedural duties on the States, with prompt initiation of criminal proceedings, and the guarantee of adequate protection, as prescribed by the Articles 49<sup>29</sup> and 50<sup>30</sup> of the Convention. Article 51 is an essential norm that points out the necessity of protection, according to which the competent authorities must conduct a risk assessment prior to the adoption of adequate measures to handle that kind of situation. Risk assessment represents a fundamental component in the process of observing the duty of protection of the victim. Even in *Kurt. v. Austria*, the Court observed that the “assessment of the nature and level of risk constitutes an integral part of the duty to take preventive operational measures where the presence of a risk so requires”. Once again, it is emphasized that it is imperative to conduct a punctual and complete risk assessment and to consequently adopt the required preventive measures. The Court indicates the elements which are related to the existence of risk of repetitive acts of violence:

“the history of violent behaviour of the perpetrator and the non-compliance with the terms of a protection order, the escalation of violence representing a continuous threat to the health and safety of victims and repeated requests for assistance from the victim through emergency calls, as well as formal complaints and requests addressed to the head of the police”<sup>31</sup>.

The Scuderoni case is the opportunity for the Court to rebuild the procedure of risk assessment, together with the previous ECtHR’s jurisprudence. The action must be punctual and immediate; there is the need to employing a standardized instrument, as recognized by

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<sup>29</sup> See *Id.* Article 49.

<sup>30</sup> See *Id.* Article 50.

<sup>31</sup> Paras. 88, 76, 123 *Landi v. Italy* (2022) (cited in note 23); *De Giorgi v. Italy* (2022) (cited in note 25); *M.S. v. Italy* (2022) (cited in note 25).

the international community<sup>32</sup>, using guidelines and clear criteria for the authorities and autonomous, global and proactive risk assessment. The panorama is quite complicated since it is necessary to ensure adequate training of law enforcement officers and judicial authorities on the characteristics of domestic violence.

### 5.3 Effectiveness of the Investigation

In the judgment, the effectiveness of the investigations conducted by public authorities was questioned, as it had taken too much time and had led to further abuses and violence. According to the Court's case law<sup>33</sup>, to evaluate whether investigations are effective or not it is necessary to consider the adequacy and speed of the measures adopted, as well as the independence of the investigators.

In this regard, the *Opuz v. Turkey*'s case becomes relevant, since the Turkish government was held liable for not taking action in a situation of domestic abuse. In particular, it failed in protecting Mrs. Opuz and her mother from the violence perpetrated by the applicant's husband, which eventually led to the death of the mother. This case is considered to be a landmark decision, since it recognized that States must adopt a proactive approach in serious cases of violence and must prosecute those responsible for such forms of violence<sup>34</sup>. Even if the victim withdrew the complaints, the legislative framework should have allowed the prosecuting authorities to continue a criminal investigation against the abuser, taking into

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<sup>32</sup> The most famous are B-SAFER (brief spousal assault form for the evaluation of risk), DASH (domestic abuse, stalking and harassment and honour-based violence), SARA (spousal assault risk assessment), MARAC (multi-agency Risk Assessment conference), VioGen, DVSI (domestic violence screening instrument), ODARA (Ontario domestic assault risk assessment).

<sup>33</sup> *Nicolae Virgiliu Tănase v. Romania*, ECHR 41720/13 (2019); *R. and R.D. v. Slovakia*, ECHR 20649/18 (2020).

<sup>34</sup> Patricia Londono, *Developing Human Rights Principles In Cases Of Gender-Based Violence: Opuz V Turkey In The European Court Of Human Rights*, 9 Human Rights Law Review 657 (2009).

consideration the seriousness of his behavior. However, they failed to set up and apply a system in which all forms of domestic violence can be punished.

In a later judgment, *Volodina v. Russia*<sup>35</sup>, it was confirmed that an effective investigation is an “essential element of the State’s obligation” and needs to be conducted for “all acts of domestic violence”. According to reports concerning domestic violence and the situation of women in Turkey by NGOs, such as *the opinion of the Purple Roof Women’s Shelter Foundation* (Mor Çatı Kadın Sığınağı Vakfı – “the Mor Çatı Foundation”) on the implementation of Law no. 4320, dated 7 July 2007, and *Amnesty International’s 2004 report* entitled “*Turkey: women confronting family violence*”<sup>36</sup>, when victims reported such abuses to the police, officers failed to properly investigate their allegations, instead, sought to persuade the victims to return home and withdraw their complaints.

According to a 2014 ISTAT survey on domestic violence, almost 30% of victims do not disclose their experience to anyone, 12% report the event to the police, and only 4% report it to an anti-violence center<sup>37</sup>. These data directly substantiate the findings highlighted by the United Nations Committee on the Elimination of Discrimination against Women, which, as noted in the *Scuderoni v. Italy* judgment<sup>38</sup>, identified a systemic lack of reporting due to victims’ fear of stigmatization or retaliation, poor awareness of the law, language barriers, or a general distrust of the police. It emerges that the persistence of stereotypes obstructs the effective possibility for obtaining protection and developing effective legislative measures for this problem. Scuderoni’s ruling highlighted that the State failed to sufficiently meet its procedural obligation to ensure the violence

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<sup>35</sup> *Volodina v. Russia*, ECHR 41261/17 (2019).

<sup>36</sup> *Opuz v. Turkey*, ECHR 33401/02 (2009).

<sup>37</sup> ISTAT, *Violence against women in and outside the family, Anno 2014* (ISTAT, June 5, 2015), available at [https://www.istat.it/it/files//2019/11/Violence-against-women-\\_2014.pdf](https://www.istat.it/it/files//2019/11/Violence-against-women-_2014.pdf) (last visited December 13, 2025).

<sup>38</sup> *Scuderoni v. Italy* (2025) (cited in note 7).

suffered by the applicant was appropriately addressed. This occurred since it did not condemn the abuser but instead dismissed his conduct as mere "nastiness" that occurred during family disputes.

## 6. *Conclusion*

Domestic violence as well as gender-based violence, is a phenomenon that still characterizes our society and still persists because of the lack of data and the delay in the action of authorities, which demonstrates a failure in the system of protection. Despite the seriousness of Valentina Scuderoni's situation, the authorities have not intervened immediately to understand her problem, to find preventive measures to tackle it and in the end to impose an effective and proportional sanction to the seriousness of the situation. The most striking aspect of the case under exam is that, even if there was an allegation of bodily injury, the domestic court justified the conduct of the abuser saying that it had been driven by the state of conflict due to the end of the relationship, while in reality the victim was constantly controlled, threatened, abused and had to fight just to ensure that her voice was heard by the Italian institutions.

While the implementation of effective legislative measures is necessary, what is even more important is the action of the institutions that need to protect abuse victims, engage in investigations to find the cause and elaborate adequate sanctions.