



The best interests of two children compelled to attend contact sessions with their violent father were disregarded

In today's **Chamber judgment**¹ in the case of [I.M. and Others v. Italy](#) (application no. 25426/20) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the allegation by the applicants (a mother and her two children) that the Italian State had failed in its duty to protect and assist them during contact sessions with the children's father, a drug addict and alcoholic accused of ill-treatment and threatening behaviour during the sessions.

The case also related to the decision of the domestic courts to suspend the mother's parental responsibility. The courts regarded her as a parent who was "hostile to contact with the [children's] father", on the grounds that she had refused to take part in the sessions, citing a history of domestic violence and safety concerns.

The Court found in particular that the sessions that had taken place since 2015 had upset the children's psychological and emotional balance, as they had been obliged to meet their father in an environment where their protection was not guaranteed. Their best interest in not being compelled to take part in sessions held in such conditions had thus been disregarded.

The Court also held that the domestic courts had failed to examine with care the situation of the children's mother and had decided to suspend her parental responsibility on the basis of her allegedly hostile attitude to the contact sessions and to shared parenting with G.C., without taking into consideration all the relevant factors in the case. The courts had not provided relevant and sufficient reasons to justify their decision to suspend the first applicant's parental responsibility between May 2016 and May 2019.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicants are three Italian nationals (a mother and her two children) who were born in 1988, 2010 and 2013 respectively and live in Italy. The first applicant was acting on her own behalf and on behalf of her children, who were born of her relationship with G.C.

In 2014 the first applicant left the family home with her children because of the violence to which she was being subjected by G.C., a drug addict and alcoholic. The following day she lodged a criminal complaint and took refuge in a centre for victims of violence, which informed the public prosecutor's office of the applicants' state of distress. Later that year the public prosecutor found that the situation of violence to which the children were exposed was sufficiently serious to warrant an

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

urgent measure suspending G.C.'s parental responsibility and allowing him to meet them in a secure environment. The public prosecutor requested the opening of the relevant proceedings.

In 2015 the Youth Court noted that G.C. had not seen his children since July 2014 and gave him permission to meet them once a week in a "strictly protected" environment on the premises of Rome social services, with a psychologist present. Those contact sessions never took place owing to a lack of resources, and the court was informed accordingly. The court then ordered that the sessions be held in the presence of a psychologist in the shelter where the first applicant was staying. However, the shelter, which lacked specialised staff and sufficient financial resources, stated that no father-child contact sessions could be held there. In the meantime, the first applicant and her children had moved in with her parents and she agreed to take the children to weekly secure sessions in the municipality of M.R., about sixty kilometres from her home. However, the municipality of M.R. informed the Youth Court that it did not have a suitable venue allowing sessions to be held in a "strictly protected" environment. The sessions therefore took place without any form of protective measures and the children witnessed G.C.'s contemptuous behaviour towards their mother. Subsequent sessions were thus arranged with a social worker rather than a psychologist in attendance. They were held in various places in the municipality, including the library, the main square, a room in the town hall and the town market square. On several occasions social services informed the Youth Court that G.C. had behaved inappropriately with his children, making derogatory and offensive remarks to them about the first applicant.

At the end of 2015 the first applicant, who had found a job in a shop, informed social services that she could not travel 120 kilometres to take her children to the contact sessions scheduled during the end-of-year holidays, and requested that the sessions be organised in a secure environment. In May 2016, having been informed by the municipality of M.R. that the first applicant had not taken her children to two sessions scheduled for January 2016, the Youth Court decided to suspend the parental responsibility of both parents. It noted that the first applicant had opposed the contact sessions.

In 2016, 2017 and 2018 the contact sessions continued to take place despite a number of reports and notifications to the Youth Court by social services and the children's guardian, referring to the threat posed to the safety of the children and staff by G.C.'s aggressive behaviour. In April 2018 social services suspended the sessions pending the Youth Court's decision. Subsequently, in November 2018 the court – which had additionally been informed in March 2018 that G.C. had not attended the addiction treatment centre since 25 October 2017 – upheld the suspension of contact between the children and G.C.

In 2019 social services informed the Youth Court that G.C. was serving a six-year prison sentence for drug-related offences committed between 1994 and 2018.

Subsequently, by a decision of 15 May 2019, the Youth Court restored the first applicant's parental responsibility and deprived G.C. of his parental responsibility. In December 2019 the Rome Court of Appeal upheld that decision and found that through his aggressive, destructive and contemptuous behaviour during contact sessions G.C. had failed in his duty to ensure the children's healthy and untroubled development. The Court of Appeal also noted that one of the children needed specialised psychological treatment.

According to the most recent information available to the Court, the criminal proceedings instituted against G.C. for ill-treatment have been pending since 2016.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life), the applicants alleged that they had been the victims of domestic violence. They argued that the contact sessions with the children's father had not taken place in the

“strictly protected” environment ordered by the Youth Court and that the failings on the part of the authorities had exposed them to further violence.

Under the same Articles, the first applicant complained of being characterised as an “uncooperative parent” and of having her parental responsibility suspended accordingly, for the sole reason that she had sought to protect her children by highlighting the risk to their safety. She thus alleged that she had been subjected to secondary victimisation.

The application was lodged with the European Court of Human Rights on 19 June 2020.

Judgment was given by a Chamber of seven judges, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Alena **Poláčková** (Slovakia),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),
Lorraine **Schembri Orland** (Malta),
Davor **Derenčinović** (Croatia),

and also Liv **Tigerstedt**, *Deputy Section Registrar*.

Decision of the Court

Article 8

The Court considered that the issues raised in the present case fell to be examined solely under Article 8 of the Convention.

With regard to the children, the Court noted that despite the reports it had received, the Youth Court did not intervene to suspend contact until November 2018. Throughout that time the children had been obliged to meet their father in an unsettled environment that did not foster their peaceful development, despite the court having been warned that G.C. was no longer following his drug rehabilitation programme and that the criminal proceedings against him for ill-treatment were pending. The Youth Court, which had also been informed that the children needed psychological support, did not appear to have taken their welfare into account, especially as the contact sessions exposed them to witnessing the violence committed against their mother and also to the violence they suffered directly as a result of their father’s aggression. The Court failed to understand why the Youth Court, which as far back as 2015 had received reports that had been reiterated in the years that followed, had decided to continue with the contact sessions even though the children’s well-being and safety were not guaranteed. The court had not at any stage assessed the risk facing the children and had not weighed up the competing interests. In particular, it did not appear from the reasoning of its decisions that considerations relating to the children’s best interests were deemed to take precedence over G.C.’s interest in maintaining contact with them and continuing with the sessions.

In the Court’s view, the contact sessions held since 2015, which had been held initially in conditions that did not comply with the Youth Court’s decision, and subsequently in a manner that did not provide a protective environment for the children, had upset the children’s psychological and emotional balance. That fact had been pointed out by the social services, which had repeatedly stressed the need for the children to receive psychological support. The Court also noted the Rome Court of Appeal’s finding that G.C., through his aggressive, destructive and contemptuous behaviour during the sessions, had failed in his duty to ensure the children’s healthy and untroubled development. Accordingly, it held that the children had been forced since 2015 to meet G.C. in conditions that did not provide a protective environment and that, despite the authorities’ efforts to

maintain the contact between them and G.C., their best interest in not being compelled to meet in such conditions had been disregarded. There had therefore been a violation of Article 8 of the Convention in respect of both children.

With regard to the children’s mother, the Court considered that the decisions of the domestic courts suspending her parental responsibility had not taken into account the difficulties surrounding the contact sessions and the unsafe conditions highlighted on several occasions by the various actors involved. No account had been taken of the situation of violence experienced by the first applicant and her children, or of the criminal proceedings pending against G.C. for ill-treatment. The Court also noted that in its report on Italy, GREVIO² had stressed that the safety of the non-violent parent and the children must be a central factor when deciding on the best interests of the child in relation to custody and visitation arrangements. GREVIO had also observed that the domestic courts did not take account of Article 31 of the Istanbul Convention. The Court shared GREVIO’s concerns about the existence of a widespread practice on the part of the civil courts whereby women who cited the issue of domestic violence as a reason for not attending contact sessions between their children and their former partner, and not agreeing to shared custody or visitation rights, were regarded as “uncooperative” parents and therefore as “unfit mothers” deserving of sanctions.

In the Court’s view, the domestic courts had failed to examine the first applicant’s situation with care and had decided to suspend her parental responsibility on the basis of her allegedly hostile attitude to contact and to shared parenting with G.C., without taking into consideration all the relevant factors in the case. Hence, the Court found that the Youth Court and the Court of Appeal had not provided relevant and sufficient reasons to justify their decision to suspend the first applicant’s parental responsibility between May 2016 and May 2019. There had therefore been a violation of Article 8 of the Convention in respect of the children’s mother.

Just satisfaction (Article 41)

The Court held that Italy was to pay the first applicant’s children 7,000 euros (EUR) jointly in respect of non-pecuniary damage. It held that the finding of a violation constituted in itself sufficient just satisfaction for the damage sustained by the first applicant.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

² GREVIO baseline evaluation report on Italy of 13 January 2020.