

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

THIRD SECTION

# CASE OF E.M.S. v. GREECE

*(Application no. 35341/23)*

JUDGMENT

STRASBOURG

10 November 2026

*This judgment is final but it may be subject to editorial revision.*



**In the case of E.M.S. v. Greece,**

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Lətif Hüseynov*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 35341/23) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 15 September 2023 by two Greek nationals, E.M.S. and F.D. ("the applicants"), who were born in 2014 and 1975 respectively, live in Marousi and were represented by Mr V. Chirdaris, a lawyer practising in Athens;

the decision to give notice of the complaints concerning Articles 3 and 8 of the Convention to the Greek Government ("the Government"), represented by their Agent, Mr K. Georgiadis, and their Agent's delegate, Ms S. Papaioannou, Senior Adviser at the State Legal Council, and to declare the remainder of the application inadmissible;

the decision not to have the applicants' names disclosed;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 20 October 2026,

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

# SUBJECT MATTER OF THE CASE

1. The case concerns the alleged failure of the Greek authorities to conduct an effective investigation into the applicants' complaints of child abuse, as well as allegations of secondary victimisation.

## I. BACKGROUND TO THE CASE

2. F.D., the second applicant, and G.S. were in a relationship. Their daughter, E.M.S., the first applicant, was born in November 2014 and was recognised by G.S. as his biological child. G.S. maintained regular contact with E.M.S. until May 2018.

3. According to the second applicant, on 23 May 2018 the first applicant disclosed that G.S. had engaged in sexual conduct towards her. During further conversations in the following days, the first applicant allegedly repeated

those allegations and described various acts by her father which the second applicant considered to be sexual in nature.

4. On 28 May 2018 the second applicant took the first applicant to her paediatrician, after she had allegedly complained of discomfort in her genital area. In a medical certificate dated 29 May 2018, the paediatrician recorded mild redness in the perineal region. He further noted that during the examination of that area the child had reacted with unusual distress, although she had otherwise been cooperative and in good spirits.

5. On 1 June 2018 the second applicant brought the first applicant for a consultation with a psychologist, S.G. In a report dated 13 June 2018, the psychologist noted behavioural changes in the first applicant when she discussed her father, but the report expressed no conclusive opinion as to the allegations of sexual abuse.

6. On 10 June 2018 the second applicant video-recorded a conversation with the first applicant, during which the child made statements suggesting that G.S. had engaged in inappropriate sexual conduct. In support of the recording's reliability, she submitted an expert opinion dated 29 October 2018 concluding that the recording was authentic and showed no signs of having been edited or manipulated, and that the child's responses were spontaneous.

## II. CRIMINAL PROCEEDINGS

7. On 5 July 2018 the second applicant lodged a criminal complaint against G.S. with the Athens public prosecutor, alleging that he had repeatedly sexually abused the first applicant, and joined the proceedings as a civil party.

8. On 1 August 2018 the public prosecutor ordered a preliminary investigation, including a forensic medical examination and a psychiatric assessment of the first applicant.

9. On 4 September 2018 the forensic medical examination was carried out.

10. Between 3 and 5 September 2018 the investigating authorities examined the second applicant and the witnesses proposed by her. She reiterated her allegations, while the witnesses described behavioural changes in the first applicant and incidents involving allegedly sexual behaviour by G.S. towards her. The second applicant also submitted reports and certificates issued by the Lykovrisi Community Mental Health Centre for Children and Adolescents, where E.M.S. had been followed since June 2018 pursuant to a prosecutorial order (see paragraph 28 below). Those reports provisionally diagnosed the first applicant with night terrors associated with intense parental conflict and recommended the continuation of psychological support and parental counselling.

11. On 19 February 2019 G.S. appointed G.Z. as his technical adviser.

12. In February 2019 the investigating authorities examined G.S. and the witnesses proposed by him. G.S. denied the allegations. The witnesses examined at his request described him as a devoted father and stated that they had never observed any inappropriate conduct on his part towards the first applicant. He also submitted expert opinions prepared by his technical adviser, G.Z. In a report concerning the video-recorded conversation between the first applicant and the second applicant, the expert considered that the recording appeared to have been staged to produce incriminating evidence against G.S., that the questions asked by the mother had been leading and unsuitable for investigating allegations of child sexual abuse, and that the child's gestures had been more consistent with ordinary washing movements than with sexual conduct. In a supplementary opinion of 15 February 2019, G.Z. concluded that the available material did not substantiate the allegations of sexual abuse and warned that there was a risk of secondary psychological harm to the first applicant if the unfounded allegations were maintained.

13. On 26 March 2019 the public prosecutor instituted criminal proceedings against G.S. on charges of sexual abuse of a minor under 14 years of age by a person closely connected to the victim and sexual acts with a child under 12 years of age, allegedly committed in May 2018, and ordered a judicial investigation.

14. On 20 May 2020 the second applicant informed the investigating judge that the first applicant had allegedly attempted to jump from the balcony at her home after learning that contact with G.S. might resume. In support of that allegation, she relied on a report prepared by K.V. (see paragraph 19 below), who expressed concern about the child's psychological condition and referred to symptoms of severe emotional distress. The report concluded, on the basis of the first applicant's clinical interviews, psychometric assessment and projective play, that her psychological profile was consistent with severe emotional trauma and supported the reliability of her statements, which the expert considered indicative of sexual abuse.

15. On 27 November 2020 G.S. submitted a report prepared by G.Z., which disputed the allegations of sexual abuse.

16. On 5 February 2021 the investigating judge ordered that the first applicant be examined by a child psychiatrist. The expert was instructed to assess: (i) the child's cognitive and psychological functioning; (ii) whether she displayed sexual knowledge or behaviour inappropriate for her age; (iii) whether the accused had committed sexual acts against her; (iv) whether her allegations appeared truthful or had been induced by suggestion; and (v) whether her overall psychological profile was compatible with that of a sexually abused child. The expert was requested to submit a report within 30 days.

17. The child psychiatrist who was initially appointed informed the investigating judge that professional constraints prevented her from carrying

out the task. Following a search lasting several months, another child psychiatrist, C.K., was appointed.

18. Between July and October 2021 C.K. carried out interviews with the child and her parents, during which the child produced a number of drawings, and a review of the case file. In her report of 13 December 2021, C.K. concluded that the findings did not substantiate the allegations of sexual abuse. She expressed doubts as to the reliability of certain aspects of the child's statements and drawings, considering that some elements might have reflected later exposure to similar material or memories influenced by an adult. She further noted inconsistencies in the child's recollection of the alleged events and concluded that her overall psychological presentation was not consistent with that of a sexually abused child. Lastly, she warned that the repeated assessments to which the child had been subjected risked causing additional psychological harm. According to the report, the interviews were conducted in child-friendly premises using methods recommended for the examination of alleged child victims of sexual abuse. The applicants participated in the assessment through their technical adviser, who attended the examination and submitted observations and questions.

19. On 27 May 2021 the second applicant appointed K.V. as technical adviser. On 21 December 2021 she submitted an opinion prepared by K.V. challenging the methodology and conclusions of the court-appointed expert. According to K.V., the child's drawings had not been assessed in accordance with the recognised methodology for evaluating allegations of child sexual abuse and their evidential significance had consequently been underestimated. She considered that the drawings, together with the child's statements and psychological presentation, were consistent with and strongly indicative of sexual abuse rather than fabrication or adult influence. She therefore requested that the expert report be set aside, that the first applicant undergo a supplementary psychiatric examination and that a new expert specialising in child sexual abuse be appointed.

20. On the same date, G.S. submitted an opinion by his technical adviser endorsing the conclusions of the court-appointed expert and disputing the allegations of sexual abuse.

21. By decision no. 270/2022 of 6 May 2022, the investigating judge concluded that the investigation had not produced sufficient indications of guilt to justify committing G.S. for trial. She carried out a detailed assessment of the evidence gathered during the investigation, including the forensic medical findings, the reports of the Lykovrisi Community Mental Health Centre, the parties' expert opinions and the report of the court-appointed expert. She considered that the last of these constituted the most reliable evidence in the case, rejected the criticism of its methodology and conclusions, dismissed the request for a supplementary expert examination and found that the video-recorded conversation could not be regarded as

reliable evidence, because it had not been conducted under scientifically controlled conditions.

22. On 30 September 2022 the public prosecutor recommended that no bill of indictment be issued. Referring essentially to the evidential assessment carried out by the investigating judge, she concluded that the evidence obtained during the investigation did not sufficiently indicate that G.S. had committed the offences under investigation.

23. On 31 October 2022 the second applicant submitted written observations together with a letter of 27 October 2022 by Dr Ch.I., criticising the methodology used by the court-appointed expert in assessing the child's drawings and arguing that, together with the child's statements and psychological profile, they were indicative of sexual abuse. She requested that the prosecutor's proposal be rejected, that the investigation be supplemented and that the first applicant be examined under Article 227 of the Code of Criminal Procedure in accordance with the special procedure applicable to alleged child victims of sexual abuse.

24. By decision no. 4155/2022 of 7 December 2022, the Indictments Division (*Συμβούλιο Πλημμελειοδικών*) refrained from ruling on the merits and returned the case file to the public prosecutor. It considered that the opinion submitted by Dr Ch.I. might be relevant to the determination of the case and directed that the parties be given an opportunity to comment on it.

25. On 30 January 2023 the public prosecutor reiterated her proposal that no bill of indictment be issued. She considered that the opinion submitted by Dr Ch.I. did not warrant a different conclusion, noting that its author had not examined the child and that the issues raised therein had already been addressed during the expert proceedings.

26. By decision no. 1015/2023 of 30 March 2023, the Indictments Division decided not to commit G.S. for trial, finding that the evidence contained in the case file did not sufficiently indicate that he was guilty of the offences in question. It further rejected the second applicant's request that the first applicant undergo a further examination, considering that such a measure would not contribute to the establishment of the facts and might adversely affect the child's psychological and emotional development.

27. On 18 April 2023 the second applicant applied to the prosecutor, asking him to appeal against that decision. On 25 April 2023 the prosecutor rejected the request.

28. On 11 May 2023 the second applicant applied to the prosecutor at the Court of Cassation, asking him to lodge an appeal on points of law. On 18 May 2023 the request was rejected.

## III. CONTACT PROCEEDINGS

29. In parallel with the criminal proceedings, proceedings concerning parental contact with the first applicant were conducted before the Athens

Court of First Instance. Pursuant to a prosecutorial order issued in those proceedings, she underwent a child psychiatric assessment and therapeutic monitoring alongside her parents at the Lykovrisi Community Mental Health Centre for Children and Adolescents between June 2018 and May 2020. In a report dated 8 November 2018, the Mental Health Centre concluded that the first applicant was a child with normal cognitive development who displayed certain behavioural and emotional difficulties, including emotional dysregulation and night terrors, which had intensified as a result of the parental conflict and the disruption of contact with her father. The report found no symptoms typically associated with child sexual abuse, no age-inappropriate sexual knowledge or behaviour, and no findings corroborating the allegations against G.S. It recommended that the child continue receiving psychological support and that both parents undergo psychiatric assessment, together with parental counselling.

## THE COURT'S ASSESSMENT

### ALLEGED VIOLATION OF ARTICLES 3 AND 8 OF THE CONVENTION

#### A. Admissibility

30. Even though the Government did not raise objections concerning the second applicant's victim status, that issue is a matter which goes to the Court's jurisdiction and which it thus must examine of its own motion (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 70, ECHR 2016 (extracts)).

31. The applicants alleged that the response of the national authorities to the allegations of sexual abuse of the first applicant by her father had not been in compliance with the State's obligations under Articles 3 and 8 of the Convention. This complaint concerns the first applicant only. The second applicant was only a representative in the proceedings before the national authorities. In the present case, the Court does not find any particular circumstances that would justify accepting the victim status of the mother as well (see *A and B v. Croatia*, no. 7144/15, §§ 88-91, 20 June 2019).

32. Accordingly, this complaint, in so far as it concerns the second applicant, is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, in accordance with Article 35 § 4.

#### B. Merits

33. Relying on Articles 3 and/or 8 of the Convention, the first applicant complained that the respondent State had failed to comply with its procedural

obligation to conduct an effective investigation into the allegations that she had been sexually abused by her father. In particular, she alleged that the domestic authorities had failed to conduct an effective investigation, having assessed the evidential material in an arbitrary and selective manner. In particular, they had relied on the conclusions of the court-appointed expert's report despite the criticism of its methodology advanced by the technical adviser appointed by her mother, K.V., and subsequently Dr Ch.I. She further complained that the domestic authorities had disregarded other relevant evidence, including the video-recorded conversation and her psychological condition, and had consequently refused to commit G.S. for trial. Moreover, the proceedings had not been conducted in a child-sensitive manner, thereby exposing the first applicant to secondary victimisation, in particular because she had been confronted with the alleged perpetrator during the expert examination. Lastly, the investigation had not been conducted with the promptness and expedition required in cases concerning allegations of child sexual abuse.

34. The Government submitted that the domestic authorities had conducted a prompt, thorough and effective investigation fully compliant with Articles 3 and 8 of the Convention. According to them, all evidence submitted by the parties had been duly considered by the competent authorities. As regards the allegations of secondary victimisation, they contended that the authorities had acted in the child's best interests and had rightly refused to subject her to further examinations. Lastly, the overall duration of the proceedings had been justified by the complexity of the case, the difficulties encountered in appointing a suitably qualified child psychiatrist, the impact of the COVID-19 pandemic, the procedural requests made on the first applicant's behalf and the staff shortages and increased workload faced by the competent judicial authorities.

35. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

36. The general principles concerning the State's positive obligations and the procedural requirements arising under Articles 3 and 8 of the Convention in cases involving allegations of sexual abuse of children were summarised in *X and Others v. Bulgaria* ([GC], no. 22457/16, §§ 184-92, 2 February 2021); in *A and B v. Croatia* (cited above, §§ 106-13); and most recently in *X v. Georgia* (no. 35640/22, §§ 113-15, 31 March 2026).

37. As to the proceedings at hand, following the criminal complaint lodged by F.D., the competent authorities ordered a preliminary investigation, during which they collected documentary evidence, ordered a forensic medical examination, heard the complainant, the suspect and a number of witnesses, and obtained expert reports and opinions (see paragraphs 8-12 above). Following the institution of criminal proceedings, a judicial investigation was opened, during which an independent child psychiatrist was

appointed to examine the first applicant (see paragraphs 16-18 above; and contrast *E.L. v. Lithuania* no. 12471/20, § 54, 9 April 2024).

38. In that connection, the Court notes that the Greek authorities did not have an easy task, as they were confronted with two conflicting versions of the events and little direct evidence. On the one hand, the court-appointed child psychiatrist concluded that the first applicant's allegations could not be considered sufficiently reliable and found no indication of sexual abuse (see paragraph 18 above). On the other hand, opinions were submitted on the first applicant's behalf by K.V. (see paragraph 19 above) and, subsequently, by Dr Ch.I., who criticised the methodology adopted by the court-appointed expert and considered that the child's statements, drawings and overall psychological profile were consistent with, and indicative of, sexual abuse (see paragraph 23 above).

39. In those circumstances, it fell primarily to the domestic authorities to assess the conflicting evidence and determine its probative value. In the present case, the investigating judge (see paragraph 21 above), the prosecutor (see paragraph 22 above) and, subsequently, the Indictments Division (see paragraph 26 above) took into consideration the documentary, testimonial, medical and expert evidence – including the expert opinions submitted on the first applicant's behalf, the video-recorded conversation and the request for a supplementary expert examination – and explained why they attached greater weight to the conclusions of the court-appointed expert.

40. As regards the first applicant's specific complaint that the domestic authorities failed to take into account Dr Ch.I.'s opinion concerning the interpretation of her drawings (see paragraph 23 above), the Court cannot agree with her. On the contrary, the Indictments Division considered that report capable of influencing the outcome of the proceedings and returned the case file so that the prosecutor and the accused could first be given the opportunity to comment on it (see paragraph 24 above). Following that additional procedural step, the matter was re-examined and the prosecutorial authorities maintained their previous assessment (see paragraphs 25 and 26 above). In that regard, the Court finds no indication that the domestic authorities disregarded any obvious line of inquiry (contrast, for example, *X v. Greece*, no. 38588/21, §§ 69 and 82, 13 February 2024).

41. The Court further notes that the impugned decisions were issued following adversarial proceedings in which the first applicant's representative (that is to say, her mother) was afforded the opportunity to present her arguments and submit the evidence she considered relevant (see paragraph 18 above, and the relevant principles in *X and Others v. Bulgaria*, cited above, § 189).

42. The first applicant further maintained that the domestic authorities had failed to give due weight to the alleged suicide attempt of May 2020 (see paragraph 14 above). The Court observes, however, that the incident was included in the case file and assessed in the course of the investigation. The

authorities' decision not to draw from it the conclusions advocated by the first applicant does not disclose any failure to investigate or otherwise undermine the adequacy of their assessment.

43. Having regard to the foregoing, the Court cannot discern any arbitrariness or manifest unreasonableness in the manner in which the domestic authorities assessed the evidential material before them. Nor does the case disclose any culpable disregard, discernible bad faith or lack of diligence on the part of the investigating or prosecuting authorities in their efforts to establish the relevant facts and determine whether criminal offences had been committed (see *A and B v. Croatia*, cited above, § 129; compare *Radočaj v. Croatia* (dec.), no. 22092/21, § 54, 20 May 2025; and contrast *M.G.C. v. Romania*, no. 61495/11, § 68, 15 March 2016). The Court is therefore satisfied that the domestic authorities took all reasonable measures capable of securing the evidence necessary to establish the relevant facts.

44. As regards the first applicant's complaint concerning the alleged secondary victimisation, the Court observes at the outset that certain factual assertions underlying that complaint are not borne out by the material before it. In particular, there is nothing in the case file to indicate that the first applicant was confronted with the alleged perpetrator during the expert examination. According to the expert report, the child was interviewed separately, in specially designed child-friendly premises (contrast *B. v. Russia*, no. 36328/20, § 60, 7 February 2023) and in accordance with the methodology applicable to children alleging sexual abuse (see paragraph 18 above). Furthermore, there is nothing before the Court to suggest that the professional involved lacked the requisite expertise (see paragraph 17 above).

45. The Court further notes that F.D.'s request for a further examination of the child was expressly examined and rejected on the grounds that such a measure would be unlikely to contribute to the establishment of the facts and might adversely affect the child's psychological and emotional development (see paragraph 26 above).

46. In these circumstances, it cannot be said that the domestic authorities failed to take into account the first applicant's particular vulnerability as an alleged child victim of sexual abuse or otherwise failed to adopt a child-sensitive approach to the investigation (contrast *G.U. v. Turkey*, no. 16143/10, § 72, 18 October 2016).

47. As regards the promptness and overall duration of the investigation, approximately 4 years and 11 months elapsed between the lodging of the criminal complaint on 5 July 2018 and the final decision of the prosecutor at the Court of Cassation on 18 May 2023 (see paragraphs 7 and 28 above).

48. The initial investigative measures were taken without significant delay. A preliminary investigation was opened on 1 August 2018, the first applicant underwent a forensic medical examination on 4 September 2018, and the second applicant and the witnesses proposed by her were examined between 3 and 5 September 2018 (see paragraphs 8-11 above). G.S. and the

witnesses proposed by him were examined in February 2019, and criminal proceedings were instituted the following month (see paragraphs 12 and 13 above).

49. The Court observes, however, that although a child psychiatric assessment had already been ordered as part of the preliminary investigation on 1 August 2018, it was not until 5 February 2021 that the investigating judge ordered an independent examination by a court-appointed child psychiatrist (see paragraphs 8 and 16 above). The initially designated expert subsequently declined the appointment, and difficulties were encountered in identifying a suitably qualified replacement (see paragraph 17 above). The assessment was eventually carried out between July and October 2021, and the expert's report was submitted on 13 December 2021 (see paragraph 18 above), more than three years after the initial order and approximately two years and nine months after the institution of criminal proceedings.

50. Following the submission of the report, the proceedings progressed without any significant period of inactivity. The investigating judge delivered her decision on 6 May 2022, the public prosecutor submitted her proposal on 30 September 2022, and, following the additional procedural steps prompted by the evidence submitted on the first applicant's behalf, the Indictments Division gave its final ruling on 30 March 2023. The prosecutors decided on the subsequent requests by 18 May 2023 (see paragraphs 21-28 above).

51. The Court accepts that the investigation involved issues of a certain complexity requiring specialised child psychiatric expertise, that difficulties arose in appointing a suitable expert and that part of the relevant period coincided with the COVID-19 pandemic. Those circumstances may explain part, but not the entirety, of the time taken to obtain an expert assessment which was central to the determination of the first applicant's allegations. The material before the Court does not adequately account for the substantial period that elapsed before the investigating judge ordered the expert assessment, or for the further delay in obtaining the report. In that connection, it reiterates that organisational difficulties, including staff shortages and an increased workload, cannot absolve the respondent State of its obligation to organise its judicial system so as to ensure compliance with the procedural requirements of Articles 3 and 8 of the Convention (see, *mutatis mutandis*, *M.A. v. Iceland*, no. 59813/19, § 74, 26 August 2025).

52. Viewed cumulatively, the period of more than three years passed between the opening of the preliminary investigation and completion of the key piece of evidence, the expert report. Against the background of proceedings lasting almost five years, and bearing in mind the particular diligence required in cases concerning allegations of child sexual abuse, the Court finds that the authorities failed to display the promptness and reasonable expedition required by Articles 3 and 8 of the Convention (see *X v. Georgia*, cited above, § 121, and *M. and M. v. Croatia*, no. 10161/13, § 152, ECHR 2015 (extracts); and contrast *R.E. and Others v. Iceland*,

nos. 59809/19 and 3 others, § 133, 13 January 2026, and *X and Others v. Bulgaria*, cited above, §§ 203-06).

53. There has accordingly been a violation of Articles 3 and 8 of the Convention under their procedural limb on account of the failure to comply with the requirement of promptness.

## APPLICATION OF ARTICLE 41 OF THE CONVENTION

54. In respect of non-pecuniary damage, the second applicant claimed 50,000 euros (EUR), and the first applicant EUR 100,000. They also claimed EUR 1,500 in respect of the costs and expenses incurred before the Court.

55. The Government contested those claims.

56. The second applicant's complaints have been declared inadmissible *ratione personae*. Accordingly, no award falls to be made to her. The Court, ruling on an equitable basis and having regard to the nature of the violation found, awards the first applicant EUR 4,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

57. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 1,500 for the proceedings before the Court, plus any tax that may be chargeable to the first applicant.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the first applicant admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Articles 3 and 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the first applicant, within three months, the following amounts:
      (i) EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the first applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the first applicant's claim for just satisfaction.

Done in English, and notified in writing on 10 November 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Olga Chernishova<br>Deputy Registrar | Peeter Roosma<br>President |