



## Announcement of a Grand Chamber case concerning the murder of a boy by his violent father who had been reported for domestic violence

The European Court of Human Rights will be adjudicating the case of **Kurt v. Austria** (application no. 62903/15) at a public hearing on 15 June at 11:30 a.m. in the Human Rights Building, Strasbourg.

The case concerned the murder of an eight-year-old boy by his father after previous allegations by the mother of domestic violence.

### Principal facts and complaints

The applicant, Senay Kurt, is an Austrian national who was born in 1978 and lives in Unterwagram (Austria). She married E. in 2003. They had two children, A., born in 2004, and B., born in 2005.

In July 2010 Ms Kurt called the police because her husband had beaten her. She alleged that he had been beating her for years and that recently the situation had worsened. The police noted that the applicant showed signs of injuries. A barring order (*Betretungsverbot und Wegweisung zum Schutz vor Gewalt*) was issued against E. This order obliged him to stay away from their common apartment as well as from Ms Kurt's parents' apartment for 14 days. E. complied with the barring order, and no further incidents were reported to the police.

Although Ms Kurt had refused to testify, in January 2011 the Graz Regional Criminal Court convicted E. of bodily harm and dangerous threatening behaviour and sentenced him to three months' imprisonment, suspended for three years with probation. Until May 2012 no further incidents were reported to the police.

In May 2012 Ms Kurt went to the St. Pölten District Court and filed for divorce. On the same day, she reported her husband to the police for rape and making dangerous threats. She added that he had beaten her regularly, sometimes slapping the children as well. She was in great fear of her husband and stated that she wanted to protect herself and her children. E. denied the allegations of rape and violence against his wife, but confessed that he had beaten his children "every now and then", "only as an educational measure". A police officer issued a new barring order against him.

The public prosecutor's office instituted criminal investigations on the same day as the barring order had been issued, but decided that E. would not be taken into detention on remand.

On 25 May 2012 E. went to A. and B.'s school. He asked A.'s teacher if he could speak briefly to his son in private. The teacher, who later stated that she had not been informed of the problems in the family, agreed. When A. did not return to class, she started looking for him. She found him in the school's basement, where he had been shot in the head. His sister B., who had witnessed her brother being shot, was not injured. A warrant for E.'s arrest was issued immediately and the police started investigations, but E. was found dead in his car that day, having shot himself.

In February 2014 Ms Kurt instituted official liability proceedings. She argued that the public prosecutor's office should have requested that E. be held in pre-trial detention after she had reported him to the police and that there had been a real and immediate risk that he would reoffend against his family. She claimed compensation for pecuniary and non-pecuniary damage.

In November 2014 the St. Pölten Regional Court dismissed her claim. It held, in particular, that taking into account the information the authorities had had to hand at the relevant time, it had not been

obvious that there was an immediate risk to A.'s life. In January 2015 the Vienna Court of Appeal dismissed her appeal, and in April 2015 the Supreme Court rejected an extraordinary appeal on points of law.

Relying on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for family life) of the European Convention on Human Rights, Ms Kurt complains that the Austrian authorities failed to protect her and her children from her violent husband, which resulted in him murdering their son.

## Procedure

The application was lodged with the European Court of Human Rights on 16 December 2015. The Court delivered its [judgment](#) on July 4, 2019, concluding, unanimously, that there had been no violation of Article 2 of the Convention in its substantive aspect. On 27 September 2019 the applicant requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 4 November 2019 the panel of the Grand Chamber accepted that request.

Third party submissions have been received by GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence), WAVE (Women Against Violence Europe), D.i.Re (Donne in Rete Contro la Violenza), AÖF (Verein Autonome Österreichische Frauenhäuser), EHRAC (European Human Rights Advocacy Centre) and Equality now (jointly), Bundesverband der Gewaltschutzzentren Österreichs, and Frauenvolksbegehren 2.0.

A [hearing](#) was held on 17 June 2020.

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### Press contacts

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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.