



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

SECOND SECTION

CASE OF R.E. AND OTHERS v. ICELAND

*(Applications nos. 59809/19 and 3 others –
see appended list)*

JUDGMENT

Art 3 and Art 8 (procedural) • Positive obligations • Alleged failure to adequately protect the applicants, including minors, and conduct an effective investigation into their complaints of sexual assault • Substantive and procedural domestic legal framework capable, in principle, of providing effective protection against sexual violence • Adequate and sufficient legal characterisation of allegations • Application of special procedural guarantees for minor victims in line with the Convention standards • Effective investigations

Art 14 (+ Art 3 and Art 8) • Discrimination • Alleged gender-based discrimination in handling of sexual violence cases • Various legislative and policy measures adopted to combat sexual violence • Insufficient prima facie evidence of structural bias or disproportionate effect capable of shifting the burden of proof to the State

Prepared by the Registry. Does not bind the Court.

STRASBOURG

13 January 2026

FINAL

13/04/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of R.E. and Others v. Iceland,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Jovan Ilievski,

Péter Paczolay,

Oddný Mjöll Arnardóttir,

Gediminas Sagatys,

Hugh Mercer, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the four applications (nos. 59809/19, 8034/20, 14407/20 and 17008/20) against the Republic of Iceland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by four Icelandic nationals (“the applicants”) on the dates indicated in the appendix;

the decision to give notice to the Icelandic Government (“the Government”) of the complaints concerning the alleged failure to carry out an effective investigation into sexual assaults and to protect the applicants against gender-based discrimination, to declare inadmissible the remainder of the applications;

the decision not to disclose the applicants’ names and to identify the two applicants who were minors at the material time only by letters of the alphabet;

the parties’ observations;

the comments submitted by the AIRE Centre which was granted leave to intervene by the President of the Section;

Having deliberated in private on 9 December 2025,

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

INTRODUCTION

1. The case concerns the alleged failure of the Icelandic authorities to conduct effective investigations into the applicants’ complaints of sexual violence, as well as allegations of gender-based discrimination in the handling of such cases. The applicants complained of a violation of Articles 3 and 8 of the Convention, taken alone and in conjunction with Article 14.

THE FACTS

2. The applicants were represented before the Court by Sigrún Ingibjörg Gísladóttir, a lawyer practising in Reykjavík.

3. The Government were represented by their successive Agents and Co-Agents, Einar Karl Hallvarðsson, Guðrún Sesselja Arnardóttir and Fanney Rós Þorsteinsdóttir.

I. APPLICATION NO. 59809/19 LODGED BY R.E.

A. Alleged sexual assault

4. On 5 December 2017 R.E. lodged a complaint with the Reykjavík Metropolitan Police (“RMP”) against her co-worker K. concerning an alleged rape that had occurred on 20 October 2017.

5. According to R.E.’s statement, she had been at an office party where free alcoholic drinks were available. She remembered little of the evening but knew she had gone with co-workers to a nightclub. Two of her friends who worked at the club had told her that K. had been buying her drinks and that she had been very intoxicated.

6. R.E. stated that she next remembered sitting on K.’s bed, fully clothed. After a few seconds everything went black. Her next memory was waking up lying on her side in bed with vomit having leaked from her mouth, while K. was having intercourse with her from behind. She could not move or say anything and fell asleep again.

7. The morning after, R.E. and K. proceeded to have consensual sexual intercourse but when getting dressed she noticed that her tights were torn and the zipper on her trousers was broken. After leaving K.’s home, she had gone to her academy where she told a friend about going home with someone without remembering it and showed her the broken zipper.

8. R.E. messaged K. asking for explanations as she remembered almost nothing. His response stated that nothing wrong had happened. In November 2017, after encountering K. at work, R.E. messaged him again, stating she remembered more details. During their subsequent phone conversation, K. had initially said he did not remember anything but later described kissing and foreplay before R.E. started vomiting.

B. Police investigation

9. After R.E. reported the incident to the police on 5 December 2017, officers assisted her in finding legal counsel. She filed formal charges on 11 December 2017 and was questioned the same day. Her counsel later provided the police with copies of her exchanges with K.

10. The case was investigated under Article 194 of the General Penal Code (“the GPC”), the provision defining and penalising rape. It was classified as priority level 2 to be dealt with quickly (see paragraph 69 below on prioritisation of police work at the material time). The police considered more urgent investigative action unnecessary because her account did not

warrant it and considerable time (seven weeks) had elapsed since the alleged offence.

11. K. was questioned on 26 October 2018. He denied having committed a sexual offence, stating that the sexual intercourse had been consensual. He acknowledged that both he and R.E. had been very intoxicated but maintained that she had been conscious and responsive during their encounter.

12. Between 27 and 29 October 2018, the police questioned six witnesses: S.H. (a friend R.E. met after the incident), B.E. (a co-worker), L.K. (R.E.'s female relative), S.B. and H.A. (her superiors at work), and S.A. (K.'s mother, who was present in their home at the time of the incident). None were direct witnesses to the incident, but they testified about events before and after and their exchanges with both R.E. and K. about the allegation of sexual assault.

13. The investigation plan noted seven additional potential witnesses identified by R.E. and K. The police did not question these individuals, concluding that their testimony would not contribute anything material beyond the existing witness statements. These potential witnesses included H.S., a bartender at the nightclub, whom R.E. had identified as having observed her level of intoxication and seen K. buying drinks for her on the night in question.

C. Decisions by domestic authorities

14. On 28 January 2019 the RMP discontinued the investigation. The police concluded that, while the sexual intercourse was undisputed, the parties disagreed on whether it was consensual. The decision and the additional reasoning subsequently provided at the request of the State Prosecutor cited K.'s firm denial of non-consensual activity; R.E.'s own limited recollection of events; the absence of direct witnesses to the incident; the lack of additional evidence, including from the Emergency Reception Unit for Victims of Sexual Abuse ("the Emergency Reception Unit"); the consensual intercourse occurring the following morning, and the assessment that it was not justified to continue the investigation.

15. R.E. appealed this decision to the State Prosecutor, submitting additional evidence in the form of a statement from *Stígamót*, a victims' support centre, issued on 14 November 2017, which indicated that she had been diagnosed with post-traumatic stress disorder (PTSD) in relation to more than one sexual assault and that symptoms had been present for more than three months. She also contended that the police had failed to question witness H.S. She emphasised that she had been incapable of giving consent due to her level of intoxication, and suggested that additional certificates be obtained from her psychologist and *Stígamót*.

16. By decision of 22 May 2019, the State Prosecutor upheld the RMP's decision to discontinue the investigation. The State Prosecutor reviewed the evidence gathered, including the witness statements and psychological report,

and noted that in the absence of direct witnesses, the case essentially turned on the conflicting accounts of R.E. and K. regarding consent. The State Prosecutor concluded that further investigation would neither shed additional light on the incident nor alter the evidentiary status of the case.

II. APPLICATION No. 8034/20 LODGED BY X

A. Alleged sexual assault

17. X, aged seventeen years at the time of the incident, alleged that she was raped by a twenty-five-year-old co-worker, F. According to her statement to the police, on 15 July 2017, they went shopping for food together and then cooked a meal at F.'s home, where his brother was also present. Later, X and F. went to her home together. She allowed F. to sleep on a sofa overnight, as he claimed he was not in a condition to drive.

18. X stated that she woke up early in the morning in her bed to find F. naked on top of her, attempting to or penetrating her from behind. She described being in a state of shock ("frozen") but managed to move. F. then grabbed her arm and ordered her to get on top of him. She had been in pain and reached for a lubricant before sexual intercourse took place. F. had subsequently turned her around and had intercourse from behind. X alleged that, during this encounter, F. pulled her hair and spanked her, causing her to cry out in pain. Afterwards, she had tried to get away, but F. had held her tightly. They had both fallen asleep, but when they woke up, he had continued to spank her and pull her hair. The physical mistreatment had also included him scratching her.

19. The day after the incident, X attended the Emergency Reception Unit, where a medical examination was conducted and biological samples were taken. The medical report noted that she was calm and gave a clear statement, but also that she was crouching and showing signs of fear. The examination revealed minor bruises on her left hip, a potential bruise above her right knee, and soreness on both buttocks, though no injuries to the buttocks or genitals were recorded. The report of the receiving nurse recorded numerous additional signs of emotional distress and X's account of events, which included mention of additional sexual acts that had occurred after the incident described to the police.

B. Police investigation

20. On 8 September 2017 X, who was still a minor at the time, formally pressed charges against F. through her mother, who acted as her legal guardian, with the RMP. A legal rights protector was appointed and was present when she gave her statement. The Child Protection Services were also notified, but given that she was close to the age of majority and was already

assisted by a legal rights protector, they did not attend. The underwear that the applicant brought was impounded.

21. The case file contained reports from the Emergency Reception Unit. A separate forensic report of 5 October 2017 concluded that while no semen could be detected in the biological samples retrieved, X's underwear contained semen which could be used for DNA analysis. Another forensic report of 3 November 2017 concluded that no signs of alcohol or drug use were found in the biological samples.

22. On 3 March 2018 the investigators called for a certificate from the psychologist X had been referred to by the Emergency Reception Unit. The certificate of 23 April 2018 stated that X had demonstrated multiple symptoms consistent with PTSD following the incident. However, a formal diagnosis had not been made as she had stopped attending sessions in October 2017. The certificate also mentioned that X had experienced previous trauma, including childhood sexual abuse.

23. On 21 March 2018 F. was interviewed and provided a different account of events. He claimed that they had slept in X's bed and that when they woke up in the morning they had engaged in consensual sexual activity. He stated that X had indicated that she wanted to have sexual relations with him, and that she had participated actively in the sexual activity, including by retrieving the lubricant.

24. Between 21 March and 18 August 2018 the RMP questioned eight witnesses, including X's former boyfriend, friends and family, F.'s brother, and co-workers of both X and F. None were direct witnesses to the incident but testified about events before and after, as well as conversations they had with either X or F. about the incident and the allegation of sexual violence. X's friends, whom she had spoken to before going to the Emergency Reception Unit, testified that she recounted having told her boyfriend that she had been unfaithful to him and that she had expressed regret in not having indicated clearly to F. that she had not consented to the sexual activity.

25. The results of the investigation were sent the District Prosecutor's office on 13 September 2018.

C. Decisions by domestic authorities

26. Following the RMP's investigation, on 7 May 2019 the District Prosecutor discontinued the case, concluding that the evidence gathered was insufficient to support a prosecution. The District Prosecutor highlighted several key factors. Firstly, X and F. were the only persons present during the incident and had fundamentally conflicting accounts. The results of the medical examination did not provide sufficient support for X's account of the physical consequences. Based on witness testimony, there was reasonable doubt as to whether F. should have realised that the sexual activities had occurred without consent. Given the standard of proof required in criminal

cases, the available evidence was not considered sufficient or likely to result in a conviction.

27. X appealed this decision to the State Prosecutor in May 2019, challenging the District Prosecutor's assessment of the evidence.

28. On 22 August 2019 the State Prosecutor upheld the District Prosecutor's decision. The State Prosecutor acknowledged that sexual intercourse had taken place and that X claimed it had commenced while she was asleep. Nevertheless, the available documentation, including witness testimony, the Emergency Reception Unit reports, and the psychological certificate, did not provide sufficient support for X's testimony to overcome F.'s denial and meet the burden of proof required for prosecution.

III. APPLICATION No. 14407/20 LODGED BY Y

A. Alleged sexual assault

29. In March 2019 Y gave statements to the police alleging sexual assault by T., committed in July 2018. Both Y and T. were born in 2001 and were minors at the time of the incident.

30. Y stated that in July 2018 they had been camping in South Iceland. She had become heavily intoxicated that evening and remembered little of what had happened after midnight. Her friends told her that she and T. had been kissing, but she did not remember this herself. Her friend W1 had also described having seen Y so intoxicated that T. had held her up and helped her get into her tent. She had a faint memory of having lain down in the tent but remembered nothing more, except waking up briefly with two people other than T. in the tent. She had woken up alone the morning after, fully dressed. Upon returning home, she had noticed her underpants were not on correctly.

31. At the end of January or beginning of February 2019, Y learned that T. had told friends they had "slept together". After hearing a description, allegedly from T., that the sexual activity had consisted of oral sex, she broke down and subsequently told her mother about the incident.

B. Police investigation

32. In February 2019, Y sought assistance from *Bjarkarhlið*, a centre for victims of violence. The Child Protection Services were notified. On 6 March 2019 she formally pressed charges against T. through her mother, who acted as her legal guardian, with the RMP. On 6 and 28 March 2019, she gave her statements to the police in the presence of her legal rights protector and a representative from the Child Protection Services. The Child Protection Services referred Y to the Children's House for diagnosis and treatment, where she attended fifteen sessions and was diagnosed with PTSD.

33. On 26 March 2019 T. was questioned. He denied the accusations but stated that he had met the applicant that evening. They had cuddled and kissed in a car on the campsite and gone to Y's tent, where she had started undressing. He described consensual intimate activity in the tent, which included finger contact and possibly finger penetration. Y's friend, W2, had arrived and asked who was in the tent. T. had helped Y get dressed, after which W2 and W3 had joined them in the tent. Later that night, he had spoken to another friend who asked if they had "slept together". He had decided to brag and replied in the affirmative. The friend in question had repeated the story to others and T. had not dared to admit that he had lied, except later to a few people. He described both himself and Y as having been intoxicated and thought that their state of intoxication had been similar.

34. Between March and April 2019 the police questioned Y's mother and four witnesses who were present at the campsite. The witness W4 stated she had seen Y very drunk but able to walk independently. The witness W2 testified to seeing into the tent where T. was sitting atop the fully clothed Y. She had not seen Y move or heard her talk, but T. had turned around and spoken to W3, who was also there. She did not remember whether they had entered the tent but stated that she had not considered the scene suspicious. When she and W3 had returned to sleep in the tent about an hour later, Y had not been there. The witness W3 remembered spending the night in the tent with W2 and Y. The witness W1, who was sober, described seeing T. holding Y upright as she could hardly stand and taking her towards the tent.

35. The case file included a social media exchange between T. and Y, in which he asked, "do you remember me from last night or were you too drunk haha".

36. During the investigation, Y's mother informed the police that her daughter had undergone two gynaecological examinations after the incident, during which she had stiffened up so that the examinations could not be completed.

37. The results of the investigation were sent the District Prosecutor's office on 3 December 2018.

C. Decisions of domestic authorities

38. On 19 June 2019 the RMP discontinued the investigation, concluding that whilst sexual relations in the form of T. having touched Y's genitals were not disputed, there was insufficient evidence to prove any additional sexual activity or that T. should have realised that Y was in such a condition that she could not resist the act. The decision was based on several factors: the absence of direct witnesses to the alleged sexual offence; the conflicting accounts of Y's state of intoxication; Y's limited recollection of the incident due to intoxication; and the assessment that further investigation was not likely to cast additional light on the incident.

39. Y appealed this decision to the State Prosecutor on 11 July 2019. The appeal was accompanied by submissions outlining objections to the assessment of evidence and the failure to obtain material from the Children's House where Y had been diagnosed with PTSD, as well as documentation from gynaecological examinations.

40. On 19 September 2019 the State Prosecutor upheld the decision to discontinue investigation. The State Prosecutor referred to the reasoning of the RMP on the nature of the sexual relations in question, noting also that T. had explained why he had told friends that additional sexual activity had taken place. Documentation on gynaecological examinations carried out eight to nine months after the incident would not change the evidentiary position of the case on this issue. As regards Y's condition and the question of whether T. could have realised that consent had not been given, the State Prosecutor found that, while witness testimony supported the conclusion that she had been more heavily intoxicated than him, it did not confirm Y's account that she had been sleeping or unconscious when the incident took place. While the message sent by T. the following day indicated that he realised that Y had been heavily intoxicated, it was not considered sufficient to support the conclusion that he intentionally exploited her condition. The State Prosecutor concluded that additional investigative measures, such as obtaining documentation on the psychological effects of the incident on Y, would not resolve the core evidentiary difficulties or strengthen the case sufficiently to support prosecution.

IV. APPLICATION No. 17008/20 LODGED BY S.O.

A. Alleged sexual assault

41. On 17 May 2018 S.O. filed a complaint and gave a statement to the police in East Iceland in the presence of a legal representative concerning alleged sexual assaults by R. and A. She stated that, on the evening of 22 June 2012, she had been partying when the two men sat down with her and her friend. A. had shown interest in her, eventually inviting her to his hotel room.

42. S.O. had joined A. in his hotel room where they engaged in consensual sexual activity. She had initially been an active and willing participant, but her experience changed radically when R. suddenly entered the room and started to undress. Some communication took place between the two men, but she did not recall what was said.

43. According to her statement, after R.'s arrival, she no longer consented to any sexual activity. She also stated that A.'s behaviour became more aggressive. Both men then engaged in non-consensual sexual acts with her. She described having "frozen" and "zoned out" at this point, stopping touching, laughing and smiling, and becoming completely passive.

44. When asked if she had verbally communicated her lack of consent, S.O. stated that she had not said anything but maintained that it should have been evident from an obvious change in her behaviour. Likewise, R. should have had no reason to assume that she wanted to have sex with him.

45. S.O. stated that she had received a text message from A. the day after the incident, asking her not to tell anyone what had happened because “they were on a bummer”.

46. In March 2017 S.O. contacted both men via Facebook messages, seeking to make them aware of what they had done to her. Both men replied to her messages. S.O. submitted screenshots of these exchanges to the police.

B. Police investigation

47. On 25 and 26 July 2018, respectively, the East Iceland police informed R. and A. that S.O. had filed complaints against them.

48. As neither of the men resided in eastern Iceland, on 26 July 2018 the East Iceland police requested the RMP to take a statement from A. The RMP questioned him on 2 August 2018. The East Iceland police received the interview record on 16 August 2018. On that day, it sent a request to the Northeast police to interview R. That interview took place on 25 October 2018.

49. During questioning, A. denied any wrongdoing. His account of events matched S.O.’s up to the point of their consensual sexual activity in the hotel room. According to A., when R. entered the room, he offered to sleep in the car, but A. asked S.O. whether R. could join them. A. claimed S.O. answered affirmatively and willingly participated in sexual activity involving all three of them. A. claimed that towards the end of the encounter, he went to the balcony to smoke and heard laughter from S.O. and R. Upon returning, he observed S.O. engaging willingly with R. He stated that S.O. then dressed and left without indicating any distress. A. confirmed sending a text message to S.O. the following day requesting discretion about the events, explaining this was because he felt “very guilty” about committing adultery. Regarding S.O.’s condition, A. stated that she was intoxicated, but not to an extreme degree, and maintained that she had shown no signs of objection or discomfort.

50. R. similarly denied any wrongdoing. His account of events aligned with that of A. in key aspects. He stated that S.O. appeared to consent to his joining the sexual encounter. Like A., he described S.O. as a willing participant throughout. R. stated that all parties were intoxicated but not severely impaired. He claimed that after the sexual activity, while A. went outside to smoke, he and S.O. remained in bed talking and laughing together. S.O. soon left, and R. said he kissed her goodbye on the cheek, maintaining that there were no negative feelings during the encounter. R. confirmed that, the day after the incident, a text message had been sent to S.O. from A.’s

telephone, requesting discretion about the night's events. He explained that this was because A. was cohabiting with another woman, and R. had recently separated from his wife but hoped to reconcile with her.

51. Between June and July 2018, the investigators collected nine witness statements. A friend who had been with S.O. on the night of the incident did not learn of the alleged assault until 2016 and recalled little from that evening. Two female witnesses reported inappropriate behaviour from A. towards them on the evening in question. S.O.'s boyfriend described her distress upon disclosing the incident to him in 2016. He recounted confronting R. in 2017, during which R. apologised, stating he "had not intended to violate her", which he interpreted as an admission of guilt. Two other witnesses confirmed this encounter; however, one of them had not heard the actual conversation, and the other, who had overheard part of the exchange, recalled that R. had admitted to sleeping with S.O. but had not admitted to violating her. Friends and family of S.O. testified that she had disclosed experiencing sexual violence and described a noticeable deterioration in her mental health.

52. The investigation also reviewed screenshots of social media exchanges between S.O. and both men from 2017. R. expressed regret and apologised, stating that he had believed everyone was consenting at the time and that it had not been his intention to injure her, adding that he had not realised how she had experienced the events. A. expressed sorrow about her experience of the night in question but stated that his own experience was different from what she had described.

53. The investigators procured documentation on S.O.'s mental health after the incident. Reports from psychological treatment, the *Stígamót* centre, and a primary healthcare centre documented serious depression, anxiety, and symptoms of PTSD.

C. Decisions by domestic authorities

54. On 3 June 2019 the District Prosecutor discontinued the case. In the notification to S.O., the District Prosecutor acknowledged that her statement was credible and that witness testimony and medical certificates supported her account of psychological consequences resulting from the alleged offences. However, regarding the events on the evening in question, the prosecutor noted that it was "word against word". In the absence of any witnesses to the alleged offences and with no additional evidence supporting S.O.'s account, and given that the case had only come to the attention of the police almost six years after the incident, the prosecutor concluded that, considering the evidentiary requirements in criminal cases of this nature and the burden of proof resting with the prosecution, the case was not likely to lead to a conviction in court.

55. On 3 July 2019 S.O. appealed this decision to the State Prosecutor. In her appeal, S.O. noted that both men appeared to have aligned their responses

in the social media exchanges with her, and that there were inconsistencies in their statements to the police.

56. On 2 October 2019 the State Prosecutor upheld the District Prosecutor's decision, noting that, while it was undisputed that sexual activity had occurred between S.O. and the suspects, their descriptions of the events differed significantly. The State Prosecutor concurred with the District Prosecutor's assessment that the available evidence on file did not sufficiently corroborate S.O.'s testimony to make a conviction likely, given the suspects' firm denials.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LEGAL FRAMEWORK

A. Constitution of the Republic of Iceland

57. Article 65 provides that everyone shall be equal before the law and enjoy human rights irrespective of, *inter alia*, sex. The second paragraph states that men and women shall enjoy equal rights in all respects.

B. General Penal Code No. 19/1940 (*Almenn hegningarlög*)

58. Article 194, as amended by Act No. 61/2007 and in force until 13 April 2018, provided:

“Any person who engages in sexual intercourse or other sexual relations with another person by means of violence, threats or other unlawful coercion shall be guilty of rape and shall be imprisoned for a minimum of 1 year and a maximum of 16 years. ‘Violence’ here includes deprivation of freedom of action by means of confinement, drugs or other comparable means.

It shall also be considered rape, subject to the same punishment as specified in the first paragraph, to exploit a person's psychiatric disorder or other mental disability, or their inability, for any other reason, to resist the act or understand its significance, in order to engage in sexual intercourse or other sexual relations with them”.

59. The Explanatory Report to Act No. 61/2007 stated that the main characteristic of sexual offences is a violation of a person's sexual autonomy and that the bill aimed to reduce emphasis on the means employed and stress that “the offences involve sexual relations without the victim's consent”. As regards the proposed wording of Article 194, it stated that “the underlying idea is that the new provision on rape should apply to situations where sexual intercourse occurs without the victim's consent, as the absence of consent is a fundamental condition”. Act No. 61/2007 thus shifted the legislative focus from the method of commission to the violation of the victim's sexual autonomy.

60. Article 194, as amended by Act no. 16/2018, currently provides:

“Any person who engages in sexual intercourse or other sexual relations with another person without his or her consent shall be guilty of rape and shall be imprisoned for a minimum of 1 year and a maximum of 16 years. Consent is considered to have been given if it is freely expressed. Consent is not considered to have been given if violence, threats or other unlawful coercion are employed. ‘Violence’ here includes deprivation of freedom of action by means of confinement, drugs or other comparable means.

It shall also be considered rape, subject to the same punishment as specified in the first paragraph, to use deception or exploit a person’s misconception regarding the situation, or to exploit a person’s psychiatric disorder or other mental disability, or their inability, for any other reason, to resist the act or understand its significance, in order to engage in sexual intercourse or other sexual relations with them”.

61. The Explanatory Report to Act no. 16/2018 stated that consent for participation in sexual intercourse must be expressed in words or by other unambiguous expression. The victim is not required to protest or show resistance for a conclusion of lack of consent. While active participation in a particular activity can be interpreted as consent, complete inactivity cannot. The explanatory report further clarified that the amendments were not intended to change the previously applicable requirement of intent. The alleged perpetrator would therefore have to realise that consent had not been given.

62. Article 195 provides that, when determining punishment for violations of Article 194, the severity of the sentence shall be increased where specific aggravating factors are present. Such circumstances include cases where the victim is a child under the age of eighteen years, where the perpetrator employs extensive violence, and where the offence is committed in a manner causing particular pain or injury to the victim.

C. Criminal Procedure Act No. 88/2008

63. The Act contains detailed provisions on criminal investigations and prosecutions. These include the requirements that the police shall investigate, when necessary, based on knowledge or suspicion of crime regardless of whether a complaint has been received (Article 52), that investigations shall be carried out expeditiously (Article 53), and that the burden of proof regarding guilt lies with the prosecution (Article 108). It also provides that, after receiving the case, the prosecutor may instruct the police to undertake additional investigative measures (Article 57), and that an indictment shall not be issued unless the investigative material is considered sufficient or likely to secure a conviction (Article 145).

64. Article 41 provides that the police shall appoint a legal representative for victims in sexual offence cases upon request, and in all cases where the victim is under eighteen. In cases concerning domestic violence, the police shall also appoint a legal representative when it is considered necessary. Upon

the initiation of court proceedings, the legal representative shall be appointed by the court.

D. Case-law of superior courts

65. In judgment no. 486/2016 the Supreme Court upheld the conviction of two defendants for raping a complainant who was intoxicated to the point of diminished capacity. The court concluded that, owing to her high level of intoxication, the victim had been incapable of giving consent and that the defendants had exploited this. In this context, the court also observed a marked disparity in position and physical strength between the parties. The defendants were accordingly found guilty of rape by means of “unlawful coercion” under the first paragraph of Article 194 of the GPC. In judgments nos. 154/2016 and 252/2016 the Supreme Court confirmed convictions under the second paragraph of Article 194 in cases where, due to the intoxication and state of somnolence of the victims, the perpetrators were found to have had no reason to assume that consent had been given for the sexual acts in question. In judgment no. 12/2021 it upheld and increased custodial sentences under the first paragraph of Article 194, taking into account the complainant’s particular vulnerability in light of her young age, level of intoxication and isolation on account of the fact that the acts took place in the home of unfamiliar men.

66. The Court of Appeal has upheld convictions under the second paragraph of Article 194 where complainants were unable to resist or understand the significance of the act as they were sleeping or intoxicated and in a state of somnolence, considering that such incapacity negated the possibility of valid consent (see, for example, its judgments nos. 93/2018, 330/2019, 596/2019 and 61/2020).

E. State Prosecutor Instructions

67. State Prosecutor Instructions no. 4/2017 stipulate that cases involving physical and sexual violence shall be expedited. Special priority shall be given to cases of rape, violence against children and violence in close relationships, as well as cases in which the perpetrators are under eighteen years of age.

68. In 2018, a digital investigation plan was introduced in the police records system (*Löke*). Pursuant to the State Prosecutor Instructions no. 2/2018, an investigation plan shall, *inter alia*, be prepared for the investigation of rape offences, sexual offences against children and offences in close relationships. When such cases are recorded in *Löke*, a list of investigative measures to be undertaken is generated automatically. The objective is to improve the quality of investigations and the speed of proceedings, ensuring that all relevant information is available from the early

stages of the case and that persons directing the investigation have access to all information at every stage.

F. Organisation of investigative work

69. Prior to April 2018, cases investigated by the sexual offences unit (or its predecessor structure) at the RMP were categorised according to three priority levels: priority 1 for cases requiring immediate action, priority 2 for cases to be dealt with quickly, and priority 3 for cases that could be delayed. Typically, one meeting was held between the head of the investigative department and a representative of the Prosecution Division to establish investigation plans and prioritise cases.

70. From April 2018, the relevant investigative department of the RMP was enlarged and organised into three teams, each under the direction of a manager: Team 1 investigates rape; Team 2 investigates crimes against children and vulnerable persons; and Team 3 investigates other sexual offences and provides support to the other two teams.

71. Analytical meetings are held twice a week between the management of the investigative department and a representative of the Prosecution Division. At these meetings, all cases under investigation are reviewed, whether newly received or previously ongoing. Cases are assigned to teams, prioritised, electronic investigation plans are prepared, and specific tasks are allocated, including measures to secure evidence immediately. A digital record is entered in *Löke* noting that a case has been analysed, identifying the analyst and the team assigned. Analytical meetings also verify whether a suspect is involved in other similar cases in *Löke*, assess the risk of further offences, and, in cases involving a child, whether the suspect's work gives them access to children.

II. UNITED NATIONS

72. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in force for Iceland since 18 July 1985, requires States parties to take all appropriate measures to eliminate discrimination against women and ensure the equal right of men and women to enjoy human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. The CEDAW Committee has identified gender-based violence as a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

73. For the CEDAW Committee's Concluding Observations on the Seventh, Eighth and Ninth Periodic Reports of Iceland, the Court refers to the text of the observations available on the CEDAW Committee's website and relevant extracts from them cited in *B.A. v. Iceland*, no. 17006/20, §§ 37-38, 26 August 2025.

III. COUNCIL OF EUROPE CONVENTIONS

74. For the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“the Lanzarote Convention”), which entered into force for Iceland on 1 January 2013, and the related Explanatory Report, the Court refers to the Convention text available on the website of the Council of Europe Treaty Office and the specific provisions cited in *X and Others v. Bulgaria* [GC], no. 22457/16, §§ 127-29, 2 February 2021.

75. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (“the Istanbul Convention”), which entered into force for Iceland on 1 August 2018, has, *inter alia*, the objective of “protect[ing] women against all forms of violence ... and prevent[ing], prosecut[ing] and eliminat[ing] violence against women” (Article 1 § 1 (a)) and applies “to all forms of violence against women” (Article 2 § 1). Article 3 (a) defines “violence against women” as “a violation of human rights and a form of discrimination against women” encompassing “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women”. Article 36 § 1 (a) requires Parties to criminalise the intentional conduct of “engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object”. Article 49 § 1 obliges States to ensure that investigations and judicial proceedings relating to all forms of violence covered by the Convention are carried out “without undue delay”, while taking into consideration the rights of victims at every stage. Article 50 §§ 1 and 2 impose a duty to guarantee a prompt and appropriate response from law enforcement agencies, including “the employment of preventive operational measures and the collection of evidence” in respect of offences falling within the Convention.

76. For the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report on legislative and other measures giving effect to the provisions of the Istanbul Convention in the Republic of Iceland, GREVIO/Inf(2022)26, published on 14 November 2022, the Court refers to the text of the report available on the GREVIO’s website and relevant extracts from it cited in *B.A. v. Iceland*, cited above, §§ 31-36. In particular, GREVIO acknowledged the State’s sustained political commitment to gender equality yet recorded entrenched stereotypes and a continuing need to address sexual violence. It welcomed successive action plans since 2006 that target domestic and sexual violence, including the 2017 Action Plan on Sexual Offences, which introduced additional police posts, upgraded investigative equipment and mandated a timed investigation plan for rape cases (§ 250). GREVIO nonetheless highlighted the fragmented nature of national statistics on gender violence, with no harmonised data on indictments or convictions that would

enable the tracking of sexual-violence cases from reporting to sentencing (§ 205).

77. In addition, the following observations in the report are of relevance to the present case.

78. As regards specialist services for victims of sexual violence, GREVIO noted with satisfaction that Iceland maintains two full-time emergency reception centres for such victims and “meets the target of one such centre per 200,000 inhabitants” (§ 147). While noting that victims of sexual violence receive a call from a psychologist offering an appointment following their visit to the emergency ward, it recommended that “a psychologist should be called immediately when a victim of sexual violence is examined” (§ 149) and expressed concern that “victims of sexual violence below the age of 18 have to wait for several weeks for psychological support, as *Barnahús* does not have sufficient capacity” (§ 150).

79. As regards the legal framework on sexual violence, while acknowledging that “recognition of a consent-based approach to sexual violence had long formed part of the explanatory report to the CPC”, GREVIO welcomed the 2018 amendments to the definition of sexual offences “to specifically include the notion of consent in the elements of the crime in order to obtain consensus within society on the definition of rape, to prompt a change in culture for professionals dealing with such cases and to provide victims with sufficient protection” (§ 202). While GREVIO considered the Icelandic legal definition of rape and sexual violence to be in line with the requirements of Article 36 of the Istanbul Convention, it noted concerns expressed by NGOs and experts in the field about “a certain lack of enforcement of these provisions in judicial practice, and a rather conservative interpretation of the notion of consent”. The NGOs also raised particular concerns about “the high number of dismissals of charges of rape and other sexual violence by the State Prosecutor and the low number of convictions in those cases” (§ 205).

80. GREVIO noted efforts to improve victim involvement in criminal proceedings and a review initiated with a view to shortening the processing of cases of sexual violence within the judicial system (§ 253). It also welcomed the fact that “there is good awareness among the Icelandic police, prosecutors and judiciary of the significance of the systemic delays in the police and justice system” and the steps that are “being taken at all stages to try and identify key problems and remedy this”, including “a research project to identify what causes cases of sexual violence to progress quickly or slowly, including trying to identify existing bottlenecks and trialling various measures to improve the system”. Nevertheless, GREVIO formed the view that the “financial means and human resources currently employed [did not] match the demand” (§ 255).

IV. COMPARATIVE LAW

81. For a recent comparative study of the legal definitions of rape and sexual assault in Europe, the Court refers to its judgment in the case of *L. and Others v. France* (nos. 46949/21 and 2 others, §§ 142-47, 24 April 2025), in which it noted that a significant number of Council of Europe member States define rape in terms of the absence of freely given consent rather than the use of force, threat or coercion. This evolution reflects a growing recognition that traditional models fail to address situations in which victims experience paralysis or tonic immobility.

THE LAW

I. JOINDER OF THE APPLICATIONS

82. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLES 3 AND 8 OF THE CONVENTION

83. The applicants complained that the domestic authorities had failed to carry out an effective criminal investigation into the alleged acts of sexual violence, in breach of Articles 3 and 8 of the Convention, which read as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment ...”

Article 8

“1. Everyone has the right to respect for his private and family life ...”

84. It is settled in the Court’s case-law that rape and serious sexual assault amount to treatment falling within the ambit of Article 3 of the Convention. Since rape and serious sexual assault typically implicate fundamental values and essential aspects of “private life”, the Court has also examined cases relating to the positive obligation to investigate cases of rape under Article 8 of the Convention (see *Y v. Bulgaria*, no. 41990/18, §§ 63-65, 20 February 2020; *Vučković v. Croatia*, no. 15798/20, § 49, 12 December 2023; *X v. Greece*, no. 38588/21, §§ 65-66, 13 February 2024, and the case-law cited therein). Having regard to the nature and substance of the applicants’ complaints, the Court finds that they fall to be examined jointly under Articles 3 and 8 of the Convention.

A. Admissibility

85. The Government acknowledged that the applicants had exhausted effective remedies in the criminal proceedings by appealing to the State Prosecutor. They submitted, however, that their complaints were manifestly ill-founded.

86. The Court notes the Government's acknowledgment regarding the exhaustion of domestic remedies. It considers that the objection of the complaints being manifestly ill-founded raises issues that call for the examination on the merits rather than an admissibility assessment (see *Mehmet Çiftci v. Turkey*, no. 53208/19, § 26, 16 November 2021, and the authorities cited therein).

87. The Court therefore considers that the applicants' complaints are neither manifestly ill-founded nor inadmissible on any other ground listed in Article 35 of the Convention and must be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

88. The applicants submitted that they did not enjoy effective protection of their rights, as victims of sexual violence, under Articles 3 and 8 of the Convention. In their view, statistics demonstrated that the chances of prosecution for gender-based violence in Iceland were slim, reflecting a systemic problem manifested in three ways: the legal framework did not sufficiently protect women; investigations were not sufficiently effective and conclusive; and reaching the threshold deemed sufficient for prosecution seemed near impossible due to ineffective investigations and assessment of proof.

89. As regards the legal framework, the applicants asserted that the 2007 amendment of Article 194 of the General Penal Code ("the GPC") contained no direct reference to consent or lack-of-consent criteria. Whilst the preparatory works acknowledged sexual autonomy as central to assessment, the focus remained on establishing a causal link between violence or threats and the enforcement of sexual acts rather than on consent. The 2018 amendment, which expressly referred to rape as entailing lack of consent and clarified that complete inactivity could not be interpreted as willingness to participate, demonstrated that victims prior to its enactment lacked sufficient protection.

90. The applicants challenged the Government's claim that sexual offence investigations had been prioritised "for decades", noting the absence of evidence demonstrating that such prioritisation had benefited them. They maintained that the measures described by the Government, including weekly meetings, internal protocols and the appointment of legal representatives, had

no practical effect in their cases, and that many reforms were introduced too late to be relevant. They further argued that staff shortages in sexual offence investigation units at the relevant time undermined the claims of effective prioritisation. The applicants contended that, whilst the Government had outlined numerous strategies and policies and argued that these should be considered adequate to fulfil their Convention obligations, strategies and policies were not sufficient on paper alone, and the lack of improvement in prosecution rates evidenced the ineffectiveness of such measures.

91. The applicants argued that the perpetrator's testimony (generally a man) often carried greater evidentiary weight than the victim's testimony (generally a woman). Whilst rape cases could be difficult to prove, the evidentiary threshold was no higher than in other criminal cases, yet the difficulty in reaching the stage of prosecution revealed shortcomings in the legal framework and investigative methods. Evidence in their cases, such as PTSD diagnoses and gynaecologist notes, was not given substantial weight by the police. The applicants contended that using the same procedures for sexual offences as for other violent crimes risked failure, and that available types of evidence must be properly considered. In their view, effective investigations required proof in the form of psychological effects confirmed by specialists, accounts of events before and after the violence, and promptly taken testimonies.

92. The applicant R.E. submitted that the Reykjavík Metropolitan Police (RMP) delayed interviews for over ten months after she lodged her complaint, by which time witness recollections had deteriorated and K.'s denial had become entrenched; this delay was particularly serious given their regular contact at work. She argued that her account was supported by evidence, including a diagnosis of PTSD, depression and anxiety, and witness testimony indicating her incapacity to consent, whereas K.'s testimony was inconsistent, as he first claimed no memory of the evening and later asserted the intercourse was consensual, offering only a "feeling" they had kissed and giving no account of undressing or foreplay. She further contended that the police failed to question how K. could be certain of consent when he described her as heavily intoxicated. She further argued that the assessment that consensual intercourse the following morning supported K.'s version was misconceived, as her admission of consent the next morning strengthened, rather than weakened, her account that she had not consented the night before. Finally, she noted that only six of the thirteen potential witnesses had been interviewed, an omission she considered particularly serious regarding the bartender who saw her repeated falls.

93. The applicant X emphasised that she was a minor at the time of the alleged offence, whilst F. was an adult, seven years her senior. More than six months had elapsed from the filing of her complaint to the questioning of F. and of the first witness, and a further five months before the last witness was interviewed. The investigation had not been closed until twenty months after

she filed her complaint, which was particularly serious given her young age. She maintained that the delay in taking statements allowed F. and witnesses to prepare and align their accounts. She contended that her testimony had been consistent and supported by corroborating evidence while F. had given contradictory accounts. She criticised the police for not having investigated her case from the perspective of the second paragraph of Article 194 of the GPC, and submitted that witness testimony, the reports from the Emergency Reception Unit and the psychologist's certificate had been given insufficient weight in the investigation. She also contested the conclusion that F. could reasonably have believed that she had consented, since she had been asleep when he had initiated the intercourse.

94. The applicant Y emphasised that she was a minor at the time of the incident. She submitted that the police and prosecution failed to take crucial investigative measures in her case. In particular, material was not obtained from the Children's House, where she had been diagnosed with PTSD, and certificates from the medical specialists who had performed gynaecological examinations had not been gathered and they had not been questioned. Furthermore, the police failed to question an important witness, her friend W5, who had allegedly seen her and T. together in a car earlier that evening and could have testified about her level of alertness. She further submitted that the police had failed to adequately question T. on the issue of how he might have assumed her consent. She noted that the messages he had sent to her after the incident demonstrated that he knew she had been under the heavy influence of alcohol, as he had indicated that she might have been too drunk to remember him. She also pointed towards other inconsistencies in his statements.

95. The applicant S.O. submitted that the investigation had been fundamentally flawed due to unjustifiable delays that enabled the two accused men to coordinate their responses. She noted that A. had not been questioned until around two and a half months after her complaint, and R. had not been questioned until around another two and a half months had passed. This delay was particularly prejudicial given that the suspects were friends and therefore had ample opportunity to align their accounts. The men had significantly altered their accounts between the March 2017 exchanges and their police interviews, providing strikingly similar testimony that contradicted their earlier social media statements. In his police statement, R. described the events as consensual throughout, which was inconsistent with his earlier messages expressing guilt and regret over the incident, thereby acknowledging the offence. However, the police did not adequately question him on this contradiction. She criticised the authorities for disregarding the evidence that supported her account of events and for insufficiently taking into account the dynamics of sexual violence and delayed reporting.

(b) The Government

96. The Government submitted that the Icelandic legal framework afforded comprehensive protection to victims of sexual offences and had been progressively reinforced through legislative reform. Contrary to the applicants' assertion that the 2007 amendment contained no express reference to consent, that amendment clearly established consent as the central element. Moreover, this approach was consistently applied by the Icelandic courts (see the case-law in paragraphs 65-66 above). The 2018 amendment further strengthened the requirement of consent, placing greater emphasis on whether the victim had given consent to intercourse or other sexual relations. Sexual relations with a person who is asleep, unconscious, or so intoxicated that they are unable to resist, fell under the second paragraph of Article 194. Convictions had been secured in a number of rape cases based on the credible testimony of victims supported by indirect evidence, including in cases of that kind.

97. The Government further submitted that investigations into sexual offences had been prioritised within the police and prosecution authorities for decades and were subject to constant review, as evidenced by successive instructions and operational procedures (see paragraphs 67-68 above). While acknowledging a shortage of manpower among investigators of the Sexual Offences Department and prosecutors, coinciding with a significant increase in cases during 2017-2018, the Government maintained that rape cases were nevertheless given a higher investigative priority. Priority within the category of sexual offences was based on an assessment of the danger of evidence being lost and the effect delays may otherwise have on the evidentiary status of the case. The introduction of digital investigation plans in 2018 and the reorganisation of the RMP into specialised investigation teams ensured that sexual offence cases were investigated by specialists within a systematic and thorough framework (see paragraphs 69-71 above). The Government stated that increased resources and reorganisation had produced a turnaround in the handling of such cases.

98. The Government further pointed to procedural safeguards for victims. Since 1991, victims of sexual offences have been entitled to a legal representative throughout proceedings, now codified in Article 41 of the Criminal Procedure Act ("the CPA") (see paragraph 64 above), with mandatory appointment where the victim is under eighteen. Statements are taken in specialised facilities designed to minimise secondary victimisation and attended by the victim's representative. From 2018 in Northeast Iceland, and since 2019 nationwide, victims have been informed of termination decisions in person, and where they have attended the Emergency Reception Unit they may obtain psychological support following their initial statement.

99. The Government submitted that Icelandic investigation procedures required comprehensive assessment of all available evidence, including psychological and medical evidence, witness testimony regarding events

before and after alleged incidents, and expert reports. Contrary to the applicants' assertions, such evidence was routinely considered and was common in sexual abuse cases. While previous medical history might have affected the evidentiary assessment of psychological reports, this did not preclude prosecution where such background existed. The assessment involved weighing all evidence in context, which was standard practice in criminal proceedings. The regulatory framework applied gender-neutral standards whilst recognising the practical realities of sexual offence cases. The burden of proof remained consistent across all criminal cases, as required by fundamental principles of criminal justice. However, investigative procedures were adapted specifically to address the particular challenges inherent in sexual offence cases.

100. As to protection and support, the Government described an integrated network of services. The Emergency Reception Unit at the National University Hospital, operating since 1993 and also available in Akureyri, provides twenty-four-hour forensic examination, medical care, access to legal advice, assistance with filing complaints and psychological services. The Women's Shelter in Reykjavík and Akureyri offers safe accommodation and counselling. Family Justice Centres, *Bjarkarhlíð* in Reykjavík and *Bjarmahlíð* in Akureyri, serve as one-stop facilities where victims access police, legal and social support. *Stígamót* provides specialised counselling nationally, while *Drekaslóð* offers peer-based services to victims of violence. The Government also referred to the fully funded Action Plan for the Handling of Sexual Offences within the Justice System 2018-2022, which aimed to ensure high-quality, efficient and fair proceedings, shorten their length and increase trust, together with parliamentary resolutions addressing violence and its consequences and measures for prevention among children and young people. They noted increased funding for investigators and prosecutors to support implementation, with the objective of improving investigation and prosecution outcomes in sexual offence cases.

101. Turning to the applicants' individual cases, the Government submitted that the investigations in all four cases were conducted with due diligence notwithstanding acknowledged delays in taking certain statements. They argued that rape cases had long been prioritised and that, in practice, police assessed urgency by reference to the risk of loss of evidence and the likely impact of any delay on the evidentiary position. The Government denied that the delays in these cases were due to their nature as sexual offences. They pointed to instructions from the State Prosecutor emphasising the need for expeditious handling of such cases. In all four cases, the delays were linked to resource constraints and the timing of the complaints, but they did not impair the efficiency of investigation or prejudice the outcome. The cases had been thoroughly investigated, with the relevant measures carried out. The discontinuance of proceedings reflected the evidentiary weakness of

the charges rather than any failure to act promptly or to undertake reasonable investigative steps.

102. As regards the case of R.E., the Government acknowledged that K. was questioned more than ten months after the complaint. However, they maintained that all relevant facts had been established within a year of the incident. The case had been classified as priority 2, not requiring immediate action given the lapse of time since the incident. The delay in questioning did not afford K. any special opportunity to prepare because the complaint was lodged almost two months after the events, by which time both R.E. and K. had discussed the incident on more than one occasion, as well as with colleagues. K. had therefore already known of the allegations of sexual assault, while he had not known that formal charges had been filed until he was summoned for questioning. In total, six witnesses were interviewed, five of whom were identified by R.E. The police concluded that other potential witnesses could not add anything material beyond what had already been stated. The *Stígamót* evaluation indicated that R.E.'s PTSD primarily stemmed from earlier sexual offences, as it was issued shortly after the incident yet described symptoms present for longer than three months, which pointed to prior trauma. Obtaining additional psychological evidence would not have altered the outcome of the case.

103. In the case of X, the Government submitted that she filed charges on 8 September 2017 and that her statement was taken on the same day. They acknowledged that over six months elapsed before F. was questioned. However, they claimed that the case had not been considered urgent in light of its evidentiary status, since the alleged incident had occurred almost two months before X filed her complaint. Nor had the delay in taking F.'s statement jeopardised the interests of the investigation since he had already been aware of X's allegations of sexual assault at the time she filed charges. The investigation had been extensive, with numerous witnesses examined and medical and psychological reports obtained. All facts had been established as far as possible within a year from the incident. However, the witness statements could only confirm what X had told them. The medical certificate from the Emergency Reception Unit revealed only insignificant external injuries, of uncertain origin, to the leg, hip and above the knee, and X's complaint of soreness on her buttocks was not supported by visible bruising. The Government concluded that the investigation had been thorough and that all relevant steps had been taken.

104. As regards the case of Y, the Government asserted that her interests as a minor had sufficiently been taken into account and that the investigation was prompt and effective, with no delay in questioning T. and key witnesses. She had also been given an opportunity to respond to T.'s statement. In the absence of any contemporaneous medical evidence, blood alcohol levels could not be determined to support Y's account of events. Witnesses had been questioned about events leading up to and following the incident, but their

testimony had not been considered sufficient to confirm Y's statement. Consideration had been given to whether the evidentiary situation, which was already weakened by the fact that Y's complaint post-dated the incident by eight months, would change with further investigation. As regards specifically the witness W5, she had not been questioned because nothing indicated she could contribute decisive information beyond existing testimony. The Government also submitted that although Children's House records and medical records casting light on the psychological effects of the incident on Y were not obtained, their nature was known and would not have altered the evidentiary balance in the case. While evidence of psychological consequences was relevant to assessing the credibility of the victim's account of events and was frequently obtained and relied on for that purpose, its significance varied depending on context. In the particular circumstances of the case, obtaining this evidence would not have contributed to establishing whether Y had been asleep or unconscious during the incident or whether T. should have realised that her condition had been such that she could not consent.

105. In the case of S.O., the Government accepted that A. and R. had been interviewed around two and a half months apart, but maintained that cases were prioritised based on whether there was an immediate need to secure evidence, including the testimony of the accused. This interval had not prejudiced the investigation, given that the alleged incident had occurred six years earlier and that both men had been aware of the allegations for more than a year, since March 2017, when S.O. had contacted them on Facebook. The Government submitted that R. had not acknowledged sexual violence in his social media interactions with S.O. In any case, the investigators had asked him specific questions about their exchange. As to the supporting evidence cited by S.O., the witness statements and psychological reports had been considered but could not overcome the evidentiary difficulty presented by contradictory accounts of the central events. They observed that although S.O.'s psychological distress had been documented, she had acknowledged having previous mental health difficulties, and that witness testimony could only confirm what S.O. had told them years after the incident, rather than providing independent verification of the events. In sum, the investigation had been comprehensive and thorough, with nine additional witnesses questioned.

(c) Third-party intervener

106. The AIRE Centre submitted that States have positive obligations under the Convention to provide effective criminal-law provisions to punish rape and other forms of physical and sexual violence against women and children. Minimum standards for effective investigations require independence, impartiality, promptness and a thorough analysis of all relevant evidence. The decisive factor for establishing rape should be the

victim's lack of consent rather than evidence of physical resistance. For child victims, investigations demand not just "special diligence" but "exceptional diligence" with heightened State obligations. Article 53 of the Convention creates an obligation for the Court to interpret Convention rights consistently with other international agreements ratified by the respondent State, particularly the Istanbul Convention, CEDAW and the UN Convention on the Rights of the Child.

2. *The Court's assessment*

(a) **General principles**

107. The Court reiterates that Articles 3 and 8 of the Convention entail positive obligations for States, firstly, to criminalise all non-consensual sexual acts (see *M.C. v. Bulgaria*, no. 39272/98, §§ 149-50, ECHR 2003-XII; *M.G.C. v. Romania*, no. 61495/11, § 59, 15 March 2016; *Z v. Bulgaria*, no. 39257/17, § 67, 28 May 2020; and *J.L. v. Italy*, no. 5671/16, § 117, 27 May 2021), and, secondly, to apply these legal provisions through prompt and thorough investigation and prosecution (see *L. and Others v. France*, nos. 46949/21 and 2 others, § 193, 24 April 2025).

108. These obligations must be interpreted in light of relevant international standards, particularly the Istanbul Convention, which provides a comprehensive framework for preventing and combating violence against women and ensuring victim protection (see *L. and Others*, loc. cit.; *J.L. v. Italy*, cited above, § 120; and *Vučković*, cited above, § 57). The Istanbul Convention requires States to ensure that investigations into all forms of violence covered by the Convention are carried out without undue delay whilst respecting the rights of victims at every stage, and to guarantee a prompt and appropriate engagement by law enforcement in the collection of evidence (Articles 49 and 50, cited in paragraph 75 above).

109. The substantive obligation of the States includes a duty to establish a legal and institutional framework affording adequate protection against acts as serious as rape. While States retain a margin of appreciation as to how to define and address rape, the Court has affirmed that contemporary standards recognise the absence of consent as the central element of the offence, rather than the use of physical force. Any legal or prosecutorial approach that requires proof of physical resistance risks failing to protect sexual autonomy and enabling impunity. Accordingly, domestic law must ensure that all non-consensual sexual acts are criminalised and effectively prosecuted, including where the victim did not resist physically (see *M.C. v. Bulgaria*, cited above, §§ 150, 154 and 157-66, and *Z v. Czech Republic*, no. 37782/21, § 52, 20 June 2024).

110. The procedural obligation involves the duty of the domestic authorities to conduct an effective investigation into credible allegations of treatment contrary to Articles 3 and 8 of the Convention. In order to be

effective, the investigation must be capable of leading to the identification and, where appropriate, punishment of those responsible and must be thorough, impartial and timely. This includes securing medical and forensic evidence, witness testimony and any available documentary material (see *M.N. v. Bulgaria*, no. 3832/06, § 39, 27 November 2012, and *W. v. Slovenia*, no. 24125/06, § 64, 23 January 2014). As concerns the promptness of the authorities' reaction, the Court's judgments have taken into account factors such as the time required to open investigations, delays in identifying witnesses or taking statements, the duration of the initial investigation, and any unjustified prolongation of the criminal proceedings leading to the expiry of the statute of limitations (see *N.D. v. Slovenia*, no. 16605/09, § 57, 15 January 2015, and the case-law cited therein). The authorities must also ensure that the proceedings are conducted in a way that protects victims from secondary victimisation by taking appropriate measures to mitigate distress and avoiding reliance on gender stereotypes or moralising commentary (see *J.L. v. Italy*, cited above, §§ 137-41; *X v. Greece*, no. 38588/21, § 86, 13 February 2024; *X v. Cyprus*, no. 40733/22, §§ 121-23, 27 February 2025; and *L. and Others*, cited above, § 200). While direct evidence of lack of consent may not always be available, the focus of the investigation must remain on whether valid consent was given (see *M.C. v. Bulgaria*, cited above, § 181, and *M.G.C. v. Romania*, cited above, § 72).

111. Nonetheless, the Court reiterates that the procedural obligation is a requirement of means, not of results. There is no right to the prosecution or conviction of a particular person where no culpable failures have occurred in the authorities' efforts to hold perpetrators accountable. The mere fact that an investigation has yielded limited or inconclusive results does not, in itself, indicate any failing. While the authorities must take all reasonable steps to gather evidence, clarify the circumstances, and conduct a thorough, objective and impartial analysis of all relevant elements without neglecting any obvious lines of inquiry, the procedural obligation must not be construed as imposing an impossible or disproportionate burden. The Court is not concerned with allegations of errors or isolated omissions and cannot replace the domestic authorities in the assessment of the facts of the case or decide on the alleged perpetrators' criminal responsibility. Instead, it must focus on whether there were significant shortcomings in the proceedings, namely those capable of undermining the investigation's ability to establish the circumstances or identify those responsible (see *X and Others v. Bulgaria* [GC], no. 22457/16, § 186, 2 February 2021, and, *mutatis mutandis*, *S.M. v. Croatia* [GC], no. 60561/14, §§ 315-20, 25 June 2020, with further references).

112. Lastly, the Court reiterates that where children may have been victims of sexual abuse, the positive obligations under Articles 3 and 8 require the effective implementation of children's right to have their best interests treated as a primary consideration and that their particular vulnerability and needs are adequately addressed (see *X and Others*

v. Bulgaria [GC], no. 22457/16, § 192, 2 February 2021, and the case law cited therein).

(b) Application of the principles to the present case

113. The applicants submitted that they were subjected to sexual violence which posed a threat to their physical integrity and well-being. The Court considers that the violence alleged by the applicants, if proven, was sufficiently serious to attain the minimum level of severity required to bring it within the scope of Article 3 of the Convention. Although the threshold under Article 3 has thus been met, the Court will nonetheless examine the applicant's complaints concurrently under both provisions (see *B.A. v. Iceland*, no. 17006/20, § 58, 26 August 2025). It will first assess whether the domestic legal framework afforded adequate protection against sexual violence, before turning to the question of whether the investigation into the applicants' specific allegations met the Convention standards.

(i) Legislative framework

114. The Court notes that non-consensual sexual activities have been punishable under Article 194 of the GPC which, since 2007, focused on the absence of consent rather than the use of force, in line with evolving standards for protection against rape, including the principle that requiring proof of physical resistance risks leaving certain types of rape unpunished (see *M.C. v. Bulgaria*, cited above, § 166). The explanatory material to the 2007 amendment highlighted that the essential element of a sexual offence was the occurrence of sexual relations without the victim's consent (see paragraph 59 above). The 2018 amendments to Article 194 placed a more explicit emphasis on consent by defining rape in terms of the absence of freely given consent and by clarifying that complete inactivity does not signify willingness to participate (see paragraphs 60-61 above). This does not, however, indicate that the previous legal framework, which was in force at the time of the alleged assaults in the first two cases, was inadequate, as evidenced by the case-law of the Icelandic superior courts applying the 2007 text in a consent-based manner (see paragraphs 65-66 above).

115. Article 195 of the GPC provides for increased punishment where aggravating circumstances are present. These include cases where the victim is under eighteen years of age, cases involving extensive violence, or where the offence is committed in a manner causing particular pain or injury. This framework thereby acknowledges the particular vulnerability of minors and the varying degrees of seriousness that sexual offences may entail (see paragraph 62 above).

116. As regards procedural protections, insofar as criminal proceedings could be initiated *ex officio* under Article 52 of the CPA, without requiring a formal complaint from the victim, the legislative approach adopted by Iceland

conforms with the relevant international standards (see paragraph 63 above). In addition, Article 41 of the CPA strengthened the position of victims by guaranteeing legal representation, which was mandatory for victims under eighteen and available upon request for adults, thereby enabling their participation and protecting their interests (see paragraph 64 above).

117. Taken together, these elements indicate that, throughout the relevant period, Iceland had in place a substantive and procedural framework capable, in principle, of providing effective protection against sexual violence. The Court will next examine whether, in the applicants' cases, the authorities carried out an effective investigation as required by Articles 3 and 8 of the Convention.

(ii) Adequacy of the investigation

(α) Legal characterisation of the applicants' allegations

118. The Court observes that Article 194 of the GPC distinguishes between rape by lack of consent through violence, threats or coercion (first paragraph), and rape by lack of consent through deception or exploitation, including when the victim is unconscious, asleep or otherwise unable to resist the act or understand its significance (second paragraph).

119. In the cases of R.E. and Y, the investigation plan identified the offence as one involving "abuse of position/unconsciousness et al.", reflecting the authorities' focus on the victim's alleged incapacity to give consent under the second paragraph of Article 194 of the GPC. In the case of X, the investigation plan and other available documents indicate that the focus of the police investigation and the District Prosecutor was on rape by means of "violence, threats or other unlawful coercion", as set out in the first paragraph of Article 194. The State Prosecutor, however, examined the facts in light of both paragraphs of Article 194. In the case of S.O., the investigation plan and other available documents indicate the classification of the offence by police as rape by means of "violence, threats or other unlawful coercion". The District Prosecutor, however, explicitly assessed the case in the light of both paragraphs, a conclusion which was upheld on appeal by the State Prosecutor.

120. The Court therefore considers that in all four applications the domestic authorities had proper regard to the relevant provisions of Article 194 and addressed, either at the investigative or prosecutorial stage, both the presence or absence of consent and the applicants' capacity to give consent. The legal characterisation of the allegations was accordingly adequate and sufficient.

(β) Particular vulnerability of the applicants X and Y, who were minors

121. The Court will next examine whether the authorities afforded the heightened procedural safeguards owed to X and Y, who were minors at the time of the alleged offences.

122. The Court observes that in both cases legal rights protectors were appointed in accordance with domestic law and the Child Protection Services were notified (see paragraphs 20 and 32 above). In the case of X, a legal rights protector was present when she lodged her complaint and gave a statement to the police. The Child Protection Services were notified on the same date but decided not to attend the questioning, noting that X was close to the age of majority and was already assisted by a legal rights protector. She was referred by the Emergency Reception Unit to a psychologist for diagnosis and treatment. She attended four out of the seven scheduled sessions before indicating that she did not require further treatment. In the case of Y, both a legal rights protector and a representative of the Child Protection Services were present when her statements were taken. In addition, the Child Protection Services referred Y to the Children's House for diagnosis and treatment (see paragraph 32 above).

123. The Court therefore finds that the authorities applied the special procedural guarantees for minor victims in line with the Convention standards (see the case-law cited in paragraph 112 above, and contrast with *C.A.S. and C.S. v. Romania*, no. 26692/05, § 82, 20 March 2012).

(γ) Scope of the investigation

124. As noted in paragraph 111 above, when reviewing the scope of the investigation the Court must satisfy itself that the domestic authorities have taken all reasonable steps to collect evidence and clarify the circumstances surrounding the alleged offences, without neglecting any obvious lines of inquiry. However, the Court cannot replace the domestic authorities in the assessment of the facts of the case, nor can it substitute its own views as to the lines of inquiry pursued by the investigators or their findings, unless they manifestly failed to take into account relevant elements or were arbitrary (see *X and Others v. Bulgaria*, cited above, § 186, with further references).

– *Investigation into the case of R.E.*

125. In the case of R.E., the police obtained access to her online communications with the suspect K. They questioned both R.E. and K., and took statements from six witnesses, most of whom were identified by R.E. As regards the remaining seven witnesses, the investigators, having assessed their potential contribution in light of the existing accounts, decided not to conduct formal interviews. In particular, R.E. criticised the omission to interview the bartender, who she claimed had witnessed her intoxication on the night in question. The Court notes, however, that the authorities were

already aware from other sources that both parties had been heavily intoxicated and that this was not in dispute. As regards the psychological evidence, the authorities examined the *Stígamót* certificate submitted by R.E., which indicated that the symptoms described could not be attributed solely to the incident under investigation (see paragraph 15 above). The authorities also expressly assessed the evidential value of the consensual intercourse that took place the following morning, treating it as part of the wider body of evidence rather than as determinative of consent on the preceding night. On the basis of the material before it, the Court finds no obvious line of inquiry that was disregarded or that the omission of further steps identified by R.E. undermined the adequacy of the investigation.

– *Investigation into the case of X*

126. In the case of X, the police took her statement in the presence of a legal rights protector. They also interviewed the suspect, F., and several witnesses; obtained the contemporaneous reports from the Emergency Reception Unit; undertook forensic investigations; and secured a psychologist's certificate describing post-incident symptoms. The investigators examined every aspect of the incident and asked F. specific questions related to the issue of whether he could reasonably have believed that X had given consent. The investigation assessed the credibility of both parties and considered the surrounding circumstances, with the prosecutorial review extending beyond the initial police assessment to address possible legal characterisation under the second paragraph of Article 194 of the GPC. X argued that the authorities unduly discounted her medical evidence and the psychologist's certificate, including by placing excessive weight on her history of trauma. The Court considers, however, that the medical and psychological documentation was included in the case file and taken into account in the overall evidentiary assessment. The prosecutors' conclusion that the available material was insufficient for a prosecution cannot be regarded either as manifestly unreasonable or the result of failing to pursue obvious investigative measures.

– *Investigation into the case of Y*

127. In the case of Y, the investigators questioned the suspect T., gathered the parties' digital communications and heard four witnesses who had been present at the campsite. The absence of a formal statement from S., who had reportedly seen Y and T. together earlier that evening, was offset by other accounts concerning Y's condition before entering the tent and after the incident in question. The authorities were informed that gynaecological examinations had been carried out eight to nine months after the incident. These had not been completed due to Y's physical reaction. They were also informed that she had been diagnosed with PTSD at the Children's House.

The Court accepts that psychological documentation may in general be relevant to the assessment of a complainant's credibility (see *I.G. v. Moldova*, no. 53519/07, § 43 *in fine*, 15 May 2012). In the present case, however, the prosecuting authorities considered that this evidence could not determine Y's condition at the material time, nor whether T. should have realised that consent had not been given. The Court cannot substitute its assessment for that of the domestic authorities as to the probative value of such material. In the absence of indications that significant evidence was overlooked, the Court cannot conclude that the scope of the investigation was inadequate.

– *Investigation into the case of S.O.*

128. In the case of S.O., the investigation was carried out some six years after the alleged incident. The authorities questioned both suspects and interviewed witnesses, including individuals to whom S.O. had later disclosed her account. They also reviewed social media exchanges in which the suspects acknowledged sexual activity, but claimed that it had been consensual. They also examined extensive medical and psychological documentation concerning S.O.'s distress in the years following the incident. While the authorities acknowledged the credibility of S.O.'s testimony and its support by psychological evidence, they concluded that the absence of contemporaneous corroboration and the contradiction between the parties' versions meant that the evidentiary requirements of criminal proceedings could not be satisfied. The Court considers that, apart from issues of alleged interval between the interviewing of the two suspects, which will be examined below, the investigation addressed the relevant sources of information and did not omit any obvious lines of inquiry.

– *Concluding observations on the thoroughness of the investigations*

129. The Court notes that, in all four cases, the authorities obtained medical, psychological, physical or documentary material where it was available and interviewed the applicants, the suspects and relevant witnesses. Although the applicants disputed the investigative choices made and urged additional steps, it has not been demonstrated that the authorities failed to take obvious measures or disregarded any evidence that could have altered the evidentiary position substantially. Having regard to the concrete steps taken in each case, to the evidential avenues that were pursued and to the reasons provided for not carrying out further measures proposed by the applicants, the Court cannot conclude that the authorities overlooked any decisive line of inquiry or that the scope of the investigations was otherwise inadequate.

(δ) Promptness of the investigation

130. The Court observes that, as with cases of domestic violence, sexual assault cases present inherent evidentiary difficulties, particularly when reported after a lapse of time. While the authorities must be mindful of the dynamics of sexual abuse that may explain delayed reporting, such delays can affect the available evidence and may legitimately influence case prioritisation. However, resource constraints or operational priorities cannot excuse undue delay in taking essential investigative steps once allegations are made. The key issue in each case is whether, given the circumstances, including the timing of the complaint, the applicable limitation period and the risk of evidence being lost, the authorities acted with the requisite diligence (see, *mutatis mutandis*, *B.A. v. Iceland*, cited above, § 66).

– Investigation into the case of R.E.

131. In the case of R.E., the Court observes that she filed her complaint in December 2017, some seven weeks after the alleged assault. She was questioned the same day, and the police secured her digital communications with the suspect, K., who was interviewed on 26 October 2018, around ten months later. Although the delay in interviewing K. may seem excessive, the Court reiterates that the requirement of promptness should not be examined in isolation and irrespective of the other parameters, the combination of which determines an investigation's effectiveness (see *D.M.D. v. Romania*, no. 23022/13, § 44, 3 October 2017). Thus, the assessment of promptness must be contextual, having regard to the nature of the allegations, the applicable limitation period and whether any delay risked the loss of evidence or undermined the authorities' ability to establish the circumstances or identify those responsible (see, among others, *P.M. v. Bulgaria*, no. 49669/07, § 66, 24 January 2012; and *M.A. v. Iceland*, no. 59813/19, §§ 71-73, 26 August 2025).

132. The case of R.E. was classified domestically as priority 2 which implied that urgent action was considered unnecessary in view of the evidentiary profile of the case. While delays attributable to workload and case prioritisation cannot automatically justify inaction, the Court considers that the authorities could reasonably prioritise those sexual-violence cases in which the evidence, including witness testimony, risked imminent loss (compare *B.A. v. Iceland*, cited above, § 72). It is important to note that the suspect had already been aware of R.E.'s allegations due to their prior exchanges, and that no physical or documentary evidence was alleged to have disappeared due to the passage of time.

133. Once K.'s and the witnesses' statements had been taken between 26 and 29 October 2018, the police concluded their work and issued the discontinuance decision on 28 January 2019 (see paragraph 14 above). The State Prosecutor determined the appeal on 22 May 2019. The relevant periods

were therefore approximately ten and a half months from the filing of the complaint to the last investigative measure, thirteen and a half months to the police decision, and seventeen and a half months to the final prosecutorial review. The overall progress of the investigation thus remained within the time frame that the Court has previously considered compatible with the requirement of diligence (see *N.D. v. Slovenia*, cited above, § 59, in which the investigative and prosecutorial stages lasted one year and six months, and contrast with a much longer delay in *Y. v. Slovenia*, no. 41107/10, § 99, ECHR 2015 (extracts)). While the Court acknowledges that waiting for the authorities' decisions may have been distressing for R.E., it does not find that the delay in questioning K. was of such a nature and magnitude as to frustrate the investigation's effectiveness or to indicate prejudicial attitudes.

– *Investigation into the case of X*

134. In X's case, she lodged her complaint in September 2017 concerning events that occurred in July of that year. She was questioned on 8 September 2017, yet F. was only interviewed on 21 March 2018, more than six months later. As in the case of R.E., this initial delay in questioning the suspect can be explained by the prioritisation of cases based on the risk of evidence being lost and by resource constraints within the specialised investigation unit.

135. The Court notes that during this period the authorities were not inactive, as they obtained a psychological assessment and awaited the results of the forensic analysis (see paragraphs 21-22 above). As the Court found in relation to a delay of comparable duration in the case of R.E. above, the length of this period was not in itself sufficient to undermine the effectiveness of the investigation, as no evidence was alleged to have disappeared as a result of the passage of time. The Court further observes that the investigators continued to collect witness testimony in the months following F.'s interview, taking statements from eight witnesses between 21 March and 18 August 2018.

136. The investigation file was then transmitted to the District Prosecutor, who issued a decision on 7 May 2019, and the State Prosecutor subsequently determined the appeal on 22 August 2019. The overall duration of the investigation, amounting to one year and eight months to the District Prosecutor's decision and nearly two years including the appeal to the State Prosecutor, was not such as to undermine its effectiveness (see the authorities cited in paragraph 133 above). The delay also did not risk any loss of evidence or the expiry of the relevant limitation period.

137. Whilst mindful of X's young age at the time of the alleged offence and the distress that waiting for the conclusion of the investigation may have caused her, the Court finds that the overall length of the investigation was not excessive to the extent of breaching the requirement of promptness.

– *Investigation into the case of Y*

138. In Y's case, the complaint was lodged in March 2019 concerning an incident in July 2018. Although the complaint was made some eight months after the incident, the authorities acted promptly once seized of the matter: statements were taken from both Y and the suspect within the same month, and several witnesses were questioned within weeks. The investigative and prosecutorial stages were completed in September 2019, amounting to an overall duration of approximately six months. The Court accordingly finds that it satisfied the promptness requirement.

– *Investigation into the case of S.O.*

139. In S.O.'s case, she lodged her complaint in May 2018 concerning an incident that had allegedly occurred in June 2012, six years earlier. She was questioned immediately, and R. and A. were questioned in August and October 2018. Having regard to the considerable lapse of time before the complaint was made and the need for coordination between different police districts due to the suspects' geographical location, the delay of two and a half to five months before they were questioned cannot be considered unreasonable.

140. S.O. nevertheless argued that this interval created a risk of collusion. The Court reiterates that in cases concerning alleged police ill-treatment it has held that delays in questioning the officers involved, combined with the absence of measures to prevent contact between them, may undermine the effectiveness of the investigation because of the heightened risk of collusion inherent in hierarchical subordination and shared service (see *Mihhailov v. Estonia*, no. 64418/10, §§ 114-115, 30 August 2016, and *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, §§ 326-330, ECHR 2007-II). The present case, however, is of a different character. The suspects were private individuals, not law-enforcement officials, and the alleged assault had occurred six years earlier, a long time before the authorities became aware of the matter. By the time the investigation was opened, S.O. had already recounted the events to her friends and family and exchanged communications with both suspects, in which her accusations and their responses were recorded. Any possibility of coordinating their positions therefore pre-dated the formal investigation. Following S.O.'s complaint to the police, it would in any event have been unrealistic to expect the authorities to isolate them from ordinary means of communication. Against this background, the lapse of around two and a half months between the suspects' interviews cannot be regarded as giving rise to a real and immediate risk of collusion of the kind previously identified in the Court's case-law on police violence. Therefore, the decisive issue was not whether the authorities acted to prevent collusion in the immediate aftermath of the complaint, but whether they pursued the case with reasonable diligence once it had been brought to

their attention. The Court is satisfied that they did so: S.O. was questioned without delay, the suspects were interviewed within months notwithstanding the involvement of different police districts, and the case was processed without significant delay thereafter.

– *Concluding observations on the promptness of the investigations*

141. The Court finds that the investigations in all four cases were conducted without breaching the requirement of promptness. Although there were initial delays in questioning the suspects in the cases of R.E. and X, these did not undermine the investigations' ability to establish the circumstances or identify those allegedly responsible.

142. The Court notes that following an influx of cases, the Government took steps in early 2018 by providing additional funding and adopting an action plan to strengthen the handling of sexual offences (see paragraph 97 above). The results of these measures are evident when the four cases are compared. The complaints in R.E. and X were lodged between September and December 2017, at a time when the authorities were facing significant resource constraints. The complaints in Y and S.O., which were lodged between March 2018 and May 2018, benefited from the enhanced structures and do not reveal any unexplained delays in questioning the suspects.

(ε) Overall assessment of the efficiency of the investigation

143. The Court observes that in all four cases the authorities gathered medical, psychological, physical or documentary evidence where available. They also interviewed the complainants, the suspects and relevant witnesses, and considered the matter at prosecutorial level, including on appeal. The Court finds that whilst the investigations in the cases of R.E. and X could have progressed more swiftly, the delays that occurred did not reach a level of seriousness sufficient to constitute a breach of the procedural obligations under Articles 3 and 8 of the Convention. The investigations in the cases of Y and S.O. proceeded with reasonable expedition and satisfied the Convention standards.

(c) Conclusion

144. There has accordingly been no violation of Articles 3 and 8 of the Convention under their procedural limb.

**III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION,
READ IN CONJUNCTION WITH ARTICLES 3 AND 8**

145. The applicants complained under Article 14 of the Convention, read in conjunction with Articles 3 and 8, that they had suffered discrimination as women in the enjoyment of their Convention rights. Article 14 provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex ...”

A. Admissibility

146. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

147. The applicants submitted that they had not been afforded equal protection of their rights under Articles 3 and 8 of the Convention because of their sex, contrary to Article 14. They emphasised that sexual violence disproportionately affected women and that systemic deficiencies in Icelandic law and practice revealed discriminatory treatment. In their view, the authorities had failed to ensure a legislative framework and investigative practice that adequately protected women from gender-based violence.

148. The applicants argued that until the 2018 amendment, Article 194 of the General Penal Code did not provide sufficient protection, as it failed explicitly to criminalise sexual intercourse without consent. Although the preparatory works to the 2007 amendment had acknowledged sexual autonomy as the core of the provision, the applicants contended that the practice of the police and prosecutorial authorities continued to emphasise the presence of force or resistance, rather than the absence of consent. They referred to their own cases, where in their view the investigative authorities had consistently framed the assessment around visible injuries or external signs of resistance, rather than properly evaluating whether the acts had occurred without free and voluntary consent. In their submission, this amounted to structural discrimination, since it had the effect of lowering the level of protection afforded to women against sexual assault.

149. The applicants relied on statistical data showing that the proportion of rape complaints resulting in prosecution in Iceland was extremely low, and that conviction rates were lower still. Relying on the State Prosecutor’s Annual Reports for selected years between 2014 and 2020, containing the statistical tables on sexual offences and on homicide or physical assault, they argued that prosecution ratios for sexual offences were markedly lower than for homicide and physical assault. In their view, these figures, in conjunction with the findings of independent expert bodies and the monitoring committees of the Istanbul Convention and the CEDAW Committee, demonstrated a pattern of ineffective investigation and prosecution of sexual offences. That pattern allegedly reflected institutional tolerance towards

gender-based violence, which disproportionately affected women. The applicants submitted that the lack of urgency in handling their cases, the limited scope of investigative measures, and the prosecutorial decisions to discontinue proceedings on the basis of evidentiary insufficiency revealed a systemic failure that placed women at a disadvantage in securing effective protection of their rights. They considered that Article 14 required States to organise their criminal justice systems in a manner that prevented such discriminatory outcomes, and that Iceland had failed to do so.

(b) The Government

150. The Government contested the applicants' allegations and argued that there had been no violation of Article 14 in conjunction with Articles 3 and 8. They submitted that Icelandic law and practice had for many years placed strong emphasis on protecting individuals from sexual and gender-based violence, without distinction as to sex. The Government pointed out that the rape provision in Article 194 of the GPC had since 2007 been interpreted in line with the Court's case-law, focusing on the absence of consent rather than physical resistance, and that this interpretation was confirmed in the Supreme Court's and Court of Appeal's case-law. The 2018 amendment to Article 194, which expressly referred to consent, merely clarified and reinforced an approach already present in domestic law. Accordingly, in the Government's view, there was no deficiency in the legislative framework that could amount to discrimination.

151. The Government further highlighted that significant institutional measures had been taken to strengthen the response to sexual violence, including the establishment of specialised police teams for sexual offences, the issuance of prosecutorial instructions giving priority to such cases, and the adoption of action plans addressing domestic and sexual violence. Victims had a right to legal representation at all stages of the investigation, and extensive support services were available, including the emergency reception centres, shelters, and counselling organisations, all of which were fully or partially funded by the State. The Government contended that these measures demonstrated a commitment to combat gender-based violence and to ensure that women and men alike received equal protection under the law. They also referred to long-standing gender-equality initiatives and senior female leadership across law-enforcement and justice institutions as evidence against discriminatory institutional attitudes. The Government quoted data compiled by the National Police Commissioner on domestic and sexual violence indicating no measurable difference in indictment ratios by the sex of victims.

152. The Government argued that Article 14 required proof of differential treatment between persons in comparable situations, which had not been demonstrated by the applicants. They submitted that prosecution and conviction rates reflected the inherent evidentiary challenges in sexual

offence cases, rather than discriminatory attitudes. The Government submitted comparative statistics on rape (Article 194 of the GPC) and grave physical assault (Article 218 of the GPC) for the Reykjavík metropolitan area in the years 2013-2021, demonstrating comparable prosecution rates. In the applicants' individual cases, the investigations had been carried out in accordance with domestic law, evidence had been gathered, witnesses questioned and forensic material examined. The prosecutorial decisions to discontinue proceedings had been based on careful assessment of evidentiary sufficiency, and not on the sex of the complainants. The Government thus denied that there was any structural or institutional bias against women and submitted that no violation of Article 14 in conjunction with Articles 3 and 8 could be found.

(c) Third-party intervener

153. The AIRE Centre invited the Court to consider intersectional discrimination within its jurisprudence, with a view to promoting “a global and comprehensive understanding of various discrimination situations” and ensuring the effectiveness of Convention rights. In its submission, the Court should remain attentive to the broader context of abuse, recognising “trauma and its effects, the power dynamics that characterise intimate partner violence and the varying situations of women experiencing diverse forms of gender-based violence”. It further emphasised that judicial actors are under an obligation to protect women and to apply the law without being influenced by stereotypes when assessing State responsibility in cases concerning gender-based violence.

2. The Court's assessment

154. For the general principles concerning discrimination in the context of domestic and sexual violence, the Court refers to its recent judgment in *B.A. v. Iceland*, cited above, §§ 84-86.

155. Since the applicants did not allege individual discriminatory treatment, the Court must examine whether they have presented *prima facie* evidence of structural bias or disproportionate effect capable of shifting the burden of proof onto the Government.

156. For the reasons it previously elaborated upon (see *B.A. v. Iceland*, cited above, §§ 88-90), the Court considers that the fact that sexual violence in Iceland predominantly affects women does not, in itself, establish discriminatory policies or conduct by the authorities. The Court observes that Iceland ranks highly in international assessments of gender equality and has undertaken numerous reforms aimed at addressing sexual violence, including the 2007 and 2018 legislative amendments to Article 194 of the GPC, the establishment of specialised investigation structures and the introduction of prioritisation mechanisms (see paragraphs 59-61 and 67-71 above).

Throughout the relevant period, Iceland maintained both a substantive and procedural system capable, in principle, of providing effective protection against sexual violence (see paragraphs 114-117). While such measures do not rule out the possibility of discrimination in practice, they reflect the authorities' commitment to strengthening protection against sexual violence rather than suggesting any discriminatory complacency.

157. As regards the prevailing attitudes within the police and prosecutorial authorities, the material before the Court does not suggest that police officers or prosecutors attempted to dissuade the applicants from pursuing their complaints, implied that they were at fault or displayed prejudicial attitudes towards female victims (contrast with *Opuz v. Turkey*, no. 33401/02, § 195, ECHR 2009). Although the international monitoring bodies identified areas for improvement and reported concerns voiced by NGOs about enforcement and a "rather conservative" interpretation of consent, they acknowledged a robust consent-based framework and ongoing reforms and did not document institutional stereotyping of the kind at issue (see paragraphs 76, 79 and 80 above).

158. The applicants relied on data from the State Prosecutor's annual reports to demonstrate lower prosecution and conviction rates in sexual-violence cases with the implication that those figures should be read as indicating a pattern of ineffective investigation and prosecution of sexual offences against women. However, for the reasons set out in *B.A. v. Iceland* (cited above, §§ 92-96), the Court finds that such data must be interpreted with considerable caution. Lower prosecution rates may be explained by objective factors unrelated to discriminatory attitudes, as sexual violence cases present inherent evidentiary challenges that affect prosecution rates without necessarily reflecting discrimination. Moreover, the statistics do not establish that cases involving male victims are treated differently by the authorities. Unlike in cases such as *Opuz v. Turkey* (cited above, § 197 et passim) and *N.T. v. Cyprus* (no. 28150/22, § 73, 3 July 2025) where statistical disparities formed part of a broader pattern demonstrating systematic failings or stereotyped reasoning by the authorities, the material in the present case does not disclose institutional attitudes or a pattern of discriminatory decision-making and does not suffice to raise a presumption of discrimination (see also *B.A. v. Iceland*, cited above, § 96).

159. As to the applicants' remaining arguments, for the reasons set out in *B.A. v. Iceland* (cited above, §§ 98-100), the Court considers that the application of the same standard of proof to cases of sexual violence as to other violent crimes does not in itself amount to discrimination; that there is no indication that evidence specific to sexual-violence cases was systematically disregarded; and that investigative delays observed in two of the four cases do not indicate gender bias or disproportionate effect. The priority policy adopted by the authorities and the allocation of additional resources following an influx of complaints in 2017-18 demonstrate their

recognition of, and commitment to, addressing operational challenges (see paragraphs 67-71 and 97-98 above).

160. Taking into account the various legislative and policy measures adopted by the authorities to combat sexual violence, prevent impunity and protect victims, the Court finds that the applicants have not sufficiently established a *prima facie* case of structural bias or disproportionate effect, capable of shifting the burden of proof to the State (*ibid.*, § 101).

161. There has accordingly been no violation of Article 14 of the Convention read in conjunction with Articles 3 and 8.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been no violation of Articles 3 and 8 of the Convention;
4. *Holds* that there has been no violation of Article 14 of the Convention.

Done in English, and notified in writing on 13 January 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on
1.	59809/19	R.E. v. Iceland	08/11/2019
2.	8034/20	X v. Iceland	29/01/2020
3.	14407/20	Y v. Iceland	13/03/2020
4.	17008/20	S.O. v. Iceland	25/03/2020