

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

SECOND SECTION

DECISION

Application no. 14833/21
G.M.
against Iceland

The European Court of Human Rights (Second Section), sitting on 19 May 2026 as a Committee composed of:

Péter Paczolay*, President*,
Oddný Mjöll Arnardóttir,
Hugh Mercer*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 14833/21) 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") on 2 March 2021 by an Icelandic national, G.M. ("the applicant"), born in 1989 and represented by Sigrún Jóhannsdóttir, a lawyer practising in Reykjavik;

the decision to give notice to the Icelandic Government ("the Government"), represented by Guðrún Sesselja Arnardóttir and Fanney Rós Þorsteinsdóttir, Co-Agents, of the complaints under Articles 3, 8 and 14 of the Convention concerning the alleged failure to carry out an effective investigation into sexual assaults and to protect the applicant against gender-based discrimination, and to declare inadmissible the remainder of the application;

the decision not to have the applicant's name disclosed;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged failure of the Icelandic authorities to conduct effective investigations into the applicant's complaint of sexual

violence, as well as allegations of gender-based discrimination in the handling of such cases.

2. In August 2018 the applicant lodged a complaint with the police against two men, her first cousin J.S. and his friend Þ.Ó., alleging repeated sexual assaults committed between March 2005 and 2009. In that time period she was between fifteen and nineteen years old, both men being seventeen years her senior. The applicant alleged nine instances of assault. The first two incidents occurred on 5-6 March 2005, when the two men allegedly raped her in the back seat of a vehicle. At the time, the applicant's friend had filed a complaint against J.S. for having raped her in the vehicle that night, but the applicant testified that no sexual activity had taken place. The applicant also described seven further incidents involving J.S., either alone or with Þ.Ó. or other men. When the police asked her, she denied that J.S. had threatened or intimidated her in any way or offered her anything in return for sexual relations. The applicant stated that she had told her then cohabiting partner, J.M., about one incident immediately afterwards. Apart from that, she did not tell anyone until she told her parents when she was nineteen years old. Subsequently, she had tried to achieve closure with J.S. who paid her an amount of money.

3. The police investigated the case under the first paragraph of Article 194 of the General Penal Code ("the GPC") concerning rape (see, for relevant provisions of domestic law, *R.E. and Others v. Iceland*, nos. 59809/19 and 3 others, §§ 58-62, 13 January 2026). On 6 December 2018 the police interviewed J.S. who denied guilt in connection with the events of March 2005 but admitted to having had a sexual relationship with the applicant which had started in 2006 and ended around 2009. He acknowledged two other incidents reported by the applicant, denied all the others, but added six further incidents where he had met the applicant and had sexual relations with her. He stated that the applicant had never said no or indicated that she did not want to be with him and that she had initiated contact with him. J.S. stated that the applicant had extorted money from him and that he had paid her in the hope that the matter could be settled amicably. Þ.Ó. acknowledged having had sexual relations with the applicant on some occasions but stated that he had never had sex with the applicant against her will or without her consent and that the applicant had tried to extort money from him. The driver of the vehicle was questioned in relation to the March 2005 incident but denied having witnessed any sexual relations. The witness J.M. confirmed that the applicant had come home one evening in 2006 and told him that J.S. and Þ.Ó. had violated her. Testimonies were taken from ten other witnesses but none could give direct testimony about the alleged offences. An investigation of Þ.Ó.'s mobile phone revealed communications with the applicant where he expressed regret but claimed she had consented. The case file also included an apologetic message from J.S. to the applicant's father.

4. On 5 July 2019 the District Prosecutor discontinued the case on grounds that the evidence was not regarded as sufficient or likely to result in the conviction of the accused for having had non-consensual sexual relations with the applicant. It was noted that the applicant was fifteen years old in March 2005 and therefore the first paragraph of Article 202 of the GPC concerning sexual intercourse with children under the age of 15 did not apply. The applicant appealed, noting that the case had not been fully investigated and that it should be additionally assessed against the third paragraph of Article 202 of the GPC concerning enticement of children under 18 to engage in sexual intercourse by deception, gifts or other means.

5. By decision of 5 November 2019 the State Prosecutor set aside the District Prosecutor's decision and instructed the police to complete their investigation. During the further investigation, the applicant was interviewed again, statements were taken from additional witnesses, text messages between the applicant and J.S. were obtained where he expressed regret, a certificate was obtained from the applicant's psychologist recording trauma-focused therapy in relation to abuse from a male relative, and medical records dating back to 2007 documented mental health treatment and the applicant's reports of sexual abuse by a male relative and his friend.

6. By letter of 15 May 2020 the applicant was informed of the District Prosecutor's decision to discontinue the case on grounds that the additional elements from the follow-up investigation had not altered the previous assessment. On 3 September 2020 the State Prosecutor upheld the decision to discontinue the case. The State Prosecutor noted that the psychologist's report and the medical records obtained supported the applicant's testimony to a certain extent but concluded that, in light of the accused's steadfast denials and having regard to the evidentiary requirements in criminal cases, the evidence was not sufficient or likely to result in a conviction.

7. The applicant complains, under Articles 3 and 8 of the Convention, that the authorities failed to conduct an effective investigation into the alleged sexual violence committed by taking advantage of a dominant position. She further complains, under Article 14 of the Convention read in conjunction with the above provisions, that she was subjected to discrimination in the handling of her case on the grounds of her sex.

THE COURT'S ASSESSMENT

8. The Court notes that the applicant passed away after the case had been communicated and that her parents expressed their wish to pursue the proceedings in her stead. For the purposes of the present case, the Court accepts their standing to do so.

9. The applicant submitted that the authorities failed to conduct an effective investigation. Even after the follow-up investigation, the District Prosecutor closed the case only sixteen days after receiving it with essentially

the same assessment. However, her account had been supported by substantial evidence, including medical records identifying a male relative and his friend as the perpetrators, witness statements confirming her account and J.S.'s apologies and payment indicating admission of guilt. The applicant contended that under Article 194 of the GPC the concept of "other unlawful coercion" included abuse of dominant position and that the prosecuting authorities had disregarded the age difference, the family relations and other elements. The applicant also maintained that the authorities failed properly to consider the application of Article 202(3) of the GPC, which criminalises enticing a child under eighteen into sexual relations by deception, gifts or other comparable means.

10. The Government submitted that the investigation was extensive and thorough. The applicant did not press charges until years after the alleged incidents, which meant that the evidentiary position was particularly difficult despite the extensive investigation. While it was clear from the statements of both men that they had had sexual relations with the applicant, both consistently denied any non-consensual activity. The question whether the men had unlawfully coerced the applicant into sexual acts by taking advantage of a dominant position had been carefully assessed but, after reviewing the material as a whole, the prosecuting authorities had not considered the evidence sufficient or likely to result in a conviction. As regards Article 202(3) of the GPC, the investigation did not reveal any indication that the men had used deception, gifts or other comparable means to entice the applicant into having sexual relations with them. In particular, the payment made by J.S. to the applicant had been made years after the end of their sexual relationship, and could not be regarded either as a method of enticement within the meaning of Article 202 or as an admission of guilt.

11. For the general principles concerning States' positive obligations under Articles 3 and 8 of the Convention to criminalise all non-consensual sexual acts and to enforce the relevant criminal-law provisions through prompt and thorough investigation and prosecution, the Court refers to *R.E. and Others v. Iceland* (nos. 59809/19 and 3 others, §§ 107-12, 13 January 2026). In that judgment, the Court examined the Icelandic legal framework for addressing sexual violence and found it to be in conformity with the positive obligations of the domestic authorities (ibid., §§ 114-17). The present case concerns the same provisions of the GPC during an overlapping period of time, as well as Article 202 of the GPC, which gives additional protection to child victims of sexual violence. The applicant did not contend that the domestic legal framework prevented the authorities from examining her complaint or from bringing charges if the evidentiary position had allowed this. Her complaints were limited to challenging the effectiveness of the investigation and the assessment of the evidence.

12. As regards the investigation into the applicant's allegations of sexual violence, the Court notes that the investigation was comprehensive in scope.

The State Prosecutor, upon the applicant's appeal, revoked the first decision to discontinue the investigation and ordered further investigative measures. The applicant was questioned several times. The accused men were questioned and their accounts were put to the applicant. The police interviewed a total of fourteen witnesses. The investigation also secured medical records, a psychologist's certificate and online communications. Having regard to the concrete steps taken and the evidential material gathered, the Court finds that the authorities did not overlook any obvious line of inquiry and that the scope of the investigation was adequate.

13. In so far as the applicant challenged the way in which the authorities assessed the credibility of the parties and the weight of the evidence, the Court reiterates that it must be satisfied that the domestic authorities' assessment was not arbitrary or manifestly unreasonable (ibid., §§ 111 and 124). The Court observes that the case presented significant evidential difficulties. The applicant's allegations concerned events that had occurred between nine and thirteen years before she lodged her complaint. The accused men acknowledged having had sexual relations with the applicant on several occasions but denied that these had occurred without her consent. The applicant's own statements contained elements pointing in different directions: In the course of the investigation of her friend's complaint in 2005, the applicant had denied any sexual activity on the night of 5-6 March that year. During the investigation of her case in 2018, she described herself as having been afraid and under J.S.'s influence, yet she also told the police that J.S. had not threatened or intimidated her and that she had gone to meet him as she thought he would apologise. In these circumstances, the central question for the prosecuting authorities was whether the accused had unlawfully coerced the applicant into sexual relations by taking advantage of a dominant position, and the Court is in no position to regard their careful assessment of this issue as manifestly unreasonable. The text message exchanges and the payment made by J.S. occurred many years after the alleged events and were not unequivocal. In her statements to the police, the applicant never claimed that the accused used deception or other methods of enticement to engage in sexual acts with her. The Court therefore sees no reason to question the authorities' decision not to investigate the case under Article 202(3) of the GPC.

14. As regards promptness, the Court notes that the applicant only complained of the limited amount of time taken by the District Prosecutor to re-assess the evidence. The Court finds that the interval of sixteen days between the receipt of the additional evidence and the District Prosecutor's second decision does not, in itself, show that these materials were not properly examined, all the more so as the State Prosecutor subsequently endorsed the assessment in a reasoned decision.

15. The procedural obligation under Articles 3 and 8 is one of means and not of result, and there is no absolute right to prosecution or conviction. While

the outcome of the proceedings was undoubtedly distressing for the applicant, the Court cannot find that the authorities' assessment of the evidence was arbitrary or manifestly unreasonable or that it reflected an unwillingness to take allegations of sexual violence seriously.

16. In light of the above, and viewing the investigation as a whole, the Court considers that the domestic authorities took the measures that could reasonably be expected of them to collect and assess the available evidence and that there were no significant shortcomings in the proceedings capable of undermining the investigation's ability to establish the facts and, where appropriate, prosecute the perpetrator. The Court accordingly finds that the applicant's complaints under Articles 3 and 8 of the Convention are manifestly ill-founded.

17. As regards the applicant's complaint under Article 14 of the Convention read in conjunction with Articles 3 and 8 of the Convention, the general principles regarding discrimination in the context of violence against women have been summarised in *B.A. v. Iceland* (no. 17006/20, §§ 84-86, 26 August 2025) and *R.E. and Others* (cited above, § 154). The Court notes that the applicant has not adduced evidence capable of establishing a prima facie case of discriminatory treatment. It has previously found that there was no indication of structural bias or disproportionate effect in the handling of sexual violence cases lodged by women victims in Iceland at the relevant time (*R.E. and Others*, cited above, §§ 156-60). The Court accordingly finds that the applicant's complaint under Article 14 of the Convention read in conjunction with Articles 3 and 8 of the Convention is also manifestly ill-founded.

18. It follows that the application must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides that the applicant's parents have standing to pursue the proceedings in her stead;

Declares the application inadmissible.

Done in English and notified in writing on 11 June 2026.

Dorothee von Arnim Deputy Registrar	Péter Paczolay President