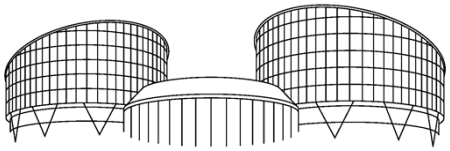

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF B.A. v. ICELAND

(Application no. 17006/20)

JUDGMENT

Art 3 and Art 8 • Positive obligations • Effective investigation • Alleged failure to adequately protect the applicant and conduct an effective investigation into her complaints of domestic violence and sexual assault • Criminal law providing adequate mechanisms for protection • Investigation as a whole meeting the threshold of effectiveness required
Art 14 (+ Art 3 and Art 8) • Discrimination • Alleged gender-based discrimination in handling of domestic violence cases • Various legislative and policy measures adopted to combat sexual and domestic 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

26 August 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of B.A. v. Iceland,

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

Arnfinn Bårdsen*, President*,
Saadet Yüksel,
Tim Eicke,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Stéphane Pisani,
Juha Lavapuro*, judges*,
and Hasan Bakırcı, *Section Registrar,*

Having regard to:

the application (no. 17006/20) 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 an Icelandic national, Ms B.A. ("the applicant"), on 23 March 2020;

the decision to give notice to the Icelandic Government ("the Government") of the complaints concerning the allegations of an ineffective investigation of domestic violence and gender-based discrimination, and to declare inadmissible the remainder of the application;

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

the parties' observations;

Having deliberated in private on 8 July 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 an effective investigation into the applicant's complaints of domestic violence and sexual assault, as well as allegations of gender-based discrimination in the handling of such cases. The applicant complained under Articles 3 and 8 of the Convention, taken alone and in conjunction with Article 14.

THE FACTS

2. The applicant was born in 1975 and lives in Reykjavík. She was represented before the Court by Sigrún Ingibjörg Gísladóttir, a lawyer practising in Reykjavík.

3. The Government were initially represented by Einar Karl Hallvarðsson, Agent, and subsequently by Fanney Rós Þorsteinsdóttir.

4. The facts of the case may be summarised as follows.

I. ALLEGED VIOLENCE

5. In December 2017 the applicant lodged a complaint with the police against her former cohabitant, F.Þ., alleging physical, psychological and sexual violence during their relationship between 2011 and 2014.

6. According to the applicant's complaint, she and F.Þ. began cohabiting in 2011. She stated that during their cohabitation, F.Þ. repeatedly humiliated and criticised her, isolated her from her immediate family and exercised control over various aspects of her life. She alleged that the psychological abuse intensified after she became pregnant and subsequently escalated into physical and sexual violence.

7. The applicant described four specific incidents of alleged sexual violence. These included an incident during her pregnancy when she was hospitalised, where F.Þ. allegedly coerced her into sexually stimulating him. She further alleged that he raped her during a visit to a rehabilitation clinic where she was staying, another time in the hallway of their home and again while she was sleeping, which, according to her statement, resulted in bruising. She also described physical violence on two occasions: a brief chokehold and a "headbutt".

II. POLICE INVESTIGATION

8. During the police investigation, the applicant was assisted by her officially appointed legal representative. When questioned, the applicant stated she had never sought immediate medical attention following any of the incidents.

9. F.Þ. was first questioned on 19 September 2018. He denied any wrongdoing, asserting that he had never subjected the applicant to physical, psychological or sexual violence or any other form of mistreatment. He attributed the difficulties in their relationship to the applicant's excessive alcohol consumption and related behaviour. F.Þ. acknowledged having engaged in sexual intercourse with the applicant at the rehabilitation clinic but denied that it constituted rape. While denying any psychological violence on his part, he admitted to having been controlling towards the applicant in situations where he had urged her to stop consuming alcohol or to refrain from going to work under its influence.

10. Eleven witnesses were subsequently questioned. Several stated that they had observed changes in the applicant after she began cohabiting with F.Þ., noting that she had significantly reduced contact with others or ceased communication altogether. Some witnesses also described instances in which F.Þ. had humiliated the applicant or displayed anger, although not directed at her. One witness stated that he had heard the applicant scream and found her trembling and scared after an incident involving F.Þ., which the applicant had described as involving a chokehold. There were no direct witnesses to the

alleged physical or sexual violence by F.Þ.; most witness accounts were based on disclosures made by the applicant after their relationship had ended.

11. The case file included a certificate from Stígamót, the centre for victims of sexual abuse, dated 21 December 2017, stating that the applicant had attended consultations there since April 2015 and had reported experiencing severe mental, physical and sexual violence by F.Þ. It also contained documents from the psychiatric ward regarding visits in 2012 and 2017 recording her depression and anxiety, and a statement from a psychologist dated 12 February 2019 diagnosing the applicant with post-traumatic stress disorder following an alleged sexual offence.

III. DECISIONS BY DOMESTIC AUTHORITIES

12. On 11 June 2019 the police informed the applicant of their decision to discontinue the investigation. With respect to the alleged sexual violence, the police determined that, given F.Þ.'s denial and the available evidence, there was insufficient support for the allegations and that further investigation was unlikely to improve the evidentiary position. Regarding the alleged physical violence, the police concluded that, as Article 218b of the General Penal Code (the "GPC") had not been enacted until 2016, the alleged conduct could be considered only under Article 217. As the statute of limitations for offences under Article 217 had expired, prosecution was no longer possible.

13. On 25 September 2019 the State Prosecutor upheld this decision. It was concluded that Article 218b could not be applied retroactively to conduct which had not been criminalised before its entry into force in 2016. While the physical violence alleged by the applicant had been, before that time, punishable under Article 217, the statute of limitations for such offences was two years and had thus expired. With regard to the allegations of sexual violence, the State Prosecutor found that the evidence, including witness testimony and expert documentation of the applicant's distress, did not provide sufficiently strong support for the applicant's testimony to overcome F.Þ.'s denial. It was thus not considered "sufficient or likely" to secure a conviction. Finally, the State Prosecutor concluded that further investigation measures would not change the evidentiary position of the case.

14. Subsequent to the State Prosecutor's decision of 25 September 2019, the applicant's legal representative raised the question of whether F.Þ.'s conduct could have been characterised as gross defamation of a closely related person under Article 233b of the GPC. In its email of 3 February 2020, the State Prosecutor replied that its review of the case had not been confined to the police's classification of the alleged offences.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LEGAL FRAMEWORK

A. Constitution of the Republic of Iceland

15. 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*)

1. Provisions on sexual and physical violence

16. Article 194, as amended by Act No. 61/2007 and in force until its further amendment in 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".

17. 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". Article 194(1) was subsequently amended by Act no. 16/2018 to define rape as "sexual intercourse or other sexual relations with a person without their consent", specifying also that consent must be freely stated and that it is not considered to have been given if violence, threats or other forms of unlawful coercion are employed.

18. In its judgment of 20 June 2017 (case no. 486/2016) the Supreme Court upheld the conviction of two men for rape. Although the evidence indicated that the victim had been heavily intoxicated, unable to recall the entirety of the events and unaware of her whereabouts, the court found that her state was not such as to engage Article 194(2) of the GPC. The court emphasised that the essential element of a sexual offence is the engagement in sexual activity without the victim's consent, thereby infringing the individual's right to sexual self-determination. It concluded that, owing to her

level of intoxication, the victim had been incapable of giving consent and that the defendants had exploited this. 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 Article 194(1) of the GPC.

19. Article 217 provides:

> "Any person convicted of assault, providing it is not as serious as is described in Article 218, shall be fined or imprisoned for up to six months, and imprisoned for up to one year if the conduct involved is particularly reprehensible".

20. Article 218 provides:

> "If by a deliberate assault someone causes another person physical injury or health damage and these consequences can be regarded as his or her fault in terms of intention or negligence, the person shall be imprisoned for up to three years, or fined if there are extenuating circumstances.
>
> Where serious physical injury or health damage results from an assault or where the offence is particularly dangerous in view of the method, including the implements, used, and also where the assault victim dies as a consequence of the attack, punishment for the offence shall take the form of up to sixteen years' imprisonment".

2. Domestic violence provisions

21. Article 218b, introduced into the GPC by Amending Act no. 23/2016 and in force from 5 April 2016, provides:

> "Any person who, repeatedly or seriously poses a threat to the life, health or well-being of his or her present or former spouse or cohabiting partner, to his or her descendant or the descendant of his or her present or former spouse or cohabiting partner, to an older person in his or her direct blood-line, or to other persons who live with him or her in the home or are in his or her care, by means of violence, threats, deprivation of freedom, coercion or in another manner, shall be imprisoned for up to six years.
>
> A gross violation may be punishable by up to sixteen years' imprisonment. When the seriousness of the violation is assessed, particular consideration shall be given to whether the injured party suffered major physical injury or damage to his or her health or whether the violation was fatal. Furthermore, consideration shall be given to whether the violation was committed in a particularly painful or injurious manner, whether it lasted a long time or whether the perpetrator grossly abused his or her superior position vis-à-vis the injured party".

22. The Explanatory Report to Act No. 23/2016 clarifies that, although Article 218b highlights that domestic violence should not be regarded as a series of isolated incidents but rather as a continuous situation creating a climate of threat and fear, a single incident, if serious enough, can also engage criminal liability under the provision. It further explains that the means by which domestic violence might be committed are not limited to physical violence, threats, deprivation of freedom or coercion, but can also include forms of social, psychological and financial violence.

23. Article 233 provides that anyone who makes a threat of committing a criminal act designed to cause another person to fear for their life, health or well-being, or that of other persons, shall be fined or imprisoned for up to two years.

24. Article 233b provides that anyone who insults or denigrates their spouse or ex-spouse, child or other closely related person, where the offence constitutes gross defamation, shall be imprisoned for up to two years.

3. General provisions

25. Article 2 provides that where penal legislation is amended between the commission of an offence and the delivery of judgment, the case shall be adjudicated in accordance with the newer legislation with respect to both criminal liability and punishment. However, no punishment may be imposed unless authorised by law at the time the act was committed, nor may a more severe punishment be imposed than that which would have been applicable under the law in force at that time.

26. Article 70(3) stipulates that where an offence is committed against a person closely related to the perpetrator and the nature of their relationship is deemed to have aggravated the seriousness of the offence, this shall normally be considered an aggravating factor in determining the punishment.

27. Article 81 establishes statutory limitation periods: two years for offences carrying a maximum penalty of one year's imprisonment, five years for those punishable with up to four years' imprisonment, ten years for offences punishable with up to ten years' imprisonment and fifteen years for offences subject to over ten years' maximum imprisonment.

C. Criminal Procedure Act No. 88/2008

28. The Act contains detailed provisions on criminal investigations and prosecutions. These include the requirements that investigations shall be carried out expeditiously (Article 53), that the police shall investigate when necessary based on knowledge or suspicion of crime regardless of whether a complaint has been received (Article 52), 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 issued unless the investigative material is considered sufficient or likely to secure a conviction (Article 145).

29. 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. Act on Restraining Orders and Removal from the Home No. 85/2011

30. The Act permits the imposition of restraining orders where there is reasonable suspicion of the commission, or the risk of commission, of a criminal offence, or where the perpetrator otherwise disturbs the victim's peace (Article 4). The perpetrator may also be arrested and removed from the home if there is reasonable suspicion of the commission, or the danger of commission, of certain punishable offences, including sexual and physical violence as well as offences under Articles 233 and 233b and, since its entry into force, Article 218b of the GPC (Article 5).

II. COUNCIL OF EUROPE

31. The Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), in its Baseline Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in the Republic of Iceland, GREVIO/Inf(2022)26, published on 14 November 2022, noted the persistence of gender stereotypes and the continued need to address violence against women in Iceland, while highlighting "the clear commitment" by the Icelandic Government to "combat gender-based violence, to improve the legal status of victims [and] to prioritise the striving for gender equality" (§§ 2-3). It welcomed Iceland's ranking in 2021, for the twelfth consecutive year, at the top of the Global Gender Gap Index, and commended the Icelandic authorities for the "official anchoring of a gender equality perspective in all areas of governance and policy making" (§ 16).

32. As regards coordinated and comprehensive measures to prevent and combat violence against women, GREVIO noted that "the first action plan on domestic and sexual violence in Iceland [had been] introduced in 2006" and was followed by further action plans on gender-based violence, which focused on combating domestic violence and sexual violence against women and children and aimed to improve the legal status of and facilities for victims. Emphasis was also placed on "strengthening preventive efforts against violence" (§ 30).

33. As regards the collection of data on violence against women, GREVIO noted that, according to the authorities, statistics on such violence were "not currently compiled in a single location" and that "there [was] no overview available on the extent of the different forms of violence covered by the Istanbul Convention in Iceland". Nevertheless, the police collected data on domestic violence "disaggregated by sex, age, nationality, type and place of the offence, and relationship of the perpetrator to the victim".

Statistics on sexual and domestic violence, including yearly trends, were published on the police website and updated quarterly. Overall, the police and police prosecutors had "a solid data system in place for recording reported offences of sexual violence and domestic violence". However, GREVIO regretted that "no data on indictments or convictions [were] being collected or made available publicly" (§§ 53-55).

34. As regards the substantive criminal-law provisions and the initiation of proceedings, GREVIO noted with satisfaction that the Icelandic GPC provides for *ex officio* initiation of legal proceedings in relation to all of the offences listed in Article 55, paragraph 1, of the Istanbul Convention (§ 286). It also noted legislative developments following a 2012 report on the GPC's conformity with the Convention and remarked that they demonstrated "Iceland's serious commitment to tackling violence against women and stemming impunity" (§ 192). GREVIO observed that, with one exception, the aggravating circumstances contained in Article 46 of the Convention form part of the Icelandic legislation, either in Article 70 of the GPC or as a part of the provisions of the substantive criminal law (§ 234). It further welcomed the adoption of the new Article 218b and noted the judicial clarification of the threshold for its application in cases of a single violent incident. It observed, however, that acts of psychological violence occurring between partners who do not share a residence were not covered within its scope, and that its efficiency in terms of protecting against psychological violence remained to be seen (§§ 193 and 199).

35. As regards the response of law-enforcement agencies, GREVIO welcomed the issuance of protocols for police officers dealing with cases of domestic violence by the National Commissioner for Police "as early as 2005", with subsequent updates in 2014 and 2018. It was satisfied that these protocols were "comprehensive and provided a model of good practice consistent with the requirements of the Istanbul Convention", although it noted that their implementation "remain[ed] inconsistent and further effort [was] required in that respect" (§ 242). It also noted the State Prosecutor's issuance, in 2017, of instructions prioritising the investigation of rape cases, cases involving violence against children and violence in close relationships and, in 2018, of instructions requiring the implementation of a standardised and timed investigation plan for such cases (§ 251). GREVIO further noted that "following a study conducted in 2013 and 2014, which found that acquittal rates for sexual offences were high in Iceland, an Action Plan on Sexual Offences was passed by the parliament in 2017" with "several measures to improve the situation, in particular aimed at increasing the rate of prosecutions and convictions of perpetrators of sexual offences". It also provided for "15 new full-time police officer positions ... added to police departments all over the country", and additional funding to update procedures and investigative equipment (§ 250).

36. Noting the concerns raised by NGOs and women's organisations over the number of cases concerning sexual violence that did not proceed to prosecution, and how the deployment of more resources to their investigation created "a new bottleneck" in prosecutions (§§ 252-53), GREVIO urged the authorities "to significantly reinforce their investigative and prosecutorial capacity and to take immediate measures to ensure a prompt and appropriate response by law-enforcement agencies in all cases of violence against women" (§ 259). GREVIO further observed that, as regards domestic violence, "the lack of statistics in respect of interventions, prosecutions and convictions [made] it difficult to assess the effectiveness of the system". It noted that "numerous concerns were raised by NGOs and women's organisations in respect of the delays in getting to court, leading to reduced or suspended sentences, and unduly negative approaches to women victims of violence at District Court and Court of Appeal level" (§ 263).

III. UNITED NATIONS

37. The United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Iceland, adopted at its sixty-third session on 15 February - 4 March 2016 (CEDAW/C/ISL/CO/7-8), noted with concern the increasing number of cases of violence against women and welcomed "the new rules, procedures and risk assessment tool issued by the Reykjavik Metropolitan Police in March 2015 for cases of domestic violence". It expressed particular concern about "the high number of discontinuances in criminal proceedings on charges of violence against women, in particular rape and sexual violence, by the State Prosecutor and the low number of convictions" and recommended, among other measures, that Iceland incorporate the Istanbul Convention into national legislation to strengthen legal protection for women, including by criminalising online harassment and psychological violence. It further called upon Iceland to enhance efforts to prosecute and convict perpetrators of rape and sexual violence and analyse and address the causes of the high acquittal rates (§§ 19-20).

38. In its Concluding Observations on the Ninth Periodic Report of Iceland, adopted at its eighty-fifth session (8-26 May 2023) (CEDAW/C/ISL/CO/9), the CEDAW Committee noted with appreciation Iceland's top ranking in the 2022 Global Gender Gap Index and welcomed the progress achieved since the last report, including the criminalisation of digital sexual violence and stalking, increased protection for victims of psychological violence and the definition of rape based on absence of consent. However, it expressed concern over "the high number of criminal proceedings concerning gender-based violence against women, in particular rape and sexual violence, discontinued by the State Prosecutor and the low

number of convictions, notwithstanding the adoption and implementation of the action plan concerning sexual offences for the period 2018-2022". It also highlighted "the lack of disaggregated data on all forms of gender-based violence against women and girls, including domestic violence". Among other measures, it recommended addressing the causes of underreporting and high acquittal rates in cases of gender-based violence and ensuring the collection and analysis of data on all such forms of violence (§§ 4, 25-26).

THE LAW

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

39. The applicant complained that the authorities failed to conduct an effective investigation into her allegations of ill-treatment and to provide adequate protection against gender-based 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 ..."

A. Admissibility

40. The Government acknowledged that the applicant had exhausted effective remedies in the criminal proceedings by appealing to the State Prosecutor. They submitted, however, that her complaint was manifestly ill-founded. The applicant contested the Government's submission in this respect.

41. The Court takes note of the Government's acknowledgment concerning the exhaustion of domestic remedies. As regards the objection concerning the alleged manifestly ill-founded nature of the complaint, the Court considers that the arguments put forward in relation to this objection raise issues which require an examination on the merits of the complaint under Articles 3 and 8 of the Convention, rather than an assessment of its admissibility (see *Mehmet Çiftci v. Turkey*, no. 53208/19, § 26, 16 November 2021, and the authorities cited therein).

42. The Court thus considers 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 applicant

43. The applicant submitted that the domestic legal framework had failed to afford practical and effective protection of her rights. She asserted that, prior to the entry into force of Article 218b of the General Penal Code (the "GPC") in 2016, victims of domestic violence had not been adequately protected under Icelandic law, a deficiency identified in the observations of the CEDAW Committee. In her view, equating domestic violence with random physical assaults, particularly in relation to the two-year limitation period for offences under Article 217 of the GPC, was incompatible with Articles 3 and 8 of the Convention, and also with the Istanbul Convention. Furthermore, at the material time psychological abuse had not been criminalised and the element of consent had not been sufficiently taken into account in the definition of rape.

44. The applicant disputed the Government's claim that domestic violence cases were prioritised by the police, pointing to significant delays in her case before F.Þ. was questioned and witness statements were taken. While acknowledging that a period of time had elapsed between the incidents and her complaint, she maintained that this made it more crucial to commence an effective investigation immediately to secure available evidence. The various guidelines and procedures for the expedited handling of such cases were of little value if they were not effectively implemented in practice. Furthermore, the Government's decision to increase funding to ensure effective investigations after the investigation in her case further demonstrated that the delays in her proceedings had been unacceptable.

45. The applicant further maintained that her account was credible and corroborated by additional evidence, including medical records and witness testimony. However, the police systematically discounted or dismissed victims' evidence in domestic violence cases, while according undue weight to the denials of the accused. Witness statements describing threatening behaviour, controlling conduct, events surrounding the alleged chokehold and visible injuries after the end of her relationship with F.Þ. ought to have been considered as part of the overall body of evidence. The dismissal of witness testimony as merely "retelling" the victims' accounts inappropriately diminished crucial evidence in domestic violence cases, where direct witnesses were rare by nature.

46. The applicant emphasised that, despite F.Þ. admitting to sexual intercourse while she was pregnant at the rehabilitation clinic, the police failed to conduct a proper investigation into the issue of consent. She maintained that her PTSD diagnosis, reports from the Stígamót support centre, medical records and witness testimony had all been improperly

disregarded. She further noted that, despite contradictions in F.Þ.'s testimony, including his admission of controlling behaviour while denying abuse, his account was preferred. The police failed to follow up on his admissions or develop lines of questioning regarding his controlling conduct to assess whether it constituted an offence under the GPC. The police had also failed to consider whether his conduct could have constituted gross defamation under Article 233b. The applicant submitted that the investigation's failure to properly examine the issue of consent in relation to the incident at the rehabilitation clinic reflected the same rigid approach to rape investigations that the Court had previously condemned (referring in particular to *M.C. v. Bulgaria*, no. 39272/98, ECHR 2003-XII, and *E.M. v. Romania*, no. 43994/05, 30 October 2012). She argued that witness accounts had been improperly dismissed and that the exclusive focus on F.Þ.'s denial, while disregarding corroborating evidence of abuse, demonstrated systemic shortcomings in the investigation of gender-based violence.

(b) The Government

47. The Government submitted that investigations into sexual assault and domestic violence had been prioritised by the police and prosecution for decades. Before the enactment of Article 218b of the GPC in 2016, protection had been provided through Articles 217 and 218 on physical assault and Article 70(3), which prescribed aggravated punishment for offences committed within close relationships. Although psychological violence had not been a punishable offence, Articles 233 and 233b had penalised intimidation and gross defamation in domestic violence cases. Article 194 of the GPC had further been amended several times in line with evolving standards on sexual violence and the Court's case-law. By amending Act no. 61/2007, the emphasis on the means employed had been reduced and the rape offence had been conceptualised with reference to the lack of consent. This had subsequently been confirmed in the case-law of the Supreme Court (see paragraph 18 above).

48. The Government emphasised that investigators were required to establish the truth and give equal weight to evidence supporting both acquittal and conviction, in accordance with Article 70 of the Constitution and Article 6 § 2 of the Convention. While accepting that the burden of proof in domestic and sexual violence cases was difficult, the Government rejected the applicant's claim that it was "almost impossible to fulfil". The legislative framework allowed for consideration of various types of evidence, including medical certificates concerning psychological effects and accounts of events before and after the alleged incidents.

49. While acknowledging an increase in the influx cases during 2017-18 and a lack of manpower, the Government maintained that this had been met with organisational changes and increased funding, noting in particular the addition of six full-time positions at the Reykjavík Metropolitan Police

Department. This did not, therefore, indicate that sexual and domestic violence cases had not been prioritised. Urgent cases reported immediately after an incident were given priority over those reported later, such as the applicant's case. The delays were not due to the nature of the offences, nor did they suggest a lack of police prioritisation. Instructions issued by the State Prosecutor placed clear emphasis on expediting proceedings and prioritising such cases.

50. With respect to the investigation in the applicant's case, the Government, while acknowledging that more than nine months had elapsed between her statement and the questioning of F.Þ., maintained that this delay had not prejudiced the proceedings. As the complaint concerned events that had taken place between 2011 and 2014 but were first reported in December 2017, the case did not require immediate action to secure evidence. The Government acknowledged that witnesses had been questioned between eleven and thirteen months after the complaint was lodged but maintained that this too had not affected the outcome. The investigation had been comprehensive, a large number of witnesses were questioned, but none had been able to confirm the applicant's accusations in the face of F.Þ.'s denial. The applicant had not obtained medical records documenting injuries, and certificates from support services had not been sufficient proof that her mental condition could be linked to the events described. Article 233b of the GPC was not deemed relevant in the circumstances of her case, as the applicant had not explained how she believed F.Þ. had been guilty of gross defamation of character against her.

51. The Government emphasised that, in cases involving sexual offences and domestic violence, direct witnesses were often absent and that investigations generally relied on witness testimony regarding events before and after the incidents, as well as victims' disclosures. While it was common practice to take into account certificates from psychologists and other support services, such evidence was insufficient to support prosecution in the applicant's case. They distinguished the present case from the Court's findings in *M.C. v. Bulgaria* (cited above) and *E.B. v. Romania* (no. 49089/10, 19 March 2019), arguing that unlike in those cases, the domestic authorities had properly explored the available evidence and assessed credibility of conflicting accounts.

2. The Court's assessment

(a) General principles

52. The Court reiterates that the issue of domestic violence, which can take various forms – ranging from physical assault to sexual, economic, emotional or verbal abuse – transcends the circumstances of an individual case. It is a general problem which affects, to a varying degree, all member States and which does not always surface since it often takes place within

personal relationships or closed circuits and affects different family members, although women make up an overwhelming majority of victims. The particular vulnerability of the victims of domestic violence and the need for active State involvement in their protection have been emphasised in a number of international instruments and the Court's case-law (see *Kurt v. Austria* [GC], no. 62903/15, §§ 161-62, 15 June 2021, and *Opuz v. Turkey*, no. 33401/02, §§ 72-86, ECHR 2009).

53. Since in cases concerning violence inflicted by private parties the distinction between the requirements of Articles 3 and 8 of the Convention is not clear-cut, the Court may examine the applicant's complaints simultaneously under both provisions. Indeed, both provisions impose an obligation on the State to safeguard an individual's physical and psychological integrity and, together with Article 2, form a continuum that triggers the State's duty to provide protection once it has been established that attacks on an individual's integrity were sufficiently serious to necessitate a response (see *Hanovs v. Latvia*, no. 40861/22, § 45, 18 July 2024, with further references, and *Vučković v. Croatia*, no. 15798/20, § 54, 12 December 2023).

54. The positive obligation of the authorities to protect victims of violence has three key aspects. First, they must establish a legislative and regulatory framework of protection. Second, in certain well-defined circumstances, they are required to respond promptly to reports of domestic violence and take operational measures to protect individuals at risk of ill-treatment. Third, they must conduct an effective investigation into arguable claims concerning each instance of such ill-treatment (see *X and Others v. Bulgaria* [GC], no. 22457/16, § 178, 2 February 2021; *M.C. v. Bulgaria*, cited above, § 153; and *Kurt*, cited above, § 165, with further references).

55. Regarding the existence of a legal framework, the Court's case-law and relevant international materials reflect a common understanding that comprehensive legal and other measures are necessary to ensure effective protection for victims of domestic violence. These measures must include, in particular, the criminalisation of acts of violence within the family through effective, proportionate and dissuasive sanctions (see *Ž.B. v. Croatia*, no. 47666/13, §§ 50-51, 11 July 2017, and *Galović v. Croatia*, no. 45512/11, § 114, 31 August 2021).

56. The procedural obligation to conduct an effective investigation involves the duty of the domestic authorities to apply in practice the criminal-law mechanisms established to prohibit and punish conduct contrary to Articles 3 and 8 of the Convention. For an investigation to be effective, it must be prompt and thorough throughout the proceedings. The authorities are required to take all reasonable steps to secure evidence related to the incident, including forensic evidence. Particular diligence is necessary in cases of domestic violence, and the specific nature of such violence must be taken into account (see *Tunikova and Others v. Russia*, nos. 55974/16 and 3 others,

§ 114, 14 December 2021, and *Vieru v. the Republic of Moldova*, no. 17106/18, § 81, 19 November 2024).

57. Nonetheless, the Court reiterates that the procedural obligation is a requirement of means and not of results. There is no absolute 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 needs not be 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*, cited above, § 186, and *S.M. v. Croatia* [GC], no. 60561/14, § 315-20, 25 June 2020, with further references).

(b) Application of the principles to the present case

58. The applicant submitted that her former partner subjected her to various forms of ill-treatment, including psychological, physical and sexual violence on more than one occasion, which posed a threat to her physical integrity and well-being. She alleged a failure to comply with the first and third aspects of the State's positive obligations under Articles 3 and 8 of the Convention (see paragraph 54 above). The Court considers that the violence alleged by the applicant, 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 (see, among others, *Opuz*, cited above, § 161, and *Tunikova and Others*, cited above, §§ 75-76). Although the threshold under Article 3 has thus been met, the Court will nonetheless examine the applicant's complaints concurrently under both provisions. It will first assess whether the domestic legal framework afforded adequate protection against domestic and sexual violence at the material time, before turning to the question of whether the investigation into the applicant's specific allegations met the standards required under the Convention.

(i) Legislative framework

59. As noted in paragraph 55 above, the States' obligations in cases of domestic violence generally require the establishment of effective criminal-law provisions. It is well established that the Court's role is not to

substitute its own assessment for that of national authorities in selecting among the various measures that could ensure compliance with their positive obligations under the Convention (see *Ž.B. v. Croatia*, cited above, § 58). Different legislative approaches may fulfil these requirements, provided they offer effective and practical protection against domestic violence. As reflected in the Court's case-law concerning various Contracting States, domestic violence may be appropriately addressed either through specific criminal offences or by treating it as an aggravating factor in other violent crimes (ibid., § 57; see also *E.M. v. Romania*, cited above, § 62, and *Valiulienė v. Lithuania*, no. 33234/07, § 78, 26 March 2013).

60. In assessing the adequacy of the protection framework in Iceland during the relevant period, the Court observes that although Article 218b, which specifically criminalises domestic violence, was not introduced into the GPC until 2016, the legal framework had already provided for enhanced punishment in such cases. Article 70(3) of the GPC stipulated that a close relationship between the perpetrator and the victim should be considered an aggravating circumstance where the relationship increased the gravity of the offence (see paragraph 26 above). This provision thus allowed for heavier penalties in domestic violence cases prosecuted under the rape and general assault provisions of Articles 194, 217 and 218 (see *Ž.B. v. Croatia*, cited above, § 54). The Court reiterates that while the Istanbul Convention requires the criminalisation of domestic violence, it does not prescribe specific standalone offences. Rather, it allows for the inclusion of domestic violence as either a constituent element of particular offences or an aggravating circumstance in sentencing for other offences established by the Convention (ibid., § 56; see also the GREVIO Baseline Report on Iceland in paragraph 34 above).

61. Insofar as criminal proceedings could be initiated *ex officio*, without requiring a formal complaint from the victim, the legislative approach adopted by Iceland conforms with the relevant international standards (see *Volodina v. Russia*, no. 41261/17, §§ 82-84, 9 July 2019, and the GREVIO Baseline Report on Iceland in paragraph 34 above).

62. As regards physical violence, the Court notes that Articles 217 and 218 of the GPC criminalised assault, with a two-year limitation period for less serious offences under Article 217. While a longer limitation period might arguably be considered desirable in domestic violence cases given its nature and victims' particular vulnerabilities, the Court does not find that the two-year period was, in itself, contrary to the requirements of the Convention, insofar as States enjoy a wide margin of appreciation in setting limitation periods (see *Stubbings and Others v. the United Kingdom*, 22 October 1996, §§ 55-56, *Reports of Judgments and Decisions* 1996-IV). The Court notes in this respect that Article 58 of the Istanbul Convention on limitation periods does not apply to physical violence and relates to child victims only (see the explanatory note to the Istanbul Convention, §§ 296-97). What is at issue in

the present case is not the length of the limitation period as such but whether the authorities took all reasonable steps to investigate the applicant's allegations with the expediency required by the applicable limitation period, in order to ensure practical and effective protection.

63. As concerns the allegations of sexual violence, the Court notes that Article 194 of the GPC, as applicable at the material time, focused on the absence of consent rather than the use of force, in line with the evolving standards for the protection against rape (see *M.C. v. Bulgaria*, cited above, § 166). The Explanatory Report concerning that provision highlighted that the essential element of a sexual offence was the occurrence of sexual relations without the victim's consent, irrespective of whether the use of violence or other means of overcoming physical resistance was demonstrated (see paragraphs 16-17 above). While subsequent amendments to Article 194 placed a more explicit emphasis on consent, this does not indicate that the legal framework in force at the relevant time was inadequate, as evidenced for example by the case-law of the Icelandic Supreme Court (see paragraph 18 above). The key issue, rather, is whether the authorities' investigation into the applicant's allegations of sexual violence was conducted in a manner that ensured the effective application of the existing criminal-law provisions.

64. The more complex question concerns psychological violence. Before Article 218b was introduced in 2016, apart from criminalising threats and gross defamation of closely related persons under Articles 233 and 233b of the GPC, Icelandic law contained no specific provision criminalising other types of psychological abuse in close relationships. In examining whether this legislative lacuna violated the Convention, the Court must consider the standards prevailing at the material time. While psychological violence has come to be increasingly recognised as a form of domestic abuse requiring legal protection, an explicit obligation to criminalise such serious conduct was first introduced by the Istanbul Convention in 2011 which notably permitted reservations allowing States to provide for non-criminal sanctions instead (see Articles 33 and 78, paragraph 3, of the Convention). The Court notes that Iceland began preparing for its adoption of the Convention as early as 2012 by reviewing its legislation, leading to the introduction of Article 218b in 2016, two years before ratification in 2018. Even though Articles 233 and 233b of the GPC, applicable before that time, were not specifically designed to address the complex dynamics of coercive control and emotional abuse in intimate relationships, the Court reiterates that the Convention does not require States to adopt a particular legislative approach. Having regard to the emerging but not yet consolidated European consensus on criminalising psychological violence during the period under consideration, and the existence of various legal remedies, the Court finds that the legislative framework, whilst showing room for improvement that Iceland subsequently implemented, did not fall below minimum Convention standards. It is recalled in this connection that the Court's role is to determine

whether a given situation constitutes a violation of the Convention rather than to identify best practices in the field (see *A and B v. Croatia*, no. 7144/15, § 120, 20 June 2019).

65. Having found that the framework in place during the relevant period provided adequate mechanisms for protection against domestic violence through criminal law (see *Ž.B. v. Croatia*, cited above, § 58), the Court must examine next whether, within this legal framework, the authorities conducted an effective investigation into the applicant's allegations and what part that alleged delays may have played in its outcome.

(ii) Adequacy of the investigation

66. The Court acknowledges that domestic violence cases present inherent evidentiary challenges when the offences occur in private settings without any witnesses, and these challenges are further compounded when the events are reported only after a significant passage of time. While the authorities must remain sensitive to the particular dynamics of domestic violence that may explain delayed reporting, such delays can affect the available evidence and may legitimately influence the prioritisation of cases by the authorities. However, resource constraints and operational priorities cannot justify excessive tardiness in basic investigative steps once allegations have been brought to the authorities' attention. In each case, the fundamental question is whether, in the circumstances, including the timing of the complaint, the relevant limitation period and the risk of evidence being lost, the authorities demonstrated the requisite diligence.

67. The Court notes that the applicant's allegations concerned events that had occurred between three and six years before she lodged her complaint in December 2017. It acknowledges that victims of domestic violence often hesitate to file charges until some time has passed, such as after the end of their relationship with the alleged perpetrator. While such delays should not in themselves prejudice victims' claims, given the particular dynamics of domestic violence, they may nonetheless affect the evidentiary position.

68. The Court observes that the investigation conducted by the domestic authorities was comprehensive and thorough. The police questioned eleven witnesses, and gathered the available documentation, including medical records, a certificate from the Stígamót centre, and a psychological assessment diagnosing post-traumatic stress disorder. The fact that witness statements primarily consisted of accounts of what the applicant had told them, rather than direct observations of violence, reflects the frequent nature of domestic violence investigations rather than any failing on the part of the authorities.

69. As concerns the alleged physical violence, the Court notes that the statute of limitations for offences under Article 217 of the GPC had already expired when the applicant lodged her complaint with the authorities. Nonetheless, the authorities did not summarily reject the applicant's

allegations on that basis alone. Instead, they conducted a comprehensive investigation in order to establish the relevant facts. In light of the applicant's testimony and the evidence gathered, the Court sees no reason to call into question the authorities' classification of the alleged acts as falling under Article 217 rather than Article 218 of the GPC, the latter of which would have been subject to a longer limitation period. The authorities also expressly considered the applicability of Article 218b of the GPC, which carries a longer limitation period, before concluding that it could not be applied retroactively to conduct that had not been criminalised in equivalent terms prior to its entry into force in 2016. Rather than relying on procedural bars or adopting hasty or ill-founded conclusions to close an investigation (see *X and Others v. Bulgaria*, cited above, § 185, and contrast with *Volodina*, cited above, § 98), the domestic authorities in the present case made a genuine effort to ascertain the facts and explore legally relevant options before determining that prosecution was not feasible due to both the expired limitation period and the principle of non-retroactivity in criminal law.

70. As regards the alleged sexual violence, including the incident in the rehabilitation clinic where F.Þ. admitted that sexual intercourse had occurred, the central issue was one of consent. While the States have an obligation to penalise and effectively prosecute any non-consensual sexual act, this obligation does not negate the requirement to assess evidence in accordance with domestic criminal law standards, provided these standards themselves comply with the Convention. Unlike in *M.C. v. Bulgaria* (cited above, §§ 177-87) where the authorities failed to explore available possibilities for establishing the surrounding circumstances and assess the credibility of conflicting accounts, the police and the State Prosecutor in the present case conducted a thorough investigation and evaluation of the available evidence before concluding that it was insufficient to sustain a prosecution. This conclusion cannot be regarded as arbitrary or based on manifestly unreasonable assumptions.

71. As regards the applicant's submission that the authorities should have considered characterising F.Þ.'s conduct under Article 233b of the GPC concerning gross defamation in close relationships, the Court observes that her initial complaint to the police did not indicate that the alleged conduct primarily concerned gross defamation. While she alleged controlling and abusive behaviour, the core of her complaint related to physical and sexual violence. The alleged psychological violence was nevertheless subject to investigation and was raised by the applicant in her appeal to the State Prosecutor. Subsequent to the State Prosecutor's decision confirming the discontinuation of the investigation, the applicant's legal representative specifically raised the potential application of Article 233b (see paragraph 24 above). However, as stated in the State Prosecutor's reply, its decision was based on an assessment of the case-file as a whole and was not confined to the classification adopted by the police. As the Court found above, the

applicable legislative framework did not fall short of the minimum standards required by the Convention as regards the criminalisation of psychological violence. Reiterating that it is not its role to substitute its own assessment of the facts or of domestic law for that of the national authorities, the Court sees no basis on which to criticise the domestic authorities for concluding that, in light of the applicant's police statement and the witness testimony obtained, her allegations of psychological violence were not sufficient or likely to lead to a conviction.

72. The Court acknowledges that there were delays in the investigation, with F.Þ. not being questioned until September 2018 and witnesses not being interviewed until between November 2018 and January 2019. However, a total of eleven witnesses were questioned and the investigation was completed within fourteen months. The duration of the investigation must be assessed in light of both the historical nature of the allegations and the scope of the investigative steps undertaken. The Court notes that delays in the present case did not result in the loss of evidence or any legal avenue for prosecution. Moreover, in determining the urgency to be accorded to initial investigative measures, the authorities could reasonably prioritise those sexual or domestic violence cases where evidence might be lost or where witnesses were more likely to have a fresh recollection of events.

73. While the authorities might have proceeded more expeditiously, the question is whether they took all reasonable steps available to them to secure evidence and establish the facts (compare *Y v. Slovenia*, no. 41107/10, §§ 96 and 99, ECHR 2015 (extracts)). The Court observes that, while domestic abuse and sexual violence cases present inherent evidentiary challenges, these difficulties do not in themselves indicate systemic inadequacies in either the legal framework or investigative methods. In the applicant's case, the inability to secure a prosecution was a consequence of these evidentiary challenges rather than any deficiency in the legislative framework or any shortcoming in the investigation. Although this outcome was undoubtedly distressing for the applicant, the Court cannot conclude that it resulted from the authorities' failure to fulfil their positive obligations under the Convention.

74. Viewing the investigation as a whole, the Court finds that, despite its overall length, it met the threshold of effectiveness required by Articles 3 and 8 of the Convention. The authorities collected and assessed a substantial body of evidence, interviewed numerous witnesses, and reached conclusions that were neither manifestly unreasonable nor indicative of an unwillingness to investigate domestic violence allegations.

(c) Conclusion

75. The Court therefore finds that there has been no violation of Articles 3 and 8 of the Convention.

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

76. The applicant complained under Article 14 of the Convention, read in conjunction with Articles 3 and 8, that she had suffered discrimination as a woman in the enjoyment of her 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

77. 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 applicant

78. The applicant submitted that she had suffered discrimination as a woman due to the authorities' systematic failure to effectively investigate and prosecute sexual and domestic violence. She maintained that, as a rule, violence against women was treated differently within the legal system than violence where the victims were male. Despite the reforms introduced by the Icelandic authorities in recent years, the overall unresponsiveness of investigations and the low rate of prosecutions and convictions demonstrated an insufficient commitment on their part to take appropriate action to address violence against women. The Government's references to women in senior positions and Iceland's generally progressive stance on gender equality did not offset the failures in prosecuting gender-based violence.

79. According to official statistics for the years 2015 to 2021 in the capital area, 84 to 86% of abusers in domestic violence cases were men, while 76 to 89% of victims were women. Statistics from other regions of the country were similar. However, data from Stígamót on gender-based violence indicated consistently low reporting and prosecution rates. Between 2014 and 2019, approximately 85 to 88% of victims seeking assistance were women, and only 8 to 13% of cases were reported to the police. Of those reported, an average of only 30% resulted in prosecution, and of those, an average of 47% led to conviction at first instance. While the State Prosecutor's annual reports revealed higher prosecution rates in cases of sexual violence, they were only based on those cases that reached the prosecution phase of proceedings. They also disclosed even higher prosecution rates for homicide and physical assault cases. The disparity in prosecution rates between gender-based violence and

other violent crimes required an explanation from the Government, which had not been provided.

80. The applicant submitted that gender-based violence presented unique challenges, as such crimes were typically committed without witnesses, over an extended period, and with forensic evidence often difficult to obtain. Victims were thus at a disadvantage in contributing to prosecutions compared to victims of other violent acts. She argued that applying exactly the same approach to these cases as to other forms of violence was ineffective and that investigations and the regulatory framework must account for the nature of the available evidence to ensure victims' rights under Articles 3 and 8. The evidentiary threshold in cases such as the applicant's case was, in her view, effectively impossible to meet, as authorities systematically diminished or dismissed evidence specific to such cases, including psychological assessments and witness testimonies on patterns of controlling behaviour. Her case illustrated this discrimination, as credible allegations supported by medical evidence and witness statements were not prosecuted.

(b) The Government

81. The Government disputed the existence of any systematic discrimination against women in the Icelandic justice system. They maintained that the evidence submitted by the applicant did not substantiate any bias or discriminatory nature in Icelandic legislation or practices. The legislative framework was entirely gender-neutral in terms of the same burden of proof and procedural requirements applying irrespective of the victim's gender. Iceland prioritised the protection against sexual and domestic violence and the system for protecting women's rights was among the most advanced globally. The domestic authorities had systematically implemented effective and targeted measures to combat domestic and sexual violence, as evidenced by the submitted documents on various action plans and targeted programmes. These included information on specialised investigative teams, a priority policy, coordination with social services and specialised risk assessments in cases of domestic violence, as well as targeted police and prosecutorial training. The Government further submitted that two specialised hospital emergency units for victims of sexual violence existed in the country and that three centres had been set up, where victims could seek multidisciplinary help and police assistance in one location.

82. The Government maintained that the predominance of women among victims of sexual and domestic violence was a global phenomenon and not unique to Iceland. While women constituted the majority of such victims, the Chief Commissioner of Police's analysis of data for 2015-2020 showed that there was no measurable difference in prosecution rates between cases involving male and female victims of domestic and sexual violence. Any disparity in prosecution rates between homicide and assault cases, where direct witnesses and physical injuries were more common, on one hand, and

sexual offences, on the other, reflected inherent evidentiary challenges in the latter type of cases rather than any discriminatory practice. The Government further submitted comparative statistics on rape (Article 194 of the GPC) and grave physical assault (Article 218 of the GPC) cases for the capital area in the years 2013-21, demonstrating comparable prosecution rates. Lastly, they asserted that statistics from Stígamót could not replace official data, particularly as they included alleged offences that had never been reported to the authorities.

83. Regarding the applicant's case, the Government contended that it did not demonstrate discrimination but rather the necessary application of criminal law standards of proof. They maintained that the finding of insufficient evidence for prosecution reflected the proper application of these standards rather than any bias against female victims.

2. The Court's assessment

(a) General principles

84. The principles concerning discrimination in the context of domestic violence are well established in the Court's case-law (see *Opuz*, cited above, §§ 184-91; *Volodina*, cited above, §§ 109-14, and, for a recent summary, *Y and Others v. Bulgaria*, no. 9077/18, § 122, 22 March 2022, and *M.S. v. Italy*, no. 32715/19, § 54, 7 July 2022). The Court has held that violence against women, including domestic violence, constitutes a form of discrimination. Such discrimination may arise not only from explicit policies of different treatment but also from *de facto* situations in which general policies or measures have disproportionately prejudicial effect on women, irrespective of discriminatory intent.

85. Once an applicant has shown that there has been a difference in treatment or disproportionate effect, it is for the respondent Government to show that it was justified (see *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, §§ 177 and 189, ECHR 2007-IV). As regards the question of what constitutes prima facie evidence capable of shifting the burden of proof on to the respondent State, in proceedings before the Court, there are no procedural barriers to the admissibility of evidence or predetermined formulae for its assessment (see *Volodina*, cited above, § 112). Prima facie evidence of discrimination may include reports by non-governmental organisations or international bodies, as well as statistical data illustrating that the general attitude of the authorities has fostered a climate conducive to domestic violence. The Court has found violations of Article 14 where systemic failures to address violence against women were demonstrated by patterns of inadequate investigations in a series of cases (see *Vieru*, cited above, § 129, and *A.E. v. Bulgaria*, no. 53891/20, § 119, 23 May 2023), where the domestic authorities' approach amounted to condonation of domestic violence (see *Eremia v. the Republic of Moldova*, no. 3564/11, § 89,

28 May 2013, and *Talpis v. Italy*, no. 41237/14, § 145, 2 March 2017) and in cases of documented deficiencies in the efforts to prevent and combat domestic violence (see *Opuz*, cited above, § 200, and *Tkhelidze v. Georgia*, no. 33056/17, §§ 56-57, 8 July 2021), or persistent legislative gaps in protection, reflecting the authorities' reluctance to acknowledge the seriousness of the issue (see *Tunikova and Others*, cited above, § 129).

86. As regards statistical evidence, the Court has established that statistics which, upon critical examination, appear to be reliable and significant may be sufficient to constitute the prima facie evidence of indirect discrimination (see *D.H. and Others*, cited above, §§ 180 and 187-88). However, not all statistical disparities will trigger a presumption of discrimination. Fragmented, incomplete or inconclusive statistical data cannot suffice to establish a prima facie case that the effect of a measure or practice was discriminatory (see *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 154, 4 May 2001, and *Oršuš and Others v. Croatia* [GC], no. 15766/03, § 152, ECHR 2010). Where statistical evidence was limited or not available, the Court has had regard, as evidence of indirect discrimination, to reports of institutional attitudes or practices documented by national and international authorities (see *D.H. and Others*, cited above, §§ 191-93; *Oršuš and Others*, cited above, §§ 153-154, and *Opuz*, cited above, §§ 193-97).

(b) Application to the present case

87. The applicant complained of structural bias, arguing that violence against women was treated differently in the legal system than violent crimes against male victims. She also complained of the disproportionate effect of applying the same approach to evidence in cases of sexual and domestic violence as in other types of crimes. Since the applicant did not allege individual discriminatory treatment, the Court must examine whether she has presented prima facie evidence of structural bias or disproportionate effect capable of shifting the burden of proof onto the Government.

88. It is undisputed that sexual and domestic violence in Iceland predominantly affects women; it is also the case in other Member States of the Council of Europe. The statistics presented by the applicant indicate that the vast majority of victims were women, while most perpetrators were men. However, the fact that women are disproportionately affected by sexual and domestic violence does not, in itself, establish that this reflects discriminatory policies or conduct by the authorities or the disproportionate effect of general measures rather than a broader societal issue.

89. The Court notes that Iceland ranks highly in international gender equality assessments and has implemented numerous reforms aimed at combating sexual and domestic violence, including the legislative reforms in 2016 introducing Article 218b and the creation of specialised investigation teams in 2018. While such general measures do not preclude the possibility

of discrimination in practice, they provide relevant context for determining whether apparent disparities result from discriminatory intent or omission.

90. As regards the legal framework, domestic violence had not been comprehensively criminalised until the introduction of Article 218b in 2016 but this does not in itself demonstrate either discriminatory intent or effect. As noted above, the previous legal framework nonetheless provided various protections through provisions on sexual violence, assault, threats, and gross defamation of closely related persons, as well as enhanced sentencing for assaults committed within a close relationship. The 2016 reforms reflect the authorities' commitment to strengthening protection against domestic violence rather than any indication of discriminatory complacency.

91. The Court further notes that the present case does not suggest that police officers or prosecutors attempted to dissuade the applicant from pursuing her complaint, implied that she was at fault, or displayed prejudicial attitudes towards female victims (see *J.L. v. Italy*, no. 5671/16, §§ 129-30, 27 May 2021, and contrast with *Eremia*, cited above, §§ 86-89).

92. The applicant sought to demonstrate structural bias and disproportionate effect by referring to comparative data from the State Prosecutor's annual reports, which showed that prosecution rates for sexual violence cases were lower than those for homicide and physical assault. She also cited statistics from the Stígamót centre for victims of sexual abuse, presenting prosecution and conviction rates in cases handled by the NGO. The Court considers that while the statistical data referred to by the applicant may indicate differential outcomes, they must be interpreted with considerable caution.

93. The Court notes, first, that the domestic authorities do not make available the statistics on indictment and convictions in domestic and sexual violence cases (see also the limited data referred to by the Government in paragraph 82 above). While international monitoring bodies have identified a need for improvements in this regard (see paragraphs 33, 36 and 38 above), nothing in the present case indicates that the absence of comprehensive official statistics reflects deliberate indifference to a widespread societal problem (contrast with *A.E. v. Bulgaria*, cited above, § 120 *in fine*). Admittedly, incomplete data complicates the assessment of the applicant's complaint of discrimination. Yet it cannot, on its own, establish either discriminatory bias or effect. It further entails that the fragmented statistics relied upon by the applicant may not offer a complete or fully accurate depiction of how such cases are handled by the authorities.

94. Turning, secondly, to the data from the State Prosecutor's annual reports, the Court notes that the lower prosecution rates in sexual violence cases compared to those concerning homicide and physical assault may be explained by objective factors unrelated to discriminatory attitudes or effect. Homicide and physical assault cases cited by the applicant for comparison more frequently involve incidents in public settings with witnesses and/or

forensic evidence. The evidential position in such cases is materially different from that in typical scenarios of sexual or domestic violence, where incidents usually occur in private settings without any witnesses present. Physical evidence may also be lacking, particularly where victims do not immediately report incidents or seek medical attention. The establishment of facts often turns on conflicting accounts between the victim and perpetrator. These inherent evidentiary challenges, common to sexual and domestic violence cases across all jurisdictions, may affect prosecution and conviction rates without necessarily reflecting discrimination. For that reason, comparing raw prosecution rates across different categories of offences, without accounting for the specific characteristics and circumstances of each case type, may be misleading. The statistical evidence comparing different types of crimes therefore lacks the requisite specificity to allow the Court to determine whether the observed disparity in prosecution rates is attributable to the inherent characteristics of the offences or to bias or disparate effect.

95. Thirdly, while the statistics referred to by the applicant show that women constitute the majority of victims of sexual and domestic violence, they do not establish that cases involving male victims of sexual assault or domestic violence are treated differently by the authorities or lead to different prosecution rates. In the absence of more detailed data illustrating how comparable evidentiary situations are addressed based on the gender of the victim, the Court cannot conclude that the statistics reflect a biased practice or stem from a gender-based disparity in the application of facially neutral measures.

96. The Court has previously found violations of Article 14 in cases where statistical evidence was part of a broader pattern demonstrating systematic failures by the authorities. In *Opuz*, official statistics regarding violence against women were combined with reports from Amnesty International and other organisations documenting community attitudes tolerant of violence against women, attitudes frequently shared by judges and senior officials. In *A.E. v. Bulgaria*, statistics were considered alongside documented patterns of inadequate investigations in multiple cases before the Court. In contrast, the present case presents limited statistical evidence without corresponding documentation of institutional attitudes or systematic patterns of discrimination.

97. Turning to the applicant's remaining submissions in support of her prima facie case of bias or disproportionate effect, the Court reiterates that it has concluded above that the investigation of her case was comprehensive and thorough and sufficiently explored the legally relevant avenues. The Court further observes that the authorities have reformed the GPC in line with evolving international standards and implemented numerous other measures to protect victims of sexual and domestic violence, including the adoption of the Act on Restraining Orders and Removal from the Home, the implementation of specific investigation protocols, a prioritisation policy,

risk assessment, specialised police and prosecutorial training, and coordination with health and social services. While the effectiveness of these measures may vary, they indicate institutional commitment to addressing sexual and domestic violence rather than systematic disregard for female victims.

98. As regards the applicant's argument that applying the same standard of proof to cases of sexual or domestic violence as to other violent crimes fails to account for their specific nature, the Court notes that, although special investigative approaches and other measures tailored to the needs of victims of sexual and domestic violence may be desirable and have, in fact, been implemented by the domestic authorities with varying degrees of success (see paragraphs 35 and 81 above), the Convention does not require the application of a different standard of proof in such cases.

99. The applicant also argued that the authorities systematically disregarded evidence specific to sexual and domestic violence cases, such as psychological assessments and witness accounts of events before and after the incidents in question. Once again, however, the Court finds no indication that such evidence has been disregarded or not given adequate weight. The fact that such evidence has not always been considered sufficient or likely to secure a conviction, especially when balanced against defence rights and the presumption of innocence, does not indicate discrimination.

100. There remains the applicant's contention that domestic violence investigations have been marked by systematic delays. While investigative delays and implementation issues may indicate institutional shortcomings requiring remedy, there is no indication in the present case that they result from gender bias or disproportionate effect rather than resource constraints affecting criminal investigations generally. In this respect, the Court also notes the priority policy adopted by the authorities and the allocation, following an influx of complaints in 2017-18, of additional resources to improve the handling of cases, which demonstrate recognition of, and commitment to, addressing any operational challenges (see paragraphs 35 and 49 above).

101. The Court acknowledges the particular challenges involved in prosecuting cases of sexual and domestic violence and the importance of ensuring effective protection for victims. However, these challenges, which are common across many jurisdictions, cannot in themselves establish a prima facie case of discrimination in the absence of evidence of prejudicial treatment or disproportionate effect. While raising concerns about data collection that warrant attention from the authorities, the limited statistical evidence adduced by the applicant is insufficient to establish prima facie evidence of structural bias or disproportionate effect. Furthermore, the observations of international monitoring bodies, while identifying areas for improvement, do not suggest the existence of institutional attitudes or practices indicating discriminatory treatment of female victims of domestic

violence (compare and contrast *D.H. and Others*, cited above, § 192; *Oršuš and Others*, cited above, § 154, and *Opuz*, cited above, § 197). Taking also into account the various legislative and policy measures adopted by the authorities to combat sexual and domestic violence, prevent impunity and protect victims, the Court finds that the applicant has not sufficiently established a prima facie case of structural bias or disproportionate effect, capable of shifting the burden of proof to the State.

102. 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. *Declares* the application admissible;

2. *Holds* that there has been no violation of Articles 3 and 8 of the Convention;

3. *Holds* that there has been no violation of Article 14 of the Convention read in conjunction with Articles 3 and 8.

Done in English, and notified in writing on 26 August 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı Registrar	Arnfinn Bårdsen President