



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

FIFTH SECTION

CASE OF A.J. AND L.E. v. SPAIN

(Applications nos. 40312/23 and 40388/23)

JUDGMENT

Art 3 and Art 8 (procedural) • Positive obligations • Authorities' failure to conduct an effective investigation into applicants' complaints of sexual assault involving chemical submission • Systematic loss and destruction of potentially crucial evidence whilst in police custody not counter-balanced by other investigative measures • Insufficient guarantees of independence • Manifestly inadequate response to investigative failures

Prepared by the Registry. Does not bind the Court.

STRASBOURG

23 October 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 A.J. and L.E. v. Spain,

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

Kateřina Šimáčková, *President*,

María Elósegui,

Gilberto Felici,

Diana Sârcu,

Mykola Gnatovskyy,

Vahe Grigoryan,

Sébastien Biancheri, *judges*,

and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the applications (nos. 40312/23 and 40388/23) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Spanish nationals, A.J. and L.E. (“the applicants”), on 3 November 2023;

the decision to give notice to the Spanish Government (“the Government”) of the complaints under Articles 3 and 8 of the Convention concerning the alleged ineffectiveness of the criminal investigation into sexual assault;

the decision not to have the applicants’ names disclosed;

the parties’ observations;

Having deliberated in private on 30 September 2025,

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

INTRODUCTION

1. The case concerns the alleged failure of the Spanish authorities to conduct an effective investigation into the applicants’ complaints of sexual assault by means of chemical submission, as well as the subsequent loss and manipulation of crucial evidence held in police custody. The applicants complained in particular under Articles 3 and 8 of the Convention.

THE FACTS

2. The applicants live in Pamplona. They were represented by José Luís Beaumont Aristu, a lawyer practising in Pamplona.

3. The Government were represented by José Antonio Jurado Ripoll, Co-Agent.

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

I. ALLEGED SEXUAL ASSAULTS

5. On the night of 7 to 8 December 2016 the applicants went to a bar in Pamplona. According to their account, they met two men, D.C.M. and R.G.S., with whom they drank alcohol. The applicants alleged that from the time they were at the bar until they awoke the following morning, they had no recollection of events.

6. The applicants stated that they regained consciousness the following morning in the residence of one of the men, finding themselves undressed and with the physical sensation of having engaged in sexual intercourse. They alleged that they had been subjected to chemical submission through the administration of substances that rendered them unconscious and unable to consent to sexual acts.

7. On 11 December 2016, the first applicant (A.J.) attended a health centre for medical examination. The medical report noted the absence of genital lesions but activated the protocol for cases of suspected sexual assault involving chemical submission, resulting in notification to the police. The second applicant (L.E.) did not seek immediate medical attention.

II. POLICE INVESTIGATION AND LOSS OF EVIDENCE

8. Following receipt of the medical report, the National Police Family and Women's Unit (UFAM) commenced an investigation.

9. On 27 December 2016 the police arrested D.C.M. and R.G.S. On 29 December 2016, Investigating Court No. 4 of Pamplona questioned both men, who acknowledged having had sexual intercourse with the applicants but maintained that it had been consensual. The court imposed restraining orders against both men prohibiting them from approaching the applicants.

10. The case was then transferred to Investigating Court No. 1 of Pamplona, where formal criminal proceedings were opened on 3 January 2017.

11. During the course of the investigation, it emerged that R.G.S. was the brother-in-law of a police officer assigned to the UFAM unit responsible for investigating the case.

12. In addition, several pieces of potentially crucial evidence subsequently disappeared or were compromised while in police custody. Firstly, the full forensic report derived from the analysis of R.G.S.'s mobile telephone, which had been prepared by the national police forensic laboratory in Madrid and sent to Pamplona on 11 April 2017, disappeared entirely. Secondly, the video surveillance footage from the bar where the applicants and the accused had met was found to be partially lost and altered, with certain segments missing or manipulated. Thirdly, the hard drive used to store the forensic data from the mobile telephones of both suspects was found to

have been wiped and overwritten, resulting in the loss of all its contents, including backup copies of the extracted mobile data.

III. DECISIONS BY DOMESTIC AUTHORITIES

13. By decision (*auto denegatorio del procesamiento*) of 20 November 2018, Investigating Court No. 1 of Pamplona declined to prosecute the suspects. While acknowledging the seriousness of the allegations and expressly finding the applicants' accounts to be credible and without ulterior motive, the court concluded that there was insufficient evidence to establish non-consensual sexual acts. The applicants' inability to recall the events was acknowledged, but the court noted that no toxicological evidence had been obtained in time to support the claim of chemical submission. Although physical discomfort and injuries were reported, they could not be definitively linked to the alleged events. The forensic examination did not reveal injuries typically associated with violent sexual assault. The court further noted that while the suspects exchanged vulgar messages after the event, these were not probative of criminal conduct. The legal threshold of reasonable suspicion (*indicios racionales de criminalidad*) was therefore not met. Subsequently, in light of the applicants' allegations concerning serious irregularities in the handling of forensic material by police officers involved in the investigation, the judge opened separate proceedings to examine potential misconduct and evidence tampering (see paragraphs 25 to 28 below).

14. On 8 October 2021 Investigating Court No. 1 issued an order concluding the proceedings without bringing charges (*auto de conclusión del sumario*). This decision restated the reasoning of the prior decision in light of developments since 2018. The court emphasised that the evidence collected over nearly five years of investigation still did not allow the judicial threshold for indictment to be met. Its assessment was based on a comprehensive review of available evidence, including: forensic analysis of the applicants' hair samples which revealed no substances consistent with chemical submission but determined that both applicants were taking prescription medication (methylphenidate for one applicant and brompheniramine for the other) which could have increased the effects of alcohol on the nervous system, causing in particular impairment of thinking and judgment; testimony from taxi drivers who transported the parties on the night in question; witness statements from friends of the applicants; testimony from the bar staff; examination of the suspects' bank accounts to determine whether they had purchased any suspect chemical substances; search and seizure of the suspects' residences; analysis of available WhatsApp conversations from the suspects' devices; police reports concerning video footage from security cameras at the bar (including descriptions and specific frames, since the original recordings had been lost, see below); and medical reports from both applicants.

15. The court reasoned that whilst the applicants’ testimony was fully credible, and the suspects had acknowledged that sexual intercourse had occurred, the available evidence failed to prove beyond reasonable doubt that the suspects either had administered substances to render the applicants unconscious or were aware of the applicants’ lack of consciousness when engaging in sexual relations. The court noted that neither the applicants nor any witnesses had described a change in their behaviour consistent with rapid intoxication by submission drugs such as GHB (gamma-hydroxybutyrate) or “burundanga” (street name for scopolamine). In particular, the barman who had previously known one applicant had not observed any symptoms which attracted his attention. The taxi driver who took the group from the bar to the flat where the alleged offences took place had likewise observed nothing unusual in the applicants’ condition during the journey. A friend of one applicant who was familiar with her usual demeanour noted something unusual in her behaviour but not to a degree sufficient to prompt intervention, and he “took his leave normally”. The court further observed that, since the suspects were entirely unacquainted with the applicants, the state of disinhibition displayed at the bar would not necessarily have appeared unusual to them, as they could not distinguish between the applicants’ customary behaviour and conduct attributable to impaired faculties.

16. The court acknowledged that the investigation had been “notably affected” by procedural irregularities and the disappearance of digital evidence, but determined that these factors did not compensate for the lack of substantive evidence. It concluded that, even taking into account the shortcomings of the investigation, the investigative efforts had been exhaustive but had not produced evidence sufficient to substantiate a charge. The court emphasised that three separate investigations had been opened in respect of the irregularities but held that those matters did not alter the assessment of the evidentiary value of the material collected in the main proceedings.

17. In their submission of 2 March 2022, the applicants, relying on Article 627 of the Criminal Procedure Act, emphasised that they did not accept the closure of the main investigation precisely because the three separate investigations were still pending; they asked the *Audiencia Provincial* to return the file to the investigating judge so that those investigations could be completed.

18. On 23 June 2022 the Navarra *Audiencia Provincial* upheld the order concluding the investigation. The court accepted that evidence had disappeared during the investigation and that separate proceedings had been opened to address those irregularities. However, it found that the loss of evidentiary material did not undermine the overall sufficiency of the investigation. The court referred to the inconclusive hair analysis, medical documentation, police interviews, and video recordings from the bar. It agreed with the lower court that the evidence available did not support the

theory that the suspects had administered drugs to incapacitate the applicants, nor that they had engaged in non-consensual acts. The messages sent by the suspects in the days following the events were found to be reprehensible in tone, but not sufficiently probative of criminal liability. The court concluded that the investigative judge had conducted an adequate inquiry, and no further steps were warranted.

19. On 9 July 2022 Investigating Court No. 1 issued an order for provisional dismissal of the case (*auto de sobreseimiento provisional*). The court considered that all possible investigative avenues had been exhausted and that none of the elements collected, including forensic, testimonial and digital evidence, established the existence of a criminal offence.

20. The applicants' appeal (*recurso de súplica*) against that order was dismissed by the *Audiencia Provincial* on 12 September 2022. The court held that the dismissal had been legally correct and proportionate. It reaffirmed that no new evidence had been identified and that the possibility of reopening the case remained open in the event that one of the three separate investigations into evidence loss produced new facts. Until then, however, the matter was considered closed.

21. The applicants filed an action for annulment of the proceedings (*incidente de nulidad de actuaciones*), arguing that the closure of the investigation violated their fundamental rights under the Spanish Constitution and the Istanbul Convention. Relying on Articles 49 and 50 of that treaty, which oblige the authorities to ensure prompt, evidence-based investigations into violence against women, and further citing Articles 1, 2 § 1, 3, 56 and 71, they argued that the loss of evidence and the lack of diligence had deprived them as female victims of sexual violence within the meaning of the Istanbul Convention of the procedural safeguards guaranteed by it. They also drew parallels between their case and that of *Iribarren Pinillos v. Spain* (no. 36777/03, 8 January 2009), in which the Court found violations of Articles 3 and 6 of the Convention on account of what the applicants' lawyer described as "scant judicial interest in investigating a brutal assault on a citizen of Pamplona".

22. On 26 October 2022 the *Audiencia Provincial* dismissed their appeal. It considered that the issues raised had already been the subject of judicial determination in earlier decisions. The disappearance of evidence had been investigated and acknowledged, and separate proceedings had been established to address the possible misconduct of public officials. The application was therefore held to be inadmissible as it merely sought to reopen issues already adjudicated.

23. The applicants lodged an *amparo* appeal with the Constitutional Court, arguing that they had been denied their right to dignity, physical and psychological integrity, the right to an effective remedy, to a fair and public trial, to use pertinent means of proof for their defence, to equality before the

law and protection against discrimination, and to proceedings within a reasonable time.

24. By decision of 6 July 2023, the Constitutional Court declared the *amparo* appeal inadmissible on procedural grounds, holding that the applicants had not sufficiently raised their fundamental rights claims during the ordinary proceedings. As a result, the appeal was not admitted for examination on the merits.

IV. INVESTIGATIONS INTO LOSS OF EVIDENCE

25. By an order of 18 February 2019, Investigating Court No. 1 ordered that the matter concerning the alleged disappearance and manipulation of police evidence be referred for separate investigation. Following an appeal by the applicants, the *Audiencia Provincial* directed on 18 December 2019 that all matters should be investigated within the original case file as connected offences. On 11 June 2021 three distinct proceedings under the same case number and within the same judicial jurisdiction were opened, each concerning a separate aspect of the alleged misconduct by police officials.

26. The first separate investigation concerned the handling of digital forensic evidence, in particular the mobile telephones seized from D.C.M. and R.G.S., the deletion of data from a forensic hard drive sent by the General Directorate of the Scientific Police, and the disappearance of a report concerning D.C.M.'s device. The report had been prepared in Madrid and was confirmed to have arrived in Pamplona, where it was accessed by officers from the UFAM unit of the Provincial Judicial Police Brigade of Navarra. Among those officers was the brother-in-law of R.G.S., who was identified during the arrest of D.C.M. when police inspecting his mobile device observed an image of a child recognised by the lead investigator. That officer was later formally included in the judicial investigation, alongside three others who had had access to the data. Between July 2021 and April 2023 statements were taken from the four officers, including the relative of the suspect. On 13 June 2023 the investigating judge provisionally discontinued the investigation, finding insufficient evidence that the disappearance of the report or deletions from the devices had been intentional. On 4 July 2023 the applicants filed an appeal seeking the continuation of the proceedings. On 9 February 2024 the *Audiencia Provincial* dismissed the appeal, holding that it had not been established who had accessed the device during the relevant period or whether that access had resulted in the deletions.

27. The second separate investigation related to the manipulation and subsequent disappearance of video footage from the bar when the events commenced. The investigation sought to determine whether the police officer who had transferred the videos into the case file had altered or removed relevant content. Statements were taken from several officials between July and October 2021. The technician responsible for the bar's camera system

stated that portions of recordings could have been omitted when exported. On 8 June 2022 the investigating judge ruled that there was no evidence to show that the police officer responsible for copying the recordings had destroyed or concealed evidence or committed any criminal offence.

28. The third separate investigation concerned the deliberate erasure of the hard drive containing the forensic reports. The applicants had raised the issue of the storage device in September 2018, alleging that key forensic materials had not been included in the evidence file. A police memorandum dated February 2019 confirmed that the storage device had been emptied by the Chief Commissioner of the Provincial Scientific Police Department of Navarra, along with two subordinate officers, while the order for preservation remained in force. Proceedings were opened on 11 June 2021 but no statements were taken from the officers concerned. On 25 August 2021, the judge ruled that no criminal offence had been committed and closed the case. On 9 September 2021 the applicants appealed. The *Audiencia Provincial* dismissed the appeal by decision of 14 March 2022.

29. In parallel to the judicial inquiries, the *Policía Nacional* opened an internal disciplinary investigation (*Información reservada 4/2019*) to examine possible disciplinary breaches arising from the loss and manipulation of digital forensic evidence (*infidelidad en la custodia de documentos y falsedad*) by certain members of the police force, including a UFAM officer who was the brother-in-law of R.G.S. The disciplinary inquiry was conducted by the inspection services of the *Policía Nacional* and was based on events overlapping with the subject of the judicial investigation. In accordance with the regulations on the disciplinary regime of the National Police Corps, the administrative file was formally opened but remains suspended pending the outcome of the criminal proceedings. The Government submitted that no final disciplinary findings could be issued until a binding judicial determination had been reached in the connected criminal matters.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LAW

A. Spanish Constitution

30. Article 10 § 1 affirms that human dignity, the free development of the personality and the inviolable rights inherent to the person constitute the foundation of the political order and of social peace, and that these rights are binding on all public authorities.

31. Article 14 lays down the principle of equality before the law, prohibiting any discrimination on grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.

32. Article 15 provides that everyone enjoys the right to life and to physical and moral integrity and that no one may in any circumstance be subjected to torture or to inhuman or degrading punishment or treatment.

33. Article 18 § 1 guarantees the right to honour to personal and family privacy and to one's own image.

34. Article 24 § 1 confers the right to obtain effective judicial protection and forbids leaving anyone undefended.

B. Criminal Code (Organic Law no. 10/1995)

35. Article 181 § 1, as it was in force at the time of the alleged assault and until 6 October 2022, defined sexual abuse as non-consensual acts against another person's sexual freedom punishable by imprisonment of one to three years or a fine. Article 181 § 2 provided that sexual abuse is deemed non-consensual when the victim is unconscious or mentally incapacitated or when the offender overcomes the victim's will by means of narcotics drugs or other suitable substances.

36. Article 413 provides that any authority or public officer who knowingly steals destroys cancels or conceals documents entrusted to his custody commits an offence punishable by imprisonment a fine and special disqualification.

C. Criminal Procedure Act

37. Article 13 stipulates that preliminary enquiries are intended to secure evidence liable to disappear to collect and safeguard items useful for verifying the offence and identifying the offender and to protect victims and witnesses.

38. Article 330 provides that where the traces of an offence have disappeared the investigating judge must ascertain how their disappearance occurred and gather any obtainable evidence concerning the offence.

39. Article 627 entitles any party that disagrees with the decision to close the investigation to state that lack of conformity before the *Audiencia Provincial* and to seek revocation of the closure order and the return of the case to the investigating judge for the performance of the outstanding steps.

40. Article 641 requires the provisional discontinuance of proceedings where the perpetration of the offence is not duly established or where the evidence is insufficient to accuse a specific person.

II. INTERNATIONAL MATERIAL

A. Convention on Preventing and Combating Violence against Women and Domestic Violence (“the Istanbul Convention”)

41. Article 1 § 1 (a) provides that the Convention, which entered into force in respect of Spain on 1 August 2014, has, inter alia, the objective of “protect[ing] women against all forms of violence ... and prevent[ing], prosecut[ing] and eliminat[ing] violence against women”. Article 2 § 1 stipulates that the Convention “shall apply to all forms of violence against women, including domestic violence”. Article 3 (a) defines “violence against women” as “a violation of human rights and a form of discrimination against women” encompassing “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women”.

42. Article 36 § 1 (a) requires Parties to criminalise “the intentional conduct of engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object”. Article 49 § 1 obliges States to ensure that investigations and judicial proceedings relating to all forms of violence covered by the Convention are carried out “without undue delay”, while respecting the rights of victims at every stage.

43. Article 50 §§ 1 and 2 impose a duty to guarantee a prompt and adequate police response, effective protection and “immediate evidentiary and investigative measures” in respect of offences falling within the Convention. Article 56 § 1 (d) secures victims the right “to be heard, to supply evidence and have their views, needs and concerns considered” in proceedings concerning violence covered by the Convention.

B. Recommendation 1777 (2007) on sexual assaults linked to “date-rape drugs”

44. The Recommendation, adopted by the Parliamentary Assembly of the Council of Europe on 22 January 2007, expressed concern at the growing number of reports of sexual violence involving victims who had unknowingly been placed under the influence of substances referred to as “date-rape drugs”, including Rohypnol, GHB and Ketamine. It noted that the overwhelming majority of such victims were women and girls, most of whom were subjected to rape. The Assembly underlined the particular evidentiary difficulties in establishing lack of consent, given that the effects of these drugs could resemble voluntary alcohol consumption to external observers, while also reducing victims’ natural inhibitions. This made it especially difficult to demonstrate that the perpetrator had engaged in sexual activity without the victim’s consent, even where the victim was able to identify the perpetrator,

which was frequently impeded by drug-induced unconsciousness and/or amnesia. The Assembly recommended that member States adopt specific measures to ensure that victims received prompt medical and psychological assistance and were informed of the possibility of undergoing tests and reporting the offence. Such measures were to include the training of staff in public establishments such as bars and pubs, the provision of testing kits and training programmes for those interviewing and assisting rape victims, the standardisation of policing methods and forensic techniques, and the revision of legislation on rape and sexual assault so as to require that the victim had both the freedom and the capacity to consent to sexual relations.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

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

46. The applicants complained that the authorities failed to conduct an effective investigation into their allegations of sexual assault involving chemical submission and that the numerous deficiencies in the investigation, including the loss and manipulation of evidence by the police and an excessive length of the proceedings, violated their rights under Articles 3 and 8 of the Convention, which read as follows:

Article 3

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

Article 8

"Everyone has the right to respect for his private ... life ...”

A. Admissibility

1. Submissions by the parties

(a) The Government

47. The Government submitted that the application should be declared inadmissible for failure to exhaust domestic remedies on three grounds.

48. First, the applicants had not invoked rights equivalent to Articles 3 and 8 of the Convention before the domestic courts until their constitutional appeal, which was declared inadmissible precisely because they had not

raised fundamental rights violations in the ordinary judicial proceedings. This deprived the domestic courts of the opportunity to examine and remedy any potential violations.

49. Second, the applicants had failed to appeal the *Audiencia Provincial*'s order of 23 June 2022 confirming the conclusion of the summary proceedings. A remedy by way of *recurso de súplica* was available against that order, yet the applicants chose not to pursue it, thereby acquiescing that the proceedings would conclude without prosecution of any of the suspects.

50. Third, the applicants had not pursued civil liability proceedings against the State for the alleged shortcomings of the police investigation.

(b) The applicants

51. The applicants maintained that they had consistently invoked their rights under the Convention before the domestic courts, submitting that they had done so on multiple occasions before the Investigating Courts, the Navarra *Audiencia Provincial*, and specifically before the Constitutional Court in their appeal for constitutional protection.

52. As regards the Government's argument that they had failed to appeal the *Audiencia Provincial*'s order of 23 June 2022, the applicants submitted that they had pursued all available remedies within the criminal justice system. They argued that the substance of their complaints concerning the ineffective investigation and the authorities' failure to protect their rights had been raised throughout the domestic proceedings.

53. Regarding the suggestion that they should have pursued civil liability proceedings against the State, the applicants argued that such proceedings would not have addressed the core of their complaint, which concerned the State's failure to conduct an effective criminal investigation into serious sexual offences and the systematic loss of evidence whilst in police custody. They submitted that effective deterrence against serious crimes such as sexual assault required criminal law mechanisms rather than civil remedies.

2. The Court's assessment

(a) Alleged failure to invoke Articles 3 and 8 of the Convention in domestic proceedings

54. As regards the Government's argument that the applicants failed to invoke rights equivalent to Articles 3 and 8 of the Convention in domestic proceedings, the Court reiterates that where an applicant complains of the lack of an effective criminal investigation under the procedural limb of Article 2 or 3 of the Convention, it is sufficient, in order to comply with Article 35 § 1 of the Convention, that the applicant has challenged the effectiveness of that investigation before the competent domestic court and, by describing the course and duration of the investigation and subsequent court proceedings in detail, referred to the relevant factual elements for that

court to assess the investigation's effectiveness (see *Hanan v. Germany* [GC], no. 4871/16, § 149, 16 February 2021). The Court further reiterates that the authorities' obligation to investigate effectively does not depend on the initiative of a complainant to take responsibility for the conduct of investigatory procedures (see *X v. Greece*, no. 38588/21, § 40, 13 February 2024, with further references).

55. In the present case, the Court observes that the applicants took a particularly active role in challenging the procedural shortcomings of the investigation throughout the domestic proceedings. They repeatedly raised concerns about suspected evidence manipulation and the disappearance of crucial forensic evidence from police custody. In their action for annulment (*incidente de nulidad*) before the *Audiencia Provincial*, they invoked the Istanbul Convention, relying in particular on Articles 49 and 50, which require States to ensure prompt and effective investigations into violence against women (see paragraph 21 above). By criticising the domestic authorities for not giving sufficient weight to those requirements, the applicants raised an issue closely tied to whether the investigation had been effective enough to protect them as victims of the alleged sexual violence within the meaning of the Istanbul Convention (compare *L. and Others v. France*, nos. 46949/21 and 2 others, § 170, 24 April 2025). The Court considers that this reliance on international standards concerning investigations into gender-based violence was sufficient to alert the domestic authorities to the Convention issues at stake.

56. In addition, the applicants explicitly drew parallels between their case and the Court's judgment in *Iribarren Pinillos v. Spain* (no. 36777/03, 8 January 2009), thereby expressly referencing the Court's case-law under Article 3 of the Convention. In these circumstances, the Court considers that the applicants challenged the effectiveness of the investigation and raised in substance the grievances they present before this Court, thereby giving the competent authorities the opportunity to address the alleged shortcomings.

(b) Alleged failure to appeal the *Audiencia Provincial*'s decision of 23 June 2022

57. The Court observes that the decision of the *Audiencia Provincial* of 23 June 2022 upheld the closure of the main proceedings, notwithstanding that the three separate cases concerning the disappearance and manipulation of evidence remained pending, and that the applicants had expressed their disagreement with the closure of the proceedings until those separate cases had been concluded. It notes that the central issue raised by the applicants concerned the overall effectiveness of the investigation into their allegations of sexual assault, encompassing both the substantive inquiry and the proper handling of evidentiary material. In this context, the applicants' decision not to challenge the premature closure of the proceedings, while related matters had not yet been resolved, constituted a reasonable legal strategy. The Court

accordingly does not consider that their decision not to pursue a further appeal against the closure decision should be held against them.

58. In any event, the applicants did subsequently contest the provisional discontinuance by means of a *recurso de súplica*, and thereafter lodged an *incidente de nulidad de actuaciones*. This sequence of procedural steps, culminating in the submission of a constitutional complaint, reflects their sustained efforts to pursue their grievances through the available legal avenues. In these circumstances, the Court considers that the applicants cannot be criticised for having failed to appeal against an intermediary decision. What is important for the application of the rule on the exhaustion of domestic remedies is that the domestic courts were afforded a sufficient opportunity to consider the substance of the applicants' complaints.

(c) Alleged failure to pursue a liability claim

59. As to the third limb of the Government's objection, the Court reiterates that the applicants' complaints relate principally to the State's failure to conduct an effective criminal investigation into serious allegations of sexual assault. Civil proceedings for damages would not address the same subject matter as their application to this Court. The Court emphasises that effective deterrence in respect of grave offences such as rape requires the existence and proper application of adequate criminal-law provisions, and cannot be adequately addressed through civil remedies alone (see *M.C. v. Bulgaria*, no. 39272/98, § 150, ECHR 2003-XII, and *Vučković v. Croatia*, no. 15798/20, § 41, 12 December 2023).

3. Conclusion

60. Having regard to the particular circumstances of the present case, the Court finds that the applicants sufficiently raised their grievances before the relevant national authorities and challenged the effectiveness of the investigation in substance. The Government's objection as regards the failure to exhaust domestic remedies must therefore be dismissed.

B. Merits

1. Submissions by the parties

(a) The applicants

61. The applicants submitted that the investigation had been manifestly ineffective and had failed to comply with the State's positive obligations under Articles 3 and 8 of the Convention. They argued that the deficiencies in the investigation were so significant as to constitute a violation of their rights to protection from ill-treatment and respect for private life.

62. The applicants contended that they had been compelled to take exclusive initiative throughout the investigation from beginning to end,

repeatedly encountering concealment, obstacles, and refusals to pursue evidence which they had reasonably justified as pertinent and necessary. They submitted that this placed an inappropriate burden on the victims of serious sexual offences and demonstrated the authorities' failure to conduct an effective *ex officio* investigation.

63. Regarding the concealment of evidence, the applicants argued that the investigating judge had known for months that the forensic report from R.G.S.'s mobile telephone had disappeared from police premises but had concealed this fact from the proceedings. When they discovered irregularities and requested access to the missing evidence, their requests were systematically denied between May and November 2018, with the court providing false explanations rather than acknowledging what had occurred. The applicants criticised the passive and obstructive conduct of the Public Prosecutor's Office, noting that throughout the years of investigation, the prosecutors had not independently proposed any evidence and had systematically opposed all evidence presented by the victims.

64. The applicants further submitted that the investigation into the disappearance and manipulation of evidence was fundamentally flawed. Despite concordant indications that crucial forensic reports had been lost, video recordings manipulated, and hard drives deliberately erased whilst under judicial order, the three separate investigations that were eventually opened more than four years later proved manifestly ineffective, concluding without any prosecutions despite the identification of responsible officials.

65. The applicants argued that the excessive duration of the proceedings, nearly six years from the alleged incidents to the final closure, violated their right to an effective investigation conducted within a reasonable time. They contended that this prolonged uncertainty caused them additional suffering and frustration that could have been avoided through prompt and effective application of criminal law mechanisms.

66. The applicants submitted that the case had been definitively closed without the benefit of any public trial, notwithstanding the investigating judge's acknowledgment that their testimony was "absolutely credible" and that "no ulterior motives [were] apparent in the complaint". They argued that this outcome, taken together with the systematic loss of evidence while in police custody, revealed the authorities' failure to afford effective protection against serious sexual offences.

67. The applicants distinguished their case from ordinary sexual assault cases, arguing that chemical submission presented particular investigative challenges that required specialised approaches and heightened vigilance to preserve evidence. They submitted that the authorities' failure to secure crucial evidence, particularly given the relationship between one of the accused and a police officer in the investigating unit, raised serious questions about the integrity of the investigation.

68. The applicants argued that the State's obligations under Articles 3 and 8 of the Convention required not only the establishment of adequate criminal law provisions but also their effective application in practice through thorough, prompt, and impartial investigation. They contended that the systematic deficiencies in their case, viewed cumulatively, fell far short of the standards required by the Convention and left them without effective protection against serious sexual violence.

(b) The Government

69. The Government submitted that Spain had fulfilled its positive obligations under Articles 3 and 8 of the Convention. They argued that an adequate legal and regulatory framework was in place, including constitutional protections and specific provisions under criminal law. In particular, Article 181 of the Criminal Code expressly criminalised sexual abuse committed by "nullifying the victim's will through the use of drugs, narcotics or any other natural or chemical substance suitable for such purpose".

70. The Government emphasised that specialised units existed within the security forces for investigating such crimes, including the Family and Women's Units (UFAM) of the National Police and the Women and Minors Teams (EMUME) of the Civil Guard. The Ministry of Justice had developed and disseminated protocols for cases involving suspected chemical submission, providing guidance for forensic doctors and clinical laboratories.

71. Regarding the investigation itself, the Government submitted that all reasonable investigative steps had been taken. When A.J. attended hospital, the medical-forensic protocol was properly activated. Upon receiving the medical report, police immediately began evidence-gathering, including questioning both applicants, identifying and arresting the suspects, and imposing protective measures. Extensive evidence was collected, including forensic analysis of the applicants' hair samples (which revealed no substances consistent with chemical submission), analysis of the suspects' electronic devices, witness statements, taxi driver testimonies, examination of bank records to check for purchases of scopolamine ("burundanga") or similar substances, and searches of the suspects' residences.

72. The Government acknowledged that some evidence had been lost in police custody but argued that the remaining evidence was substantial and consistently pointed in the same direction, and that none of it supported the applicants' allegations of chemical submission to a degree sufficient to overcome the presumption of innocence. The hair analysis had revealed that both applicants were exposed to other substances (methylphenidate for one applicant and brompheniramine for the other) which, when combined with alcohol consumption, could have caused adverse reactions affecting their behaviour and memory.

73. The Government contended that the judicial authorities had handled the case with appropriate sensitivity, according full credibility to the applicants' account while conducting a thorough investigation that lasted several years. The investigating judge had explicitly found the applicants' testimony credible, stating that "the reluctance of the complainants to engage in these relations is absolutely credible". However, the Government argued that credibility alone was insufficient to proceed in the absence of additional evidence demonstrating that the suspects had administered substances or were aware of the applicants' alleged incapacitated state.

74. As regards the duration of proceedings, the Government argued that this was proportional to the case's complexity and the difficulty of finding evidence to support the chemical submission allegations. The extensive investigation demonstrated the authorities' confidence in the applicants' testimony and their commitment to gathering evidence, even though this ultimately proved insufficient to justify prosecution without violating the suspects' right to presumption of innocence.

75. The Government distinguished the present case from *M.C. v. Bulgaria*, noting significant factual differences: in *M.C.*, there was clear evidence of lack of consent and physical resistance, medical evidence of recent injuries, and supporting witness testimony, whereas the present case involved allegations of chemical submission with no physical evidence of non-consent and no witnesses to corroborate the applicants' account.

76. Concerning the separate investigations into police misconduct, the Government submitted that appropriate measures had been taken. Three separate criminal investigations were opened to examine the loss and manipulation of evidence, alongside an internal administrative investigation to determine potential disciplinary liability. While the criminal investigations did not result in convictions, this reflected evidentiary challenges rather than inadequate investigation.

2. The Court's assessment

(a) Applicable provisions

77. It is settled in the Court's case-law that rape and serious sexual assault amount to treatment falling within the ambit of Article 3 of the Convention. Since rape and serious sexual assault typically implicate fundamental values and essential aspects of "private life", the Court has also examined cases relating to the positive obligation to investigate cases of rape under Article 8 of the Convention (see *Y v. Bulgaria*, no. 41990/18, §§ 62-65, 20 February 2020, and the case-law cited therein). Having regard to the nature of the applicants' complaints, the Court finds that they fall to be examined jointly under Articles 3 and 8 of the Convention.

(b) General principles

78. The Court reiterates that Articles 3 and 8 of the Convention entail positive obligations for States, firstly, to criminalise and effectively prosecute all non-consensual sexual acts (see *M.C. v. Bulgaria*, no. 39272/98, §§ 149-50, ECHR 2003-XII; *M.G.C. v. Romania*, no. 61495/11, § 59, 15 March 2016; *Z v. Bulgaria*, no. 39257/17, § 67, 28 May 2020; and *J.L. v. Italy*, no. 5671/16, § 117, 27 May 2021), and, secondly, to enforce these legal provisions through prompt and thorough investigation and prosecution (see *M.C. v. Bulgaria*, cited above, §§ 153, 166; *L. and Others v. France*, cited above, § 193, and other authorities cited above).

79. These obligations must be interpreted in light of relevant international standards, particularly the Istanbul Convention, which provides a comprehensive framework for preventing and combating violence against women and ensuring victim protection (see *J.L. v. Italy*, cited above, § 120, and *Vučković*, cited above, § 57). Thus, the Istanbul Convention requires States to ensure that investigations into all forms of violence covered by the Convention are carried out “without undue delay” whilst respecting the rights of victims at every stage, and to guarantee a prompt and adequate police response with “immediate evidentiary and investigative measures” (see paragraphs 42-43 above).

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

81. The procedural obligation involves the duty of the domestic authorities to conduct an effective investigation into credible allegations of non-consensual sexual conduct. In order to be effective, the investigation must be capable of leading to the identification and punishment of those responsible and must be thorough, impartial and timely. This includes securing medical and forensic evidence, witness testimony and any available documentary material (see *M.N. v. Bulgaria*, no. 3832/06, § 39, 27 November 2012, and *W. v. Slovenia*, no. 24125/06, § 64, 23 January 2014). The authorities must also ensure that the proceedings are conducted in a way that protects victims from secondary victimisation and avoids reliance on gender stereotypes or moralising commentary (see *Y. v. Slovenia*,

no. 41107/10, §§ 108-15, ECHR 2015 (extracts); *J.L. v. Italy*, cited above, §§ 137-41, and *L. and Others v. France*, cited above, §§ 200 and 228). While direct evidence of lack of consent may not always be available, the focus of the investigation must remain on whether valid consent was given (see *M.C. v. Bulgaria*, cited above, § 181, and *M.G.C. v. Romania*, cited above, § 72).

82. The securing and preservation of evidence constitutes a fundamental requirement, and the Court must examine whether the loss, destruction or unavailability of potentially crucial evidence whilst in official custody undermines the effectiveness of the investigation as a whole. The loss or destruction of video recordings, forensic reports or other material capable of shedding light on the circumstances of alleged ill-treatment may constitute a significant shortcoming, particularly where the authorities fail to take all reasonable steps available to secure such evidence. While not every loss of evidence will necessarily vitiate an investigation, the Court will scrutinise the circumstances surrounding such loss (see *Pósa v. Hungary*, no. 40885/16, § 31, 7 July 2020, and *Hentschel and Stark v. Germany*, no. 47274/15, §§ 94-97, 9 November 2017).

83. Video evidence is of particular importance in investigations into allegations of ill-treatment (see *Ciorap v. the Republic of Moldova (no. 5)*, no. 7232/07, §§ 66-67, 15 March 2016). Where such recordings exist and are available to the authorities, their proper securing, preservation and independent analysis constitute an obvious line of inquiry which, if not pursued, may decisively undermine the investigation's effectiveness. The Court will examine not only whether such evidence was preserved, but also whether it was analysed in its entirety by appropriately independent investigative units. The provision of mere excerpts or edited versions may be insufficient, particularly where the complete, uncut material had been available but was subsequently destroyed (see *Pósa*, cited above, §§ 31-32, and *Hentschel and Stark*, cited above, § 95).

84. The timing of the loss or destruction of evidence is of particular significance. Where evidence is destroyed or rendered unavailable after the authorities have become aware of allegations of misconduct, this may indicate a failure to take adequate steps to preserve material that could prove decisive to the investigation. The Court will consider whether appropriate measures were in place to prevent such loss and whether the destruction occurred in accordance with legitimate administrative procedures or through oversight or neglect (see *Hentschel and Stark*, cited above, § 97).

85. The Court accepts that the failure to secure particular evidence may, in principle, be counter-balanced by other investigative measures, depending on the circumstances of the case. The effectiveness of an investigation must be assessed on the basis of all relevant facts and with regard to the practical realities of investigative work. However, where crucial evidence has been lost and alternative measures are inadequate or have not been pursued with sufficient thoroughness, preventing full findings of fact, the investigation as

a whole may fall short of the requisite standard of effectiveness (see *Pósa*, cited above, § 32, and *Hentschel and Stark*, cited above, § 98).

86. Lastly, the Court reiterates that, for an investigation to be effective, the institutions and persons responsible for its conduct must be independent from those subject to it. This requirement encompasses not only the absence of any hierarchical or institutional link but also practical independence in the circumstances of the case (see *Bouyid v. Belgium* [GC], no. 23380/09, § 118, ECHR 2015). The adequacy of such independence must be assessed in the light of all relevant circumstances of the specific case and requires a concrete examination of the investigation in its entirety rather than an abstract evaluation (see *M.B. and Others v. Slovakia*, no. 45361/17, § 91, 1 June 2021). Where evidence is lost or inadequately preserved by officials who may themselves be subject to investigation, this may call into question both the independence and the effectiveness of the investigative process (see *Hentschel and Stark*, cited above, § 96).

(c) Application of these principles to the present case

87. The applicants' complaints concern whether the national authorities complied with their obligation to investigate effectively allegations of sexual assault involving chemical submission, whilst protecting their personal integrity and sufficiently taking into account their rights as victims of such offences. The Court notes that, given the nature of the applicants' allegations, the "arguable claim" threshold for triggering the State's procedural obligation under Articles 3 and 8 has been satisfied (see *X and Others v. Bulgaria* [GC], no. 22457/16, § 184, 2 February 2021). The Court's task is to determine whether the alleged investigative shortcomings were so serious as to amount to a breach of the respondent State's positive obligations under Articles 3 and 8 of the Convention (see *M.C. v. Bulgaria*, cited above, §§ 167-68 and *J.L. v. Italy*, cited above, § 122). The Court is not concerned with isolated errors or omissions; it cannot replace the domestic authorities in the assessment of the facts, nor can it decide on the alleged perpetrators' criminal responsibility.

88. The Court is satisfied that Spain had established an adequate legal framework for the protection of victims of sexual offences. Former Article 181 § 2 of the Criminal Code which was in force at the time of the events and later replaced by an equivalent provision expressly criminalised sexual abuse committed through nullifying the victim's will through the use of drugs, narcotics or any other natural or chemical substance suitable for such purpose, thereby providing specific protection against chemical submission. The Court further notes that specialised units within the security forces, including the Family and Women's Unit (UFAM) of the National Police, were competent to investigate such crimes and that the Ministry of Justice had adopted protocols for cases involving suspected chemical

submission. The legislative and institutional framework was therefore, in principle, adequate to address the type of allegations raised by the applicants.

89. The Court further acknowledges that the Spanish authorities responded promptly to the applicants' allegations. Following the first applicant's medical examination, the medical-forensic protocol for suspected sexual assault involving chemical submission was properly activated, resulting in notification to the police. UFAM officers commenced an investigation without delay and arrested both suspects within a reasonable time. Two days after the arrests, the investigating court questioned the men and imposed restraining orders prohibiting them from approaching the applicants. Formal criminal proceedings were opened shortly thereafter. The authorities' initial response was therefore consistent with their obligation to act promptly on reports of sexual violence and to take operational measures to protect the applicants.

90. The Court must next consider the alleged shortcomings during the subsequent investigation that may have arisen in preserving the initially available evidence. Applying the above principles regarding evidence loss, the Court observes that digital forensic analysis of the suspects' mobile telephones would ordinarily constitute an obvious line of inquiry in an alleged chemical-submission case, where mobile communications might be decisive for clarifying the circumstances. It appears that the forensic report on one suspect's telephone, prepared by the national police laboratory and acknowledged as received by the investigating unit, subsequently disappeared from police custody (see paragraph 12 above). That report might have shed light on the suspect's activities and communications and could arguably have disclosed information about the procurement or discussion of chemical substances. Its apparent disappearance while in official custody may therefore have undermined an investigative measure of particular importance.

91. The Court further notes that video-surveillance footage from the bar where the applicants and suspects had met constituted another important piece of evidence capable of elucidating the timeline, the nature of interactions and the applicants' condition before the alleged assaults (see paragraph 12 above). Such video evidence might have assisted in confirming or refuting the applicants' account, as the Court has recognised in similar cases concerning other types of video evidence (see *Ciorap, Pósa* and *Hentschel and Stark*, all cited above). The Court observes, however, that the video footage from the bar was not complete, with certain portions apparently unavailable to the investigating authorities, though it remains unclear whether this resulted from technical issues during the transfer of data, a subsequent erasure, whether deliberate or negligent, or other circumstances. This partial unavailability may have prevented the domestic authorities from making as comprehensive findings of fact as might otherwise have been possible concerning the critical period immediately preceding the alleged offences.

92. Most notably, the Court observes that the external storage device containing digital evidence appears to have been wiped and overwritten, resulting in the loss of contents, including back-up copies (see paragraph 12 above). This action appears to have taken place after the allegations had been raised and gives rise to particular concerns because a judicial preservation order was still in force. Given that the destroyed evidence could have been decisive in proving or disproving the applicants' claims, its disappearance would seem to represent a particularly serious failure in evidence preservation.

93. The Court observes that chemical-submission cases present particular investigative challenges that heighten the need for swift and meticulous preservation of evidence. Whilst the sexual offences themselves typically occur in private settings with no witnesses present, cases involving suspected chemical submission often present the particular feature that the suspected administration of substances takes place in public places such as bar or social venues, thereby creating potential opportunities for witness testimony and video evidence that may not be available in other categories of sexual offences. The transient nature of the substances involved, coupled with the victims' impaired recollection, renders circumstantial items such as digital communications, video recordings and forensic findings of paramount importance. The unavailability of the lost items of evidence may have been especially prejudicial in the present case, in which the suspects accepted that sexual intercourse had occurred but contested the issues of consent and the applicants' state of consciousness. The failure to safeguard the material in question is therefore a matter of serious concern, given that the effectiveness of the investigation depended heavily on the retention and analysis of precisely the kind of evidence that was lost or destroyed whilst in police custody.

94. The Court accordingly considers it plausible that the disappearance of the mobile-telephone forensic report, the partial loss of the video-surveillance footage and the erasure of the extracted handset data precluded three lines of inquiry that were both obvious and potentially decisive (compare *Hentschel and Stark*, cited above, § 95). In light of the systematic pattern of evidence loss, the Court concludes that the cumulative effect of the evidence preservation failures in the present case went beyond the "isolated errors" or minor investigative omissions with which the Court is not normally concerned in its analysis (compare *X v. Cyprus*, no. 40733/22, § 116, 27 February 2025; *X v. Greece*, cited above, § 87, and *J.L. v. Italy*, cited above, § 135).

95. Although evidence loss may, in principle, be counterbalanced by other investigative measures (see *Hentschel and Stark*, cited above, § 98), the steps taken by the authorities, including hair analysis, witness interviews, searches of the suspects' residences and examination of bank records, could not in the circumstances of the present case compensate for the loss of the digital

evidence that was central to the allegations of chemical submission. Whilst the domestic authorities did pursue certain alternative avenues of inquiry, including questioning staff at the bar and the taxi driver who transported the group to the location where the alleged offences subsequently occurred, these efforts yielded largely inconclusive results. The barman and taxi driver reported observing nothing unusual, whilst an acquaintance noted behaviour that struck him as somewhat strange but insufficient to arrest his particular attention at the time (see paragraph 15 above). In these circumstances, no alternative measures could have replaced the specific digital and video evidence that had been lost or destroyed. The Court finds it possible that the resulting evidential gap prevented the domestic authorities from undertaking a sufficiently comprehensive assessment of the competing accounts, leaving them hardly in a position to conduct a thorough and effective investigation (compare *Pósa*, cited above, § 32).

96. As regards compliance with the requirement of independence, the Court observes that one of the suspects had been identified as being the brother-in-law of a police officer serving in the UFAM unit (see paragraph 11 above). Although that officer was not found guilty of professional or criminal misconduct, the Court must undertake a concrete examination of whether, in the specific circumstances of the present case, that circumstance compromised the investigation's effectiveness. It reiterates in this connection that the persons and bodies responsible for the investigation need not enjoy absolute independence but rather be sufficiently independent of the persons and structures whose responsibility is likely to be engaged (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, §§ 222-23, 14 April 2015). In the present case, the Court considers that the close family relationship between the investigating officer and one of the suspects fell short of the standard of sufficient independence required by the Convention (compare *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, § 337, ECHR 2007-II, and *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 120, 4 May 2001). Such a relationship was liable to compromise both the actual conduct of the investigation and its effectiveness in establishing the facts. In such sensitive circumstances, the officer ought to have withdrawn from the investigation of his own accord rather than awaiting exposure of his family relationship with a suspect by a colleague (see paragraph 28 above).

97. The Court further observes that the domestic authorities' reaction to the loss of evidence appears insufficiently rigorous. It would seem that the disappearance of the material was not disclosed promptly and that the applicants were furnished with inaccurate explanations over a period of several months (see paragraph 63 above). Investigations into possible police misconduct were instituted only after a considerable lapse of time, several years after the items had been lost or destroyed. Such delay sits ill with the requirement that inquiries into alleged misconduct be undertaken with promptness and reasonable expedition (see *W. v. Slovenia*, cited above, § 64,

and *M.N. v. Bulgaria*, cited above, § 46). Moreover, those inquiries were entrusted to the same judicial and police bodies that had supervised the original investigation, raising further concerns about the independence and effectiveness of the response to these systematic shortcomings (compare *Hentschel and Stark*, cited above, § 96, on the requirement for independence in investigations into police misconduct).

98. Accordingly, there has been a violation of Articles 3 and 8 of the Convention on account of the authorities' failure to conduct an effective investigation into the applicants' allegations of sexual assault involving chemical submission, in particular due to the systematic loss and manipulation of potentially crucial evidence whilst in police custody, the insufficient guarantees of independence of the investigation, and the manifestly inadequate response to these investigative failures.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

99. Lastly, invoking Article 6 § 1 of the Convention, alone and in conjunction with Article 14, the applicants alleged that the investigation had lasted unreasonably long and that, unlike in comparable cases where a victim's sole testimony had been accepted as sufficient to bring charges, their statements alone had not been deemed sufficient to hold the trial.

100. The Court notes that the matters complained of are closely related to the issue of the authorities' failure to conduct an effective investigation into the applicants' allegations of sexual assault. Having already found a breach of Articles 3 and 8 on that account, the Court considers that it has examined the main legal questions raised in the present case, and that it does not need to give a separate ruling on the admissibility and merits of other complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

101. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party

A. Damage

102. Each applicant claimed 300,000 euros (EUR) in respect of non-pecuniary damage. The applicants also claimed EUR 3,210 in respect of pecuniary damage for therapy costs.

103. The Government submitted that a finding of a violation should constitute sufficient just satisfaction for any non-pecuniary damage sustained.

They maintained that the amounts claimed were excessive. As regards the claim for psychological treatment costs, the Government argued that whilst the applicants had provided certificates of payment, they had failed to demonstrate that the treatment was necessitated by the events which were the subject of the proceedings. They contended that no expert report had been submitted establishing the alleged psychological damage which, in any event, presupposed that the applicants' version had been established.

104. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. Making its assessment on an equitable basis, the Court awards each applicant EUR 20,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

105. The applicants claimed EUR 72,215.80 for legal costs and expenses incurred before the domestic courts and the Court, and EUR 10,069.80 for translation costs.

106. The Government contested these claims, arguing that the legal costs were disproportionate and that the largest amounts claimed were based on "pro forma invoices" without evidence of actual payment. They maintained that only minor payments to lawyers and court representatives in domestic proceedings had been proven by invoices and proof of payment. As regards translation costs, the Government argued that these were disproportionate, noting that no invoices had been submitted and that the amount claimed could not be justified given the availability of translation software.

107. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers that the applicants have not sufficiently demonstrated that the larger amounts claimed were actually incurred, particularly in respect of the costs represented by pro forma invoices and translation expenses for which no supporting documentation was provided. The Court considers it reasonable to award the lump sum of EUR 5,000 to both applicants covering costs under all heads, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning an allegedly ineffective investigation into the applicants' allegations of sexual assault admissible;

3. *Holds* that there has been a violation of Articles 3 and 8 of the Convention under their procedural limb;
4. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;
5. *Holds*
 - (a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 20,000 (twenty thousand euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 5,000 (five thousand euros) to the applicants jointly, plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 23 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Registrar

Kateřina Šimáčková
President