



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

FIRST SECTION

CASE OF N.T. v. CYPRUS

(Application no. 28150/22)

JUDGMENT

Art 3 and Art 8 • Positive obligations • Authorities' response to applicant's rape allegations in breach of the State's procedural positive obligations to apply the relevant criminal provisions in practice through effective investigation and prosecution • Authorities' failure in their central task of assessing the issue of non-consent • Secondary victimisation through guilt-inducing, moralising and sexist stereotypes • Failure to engage in a context-sensitive assessment • Unreasoned refusal of access to the case-file limiting the applicant's effective participation in the process • Failure to respect the applicant's rights as a victim and treat her with dignity

Art 14 (+ Art 3 and Art 8) • Discrimination • Language used by the prosecutors and the Deputy Attorney-General in assessing the case conveyed prejudices and sexist stereotypes liable to discourage women's confidence, as victims of gender-based violence, in the justice system • Methods used to assess the authenticity of the applicant's consent deprived her of appropriate protection and exposed her to secondary victimisation

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 July 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 N.T. v. Cyprus,

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

Ivana Jelić, *President*,

Erik Wennerström,

Alena Poláčková,

Georgios A. Serghides,

Raffaele Sabato,

Frédéric Krenc,

Anna Adamska-Gallant, *judges*,

and Ilse Freiwirth, *Section Registrar*,

Having regard to:

the application (no. 28150/22) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Ms N.T. (“the applicant”), on 3 June 2022;

the decision to give notice to the Cypriot Government (“the Government”) of the complaints concerning Article 3, Article 8 alone and Article 14 in conjunction with Articles 3 and 8 of the Convention and to declare inadmissible the remainder of the application;

the decision not to disclose the applicant’s name;

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

the comments submitted by the AIRE Centre and Step Up Stop Slavery, who were granted leave to intervene by the President of the Section;

Having deliberated in private on 10 June 2025,

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

INTRODUCTION

1. The case concerns a complaint of the failure of the domestic authorities to effectively discharge their positive obligations under Articles 3 and 8 of the Convention to investigate and prosecute the applicant’s allegations of rape. It further concerns the applicant’s allegation that she suffered gender-based discrimination contrary to Article 14 of the Convention read in conjunction with Articles 3 and 8 of the Convention.

THE FACTS

2. The applicant was born in 1992 and lives in Larnaca. She was represented by Ms L. Cariolou, a lawyer practising in Nicosia.

3. The Government were represented by their Agent, Mr G. L. Savvides, Attorney General of the Republic of Cyprus.

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

I. APPLICANT'S ALLEGATION OF RAPE

5. On 10 April 2021 the applicant reported to the police that she had been raped by A.T. on 1 January 2011. She submitted a statement to a female police officer.

6. At the time of the alleged incident, the applicant was 18 years old and A.T. was 20.

7. The applicant stated to the police that she had known A.T. since 2007 from school and was attracted to him. She had confided this to a friend, C.S. In 2009, after meeting at a club, A.T. kissed her with her consent and did not pursue further sexual acts when he noticed her discomfort. After that, they saw each other in their hometown but did not speak.

8. On 1 January 2011, at about 1 a.m., she went out to a club with her friend C.S. They later met A.T. and his friend G.H. and the four went to eat. A.T. then stopped outside a warehouse which he had keys to and insisted they go inside. C.S. refused, and the applicant initially resisted but entered to use the bathroom. G.H. and C.S. stayed outside. Inside, A.T. led her upstairs to the bathroom, where he grabbed her and tried to undress her. She resisted, but he forced her onto some boxes. Too scared to shout, she remained silent.

C.S. later came upstairs, but A.T. made the applicant ask her to leave, which she did out of fear. A.T. then raped her orally and vaginally. She initially froze but later tried to repel him from forcing oral sex by moving her head and she later tried to stop him from forcing vaginal penetration by scratching and biting him. He did not stop and asked her to stop scratching him. He continued forcing himself inside her and started biting her neck with force. He asked her if she liked it and whether he should continue. She initially did not reply but eventually said, "Please stop, why are you tormenting me? You can have sex with anyone you want" (*σε παρακαλώ σταμάτα, γιατί με ταλαιπωρείς; Μπορείς να κάνεις σεξ με όποια θέλεις*). The assault lasted about half an hour before A.T. dressed and left her naked on the floor. As she got dressed, C.S. came back upstairs, but the applicant did not speak about the incident. She later stated she had felt humiliated and used.

She left the warehouse with C.S., who stayed with her overnight. The applicant had nightmares. She got up and saw in the bathroom mirror that she had bruises and bite marks on her neck. She woke C.S., asking if she had been dreaming. C.S. saw the marks but did not inquire further. Nothing else was said between them.

9. The applicant stated that upon her return abroad for her studies she told a male friend (D.N.) that A.T. had raped her.

10. She stated that because of the rape, she was emotionally unstable, could not sleep and sometimes vomited in her sleep.

11. In 2016 she visited a psychologist (S.P.) and spoke about the rape without revealing A.T.'s identity.

12. She saw a second psychologist (D.D.) and continued seeing her at the time she gave her statement. She also confided in her about the rape.

13. Lastly, she stated that she had decided to report the rape following a conversation on Facebook with S.N., a friend who had informed her that A.T. had raped another classmate in a club bathroom. S.N. had said the girl, whose name was not revealed, did not wish to inform the police. This information had given her the strength to stop A.T.'s actions.

II. POLICE INVESTIGATION AND THE INDICTMENT OF THE SUSPECT

14. The police opened an investigation file immediately after the applicant had submitted her complaint.

15. On 11 April 2021 the applicant sent to the police screenshots of the conversation she had had with S.N. who had informed her on Facebook that another girl had confided in him that A.T. had raped her when she was a student.

16. On 14 April 2021 they took a statement from D.N. (see paragraph 9 above), who confirmed that the applicant had told him of the rape in 2010 during their studies. He stated that he had known A.T. from school and that he had not been surprised by his behaviour, as A.T. had shown delinquent behaviour at school.

17. On the same day the police interviewed C.S. She stated that she had been good friends with the applicant since school. She knew that the applicant had been attracted to A.T. She confirmed that, on 1 January 2011 after a night out, A.T. led them to a warehouse into which C.S. refused to enter. She stated that the applicant went inside, as she needed to use the bathroom. G.H. and C.S. stayed outside but A.T. then told them to go into the warehouse. A.T. went up the stairs to the mezzanine floor. After some time, C.S. went up the stairs looking for the applicant. She saw A.T. holding the applicant with his two hands on her shoulders while she was sitting on some boxes. Both were clothed. A.T. told the applicant to tell C.S. to go back downstairs, which the applicant did. C.S. stated that she then tried to leave the warehouse, but the door had been locked by A.T., so she sat waiting downstairs with G.H. She heard some speaking and noises but did not suspect anything bad. About twenty or thirty minutes later, she saw A.T. wearing his shirt. A.T. then went downstairs, unlocked the door and left with G.H. C.S. then went upstairs to find the applicant, who was dressed but was acting strangely. They then returned home together. At some point, the applicant woke her up asking her if what had happened was true. C.S. stated that she did not remember replying, as she had been sleepy. She got up and she stated that she remembered vividly seeing the applicant's neck full of

bruises. She further stated that she remembered that the applicant's fingernail was broken. The applicant was upset and restless but did not confide in her. After the applicant had returned to her studies, C.S. invited her to visit multiple times but she had not done so and had lost her will to do anything else.

C.S. also stated that in 2010 during Easter holidays she and the applicant were out eating and there they saw A.T. with his friends. A.T. asked C.S. if he could speak with her and led her to an alley near the restaurant. He pushed her against the wall and tried to kiss her. She was scared and pushed him back. He then grabbed her head violently and pulled her down to his genitals, asking her to give him oral sex. She resisted and at that point people passed by and she ran back to the restaurant to find the applicant. She had not informed anyone about that incident before, not even the applicant, as she had been really scared, ashamed and did not wish to hurt the applicant, knowing that she had feelings for A.T. That had also been the reason why she had resisted going inside the warehouse in the first place.

18. On 16 April 2021 the police took a statement from S.P., a psychologist who had treated the applicant as a patient and to whom the applicant had confided that she had been raped without revealing the assailant's name (see paragraph 11 above). S.P. stated that the applicant had visited him approximately three or four years prior and had had ten sessions with him. He had not kept records of their meetings.

19. On the same day, the police took a statement from S.N. about the conversation he had had with the applicant on Facebook messenger (see paragraph 13 above). S.N. stated that in February 2021 he posted on his Facebook page that he knew of a candidate in the parliamentary elections who had been involved in a sexual assault case. Following his post, the applicant contacted him, enquiring if that candidate was A.T., to which he replied yes.

20. On 20 April 2021 the police called A.T. for an interview in his lawyer's presence, informing him of the rape complaint. A.T. refused to answer any of the questions posed by the police.

21. On 22 April 2021 the police interviewed G.H. – a friend of A.T. who had been present at the warehouse on 1 January 2011. He stated that he had known the applicant and her friend, C.S., from school. He stated that on 1 January 2011 he was out at a club with A.T. They stayed at the club until after 4 a.m. The applicant contacted them asking them to meet. When they left the club, they met with the applicant and her friend as agreed. They walked around the area and arrived outside the warehouse of A.T.'s father with the purpose of spending time together. Once they went inside the warehouse, he and C.S. stayed on the ground floor while A.T. and the applicant went upstairs, which was approximately 3 metres above them. He stated that, because of the layout of the warehouse he should have been able to hear noises, but he did not. Nor did he hear any screams or intense or

strange movements. He stated that they stayed at the warehouse for about forty-five minutes, which meant that it would have been impossible for such an act to take place without them realising it. After that time the applicant and A.T. left the upper floor together and the applicant did not seem upset with A.T. They all left the warehouse together.

22. On the same day the police went to the street where the applicant had told them that the warehouse was located and took several pictures of the street and the surrounding buildings. In speaking to the community councillor (*κοινοτάρχης*), the police were informed that there used to be warehouses on that street which had been demolished nine years prior.

23. On 28 April 2021 the investigator prepared a summary report of the applicant's complaint and the police's investigative steps.

24. On 29 April 2021 the police forwarded that report, along with the investigation file, to the Law Office of the Republic with a recommendation that there was sufficient evidence to initiate criminal prosecution against A.T.

25. On 7 May 2021 the police filed an indictment for the offence of rape against A.T. with the Larnaca District Court (case no. 3428/21).

26. On 10 May 2021 the applicant submitted a supplementary statement to the police ("the first supplementary statement"). She stated that she had been informed by people who also knew A.T. that he had in his possession text conversations exchanged between them, proving that her claim was false. For that reason, the applicant traced their conversations on Facebook Messenger, printed them and delivered them to the police. The applicant mentioned one text in particular that she had sent to A.T. on 1 December 2011 sending him greetings for his name day and telling him she loved him, despite his having shown his worst self to her, to which A.T. had not replied. The applicant clarified in her statement that she believed that her being raped had been her own fault on account of the image A.T. had had of her. At the time she had been an outgoing person and had gone to clubs. A.T. had known that she had liked him and so had others around them. She assumed, therefore, that she had given him the wrong message that her consent was implied. She believed that she bore complete responsibility for what had happened, found excuses for his behaviour and wished to protect him from going to jail. She further stated that she could not reconcile how a person she liked could have raped her. She understood years later, after internally processing the event, that the reason she had developed this attitude towards him had been to justify her cowardice in reporting him in 2011. She had buried her feelings and decided to continue with her life as if nothing had happened. In the summer of 2012, she had met A.T. outside the offices of a political party, which was holding internal elections for the executive committee of the youth party. A.T. had approached her, informed her that he was a candidate for election and asked her if she wished to vote for him. At that point she had felt that there was finally a balance and that

they could have normal social contact. She had later texted him to congratulate him on his election, as she had had the inclination to protect and care for him. In 2014-15 she had reached a psychological block and started seeing a psychologist in 2014. Her last conversation with A.T. had been on 6 October 2013. She had also seen him in June 2014 at a friend's funeral.

27. On 18 May 2021 the Larnaca District Court referred the criminal case against A.T. to the Assize Court (since cases where the sentence provided by law for the offence in question exceeds five years imprisonment, are brought before the Assize Court).

28. On 10 June 2021 the Attorney General's Office (Prosecutor A.A.) filed a new indictment with the Assize Court, charging A.T. for the offence of, *inter alia*, rape pursuant to sections 144 and 145 of the Criminal Code. On the same day A.T. entered a not guilty plea and was released on bail. The Assize Court dismissed a request by the prosecutor to order A.T. to deliver his passport as a condition for his provisional release.

29. On 16 June 2021 Prosecutor A.A. sent a letter to the Police Headquarters Department for Combating Crime, in which he asked the department to obtain a second supplementary statement from the applicant, given that she had informed him that an incident related to the rape complaint had not been recorded in her initial statement.

30. On 25 June 2021 the applicant submitted a second supplementary statement to the police. In it, the applicant stated that a year prior to her rape, that is, on 1 January 2010, she had had consensual sexual intercourse with A.T. in the same warehouse in which he had raped her on 1 January 2011. C.S. and G.H. had also been on the ground floor of the warehouse, having consensual sexual intercourse while she was having consensual sex with A.T. on the mezzanine floor. After that, A.T. and G.H. had driven them home. The applicant stated that what she had experienced on 1 January 2010 was completely different to the act of 1 January 2011, which had not taken place with her consent. The applicant also stated that she had informed the police in her first statement that she had had consensual sexual intercourse with A.T. in January 2010 but both she and the police officer interviewing her deemed it unrelated to the facts of her complaint, as that had taken place with her consent. Following reflection, she had had doubts as to whether that was correct, and she had therefore informed the public prosecutor of the incident.

III. ATTORNEY GENERAL'S DECISION TO DISCONTINUE THE PROSECUTION

31. On 2 September 2021 the prosecutor (Mr. A.A.) sent a note to the Attorney General, suggesting that there were serious questions arising from the available testimony, which, in conjunction with the developments of the

case, warranted its re-evaluation. The prosecutor considered in this regard the applicant's first supplementary statement revealing her sympathetic feelings for A.T. and her consideration that she may have led him to believe that consent on her part should be taken for granted, as she liked him, and he and others had been aware this. In that statement she had also revealed feelings of bitterness, although she had made no mention of the texts in her original statement. The prosecutor suggested that this should be evaluated, along with the fact that in her original statement she had stated that the suspect had told her to stop scratching him and had asked her whether she liked it and whether he should continue, to which she had not replied at first, and when asked again, she had replied, "Please stop, why are you tormenting me? You can have sex with anyone you want". The prosecutor argued that the combination of those issues raised a question as to whether the possibility that A.T. had considered that the applicant had given her consent at the relevant time could be ruled out. The prosecutor also informed the Attorney General of the fact that the applicant had indeed mentioned orally to the police that she had had consensual sexual intercourse with A.T. in 2010 but, according to the police officer who had taken her statement, the applicant had requested that that event not be recorded in her statement. The prosecutor concluded that what had been stated in the applicant's second supplementary statement was contradictory to certain references in her first statement. Specifically, the prosecutor considered that in her first statement the applicant had made it seem as if she had not known the place where the rape had taken place in 2011. In addition, she had mentioned that following the 2009 event during which A.T. had transferred her to an isolated area, she had seen A.T. in various places in Larnaca but they had not spoken.

32. On 14 September 2021 the prosecutor in charge of the Criminal Law Department of the Law Office replied in a handwritten note that the case appeared to be creating difficulties and ordered the arrangement of a meeting with the applicant to test her credibility and take a decision as to whether the case should proceed in court.

33. On the same day another prosecutor (Mrs M.P.) working at the Law Office also prepared a note to the Deputy Attorney General and the prosecutor in charge of the Criminal Law Department of the Law Office. M.P. outlined certain inconsistencies in the applicant's statements, such as the fact that she had stated that she had not spoken to the applicant between 2009 and 2011, how she had considered that she herself had been at fault for her rape, that the two had been exchanging texts until 2013, that the applicant had been calling him "love" and that she had been the one initiating those conversations. According to M.P., the applicant had evidently not told the entire truth in her first statement, and she may have tried to hide facts that she considered might harm her complaint. M.P. noted that the inconsistencies in the statements could only be explained by the

applicant. M.P. further noted that there was testimony supporting the applicant's statements, such as that of her friend C.S., her psychologist and S.N.

34. On an unspecified date, which the applicant submitted was 15 October 2021, she attended a meeting with the prosecutors, A.A. and M.P., and the female police officer who had taken her initial statement.

35. On 15 October 2021 the applicant was treated at the emergency services of Larnaca General Hospital for, according to the clinical report, anxiety disorder.

36. On 1 December 2021 the Deputy Attorney General decided to discontinue the criminal proceedings against A.T. He prepared a report after having heard prosecutors M.P. and A.A., who had met with the applicant. He noted that the applicant's credibility remained in question. Her replies to questions posed at the meeting had not been based on substance, she had interpreted legal issues and matters rather than giving facts and she had stated that she was not sure whether she would have wanted to have sex with A.T. had he not been violent with her. He further noted that there were many inconsistencies between her statement and those of other witnesses. There were also inconsistencies between her statement and evidence such as her online conversations with A.T., which were only revealed later and raised serious questions. She had also mentioned that her friends no longer spoke to her, as everyone knew that she liked A.T. He noted in addition that the applicant's admission that she liked A.T. was of particular importance as regards the issue of credibility, as it might have somehow impacted her behaviour by sending him the wrong signal that consent on her behalf was self-evident (*ότι η συναίνεση ήταν κάτι αυτονόητο από μέρος της*). He further noted that irrespective of her credibility it was important to examine whether A.T. could have subjectively, even if wrongly, believed that the complainant had consented. If that were the case, the conditions of the offence of rape were not met. Under the same approach, the applicant herself had opened that defence in her first supplementary statement when she had not only stated that her consent was self-evident (*ήταν κάτι το αυτονόητο*) but that when the incident had occurred, she had blamed herself that the defendant had had such an image of her because of her own behaviour. He further noted that the applicant had believed that she had only herself to blame for what had happened to her. The Deputy Attorney General stated that these factors had been unknown to the Law Office when the applicant's case was first assessed and prosecution was initiated. As a result, he decided to discontinue the criminal prosecution, considering that the above-mentioned decision satisfied the public interest including, *inter alia*, safeguarding the rights of the defendant. He added that his decision was also based on the low chance of success of the case before the court and that lack of success in several criminal prosecutions could have a deterrent effect on victims from reporting such offences in the future. In conclusion,

he noted that the time factor had not played any part in his decision, as it could not in such cases be considered to be a negative element.

37. On the same day, the Deputy Attorney General signed a *nolle-prosequi*, suspending A.T.'s prosecution.

38. On 2 December 2021 A.T. made a public post on the web entitled "Time for justice", explaining that the public prosecutor had withdrawn the criminal case against him. His post was reproduced on a local online news website. It appears that on the same day the criminal proceedings before the court were terminated.

39. On 3 December 2021 the public prosecutor informed the applicant over the phone of the decision to discontinue the criminal proceedings.

40. On 27 December 2021 the applicant requested a copy of the Attorney General's decision to discontinue the prosecution of the case and to be informed of the reasons for that decision. She further requested that the decision terminating the proceedings against A.T. be reviewed.

41. By a letter of 4 January 2022, the Deputy Attorney General replied that the above-mentioned decision had been communicated to her by the public prosecutor in the latter's office. The prosecutor in charge of the case had explained to the applicant that the prosecution had been discontinued following a review of the evidence and, specifically, the statements given by the applicant after the case had been lodged with the court, which included new allegations and exhibits which had not been part of the case file when the decision to prosecute had been made. This had led to the reassessment of the decision to prosecute A.T.

42. By a letter of 4 February 2022, the applicant replied that even though she had briefly discussed the reasons for the decision with the public prosecutor over the phone, she still wanted to be informed of the reasons for the decision to discontinue the prosecution following the review of her supplementary statements and evidence. The applicant further requested a copy of the case file in criminal proceedings no. 3428/21, copies of her statements to the police, any other documents or material related to her complaint of 10 April 2021 and minutes of the meetings between her, attorneys from the Law Office and the police which had taken place for the reassessment of her complaint.

43. By a letter of 21 February 2022, the Deputy Attorney General replied that the reasons for discontinuing the prosecution had been explained by the public prosecutor. The Deputy Attorney General reiterated that the evidence had had to be reassessed because the applicant had given two supplementary statements in which she had made new allegations which the Attorney General's office had not been aware of when the decision to prosecute the offender was taken. The applicant's request for a copy of the case file was dismissed.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW

A. Criminal Code (CAP. 154)

44. Article 144 of the Criminal Code, as in force at the time of the alleged rape, provided:

“Any person who engages in unlawful intercourse with a woman without her consent, or with her consent obtained by force or fear of bodily harm, or in case of a married woman by personating her husband, is guilty of a felony classified as rape.”

45. Article 145 provided that a person who committed the offence of rape was subject to life imprisonment.

B. Law on the Establishment of Minimum Standards on the Rights, Support and Protection of Victims of Crime of 2016 (Law 51(I)/2016)

46. Law 51(I)/2016 transposed the Victims’ Rights Directive (2012/29/EU) into Cypriot law. The relevant provisions of the law read as follows:

Section 4 - Obligations of authorities and NGOs

“4. Every authority and / or non-governmental organisation involved shall, in applying the provisions of the present law –

(a) in every encounter of the victim with the victims’ support services or the prosecutorial or judicial authorities acting in the context of criminal proceedings, treat the victim with dignity, respect [and] sensitivity and shall take a personalised approach without discrimination;

(b) ensure the protection and promotion of the rights of victims, without discrimination [based] on any reason including sex ...

...

(g) guarantee that a person who has been subjected to violence based on their sex receive special support and protection given the high risk of secondary and repeated victimisation, threats and revenge attacks connected with such violence;

...”

Section 6 – Right to receive information from the first contact with an appropriate authority

“6. (1) Every authority involved shall provide from their first contact with the victim, without unnecessary delay ... the following information:

(a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;

(b) the procedures for making a complaint of a criminal offence and their role in connection with such procedures;

...

(e) how and under what conditions they can access interpretation and translation services;”

Section 19 – Right to protection of victims during criminal investigations

“19. Without prejudice to the rights of the defendant and in accordance with the rules of judicial discretion, the prosecuting authorities shall ensure that during criminal investigations:

(a) interviews with victims are conducted without unjustified delay after a complaint of a criminal offence has been made to the appropriate authority;

(b) the number of interviews with victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;

(c) victims may be accompanied by their legal representative and a person of their choice, unless a decision for which reasons must be given has been made to the contrary;

(d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.”

Section 20 - Right to protection of privacy

“20. (1) During the criminal proceedings, the appropriate authorities shall take appropriate measures to protect the privacy, including the personal details, of the victim given in the individual assessment provided for under section 21, and any images of victims and of their family members.

(2) ...

(3) The private life and identity of the victim shall be protected by every authority involved and the processing of personal data shall always be carried out in accordance with the provisions of the Law on the Processing of Personal Data (Protection of the Person).”

Section 24 – Training of State officers

“24. The State shall provide the necessary funds to the services involved in criminal investigations for both the general and specialist training of their officers who may be involved in any procedures under the present law or who may come into contact with victims or potential victims in any way, with emphasis on the needs of particularly vulnerable victims, for the purpose of increasing their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner; ...”

II. DOMESTIC CASE-LAW

47. While there is no explicit reference to the *mens rea* of the offence of rape in section 144 of Cap. 154, domestic case-law provides that what is

required is knowledge of the absence of consent or indifference as to whether the victim was consenting (see the judgments in *N.X. v. the Republic*, criminal appeal no. 113/2010, (2012) 2 C.L.R. 2012, and *The Republic v. Costel Viorel Moca and Andrei Tarita*, criminal case no. 14493/13, 6 May 2014). In case no. 14493/13, the Assize Court noted the following as regards the offence of rape:

“As can be seen from [section 144], rape is [considered] committed when there is unlawful intercourse without the consent of the complainant or with her consent obtained by force or fear of bodily harm. The consent provided for in the law includes the element of free will. As a matter of principle, there is no difference between non-consent and apparent consent resulting from fear or violence being inflicted on the victim. Whether a complainant consented or not to the sexual act is always a matter of fact. It is not required that the complainant demonstrate or explicitly state to the accused her lack of consent, but the prosecution must present evidence, depending on the circumstances of each case, that demonstrates this lack of consent. It is also not required to prove any physical resistance on the part of the complainant. In order to prove the offence of rape, in addition to the existence of the sexual act and the lack of consent, the existence of *mens rea* must also be demonstrated. Rape occurs when the defendant has sexual intercourse with the complainant knowing that she has not consented to the act or is indifferent to whether there is consent or not. Indifference exists when the defendant realises that the complainant may not consent or is not concerned about that issue and proceeds with the sexual act. However, when it appears from all the evidence before the court that the defendant had reasonable grounds to actually believe (*να πιστεύει πραγματικά*) that the complainant had consented to the sexual act, then there can be no conviction.”

48. In accordance with domestic case-law, in sexual offenses, the criminal court looks for corroborating evidence, retaining, however, the discretion to convict even if it does not find such evidence after, however, warning itself of the risks of conviction without corroboration (see the judgments in *D.A. v. The Republic*, criminal appeal no. 57/2020, 6 October 2021; *A.F.K. v. The Republic*, criminal appeal no. 44/2018, 6 December 2019; *S.S. v. The Republic*, criminal appeals nos. 147/2016 and 148/2016, 20 November 2019; and *E.A. v. Republic*, criminal appeal no. 231/2018, 19 November 2019).

49. The Government provided the Court with two further examples of cases where defendants accused of sexual offences had been convicted for assaults which had taken place more than twenty-seven and forty years before (*G.P.B. v. The Police*, criminal appeal no. 5/2020, 31 July 2021, and *Larnaca Police Director v. X.M.*, criminal case no. 2857/21, 15 May 2023 respectively).

III. RELEVANT DOMESTIC PRACTICE

50. According to information provided by the Government, rape complaints and other offences of sexual abuse are investigated by the police on the basis of a special protocol that determines the way the police

investigate such cases, including the way victims are treated by the police and the police's cooperation with other governmental authorities and departments. This protocol is now incorporated in Police Directive no. 3/63 entitled "Investigation of cases of rape and sexual abuse" (Police Directive no. 22.2.21 as amended on 19 May 2022).

51. The special protocol determines the way rape and other related complaints are investigated by the police, including the requirement that statements must be taken by a police officer of the same sex as the victim and that the investigation must continue even if the victim does not give a statement. Moreover, detailed guidance is provided with regard to the taking of evidence, including, *inter alia*, the examination of the crime scene for evidence and the taking of photographs, forensic examination, taking statements from neighbours and any other potential witnesses and checking CCTV footage. It provides for informing the victim of their rights, bringing the case before the court without delay and cooperation with other governmental departments and offices.

IV. RELEVANT INTERNATIONAL LAW AND PRACTICE

52. The relevant provisions of various European Union laws and Council of Europe materials on the rights of victims of crime and the protection of women against violence, including the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), which entered into force in respect of Cyprus on 1 March 2018, were recently outlined in *X v. Greece* (no. 38588/21, §§ 23-30 and 32-33, 13 February 2024).

53. On 23 November 2022 the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent expert body responsible for monitoring the implementation of the Istanbul Convention by the parties to that convention, published its baseline evaluation report on Cyprus. The passages of the baseline evaluation report relevant to the present case read as follows:

"III. Prevention

...

D. Training of professionals (Article 15)

85. The standard set by the Convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation.

...

88. When it comes to the training of prosecutors and judges, GREVIO is concerned about the lack of mandatory initial and in-service training, with a few sporadic training sessions being offered on a voluntary basis. As described in Chapter VI, a

milestone decision by the Supreme Court overturning the conviction in a British woman's rape trial, revealed a number of shortcomings with regard to the lack of sensitivity of judges and omissions made by the prosecution service leading to repeat victimisation of the victim. GREVIO's attention has also been drawn to concerns that some judges and prosecutors have displayed sexist and misogynist attitudes towards women victims of domestic violence and sexual violence/rape, downplaying the violence. Moreover, they appeared to have an inadequate understanding of the paradigmatic shift in proving rape since the amendment of the law and the importance of temporary protection orders in breaking the circle of violence.

...

93. GREVIO strongly encourages the Cypriot authorities to take legislative and other measures to ensure systematic and mandatory initial and in-service training on all forms of violence against women for the relevant professionals who deal with victims or perpetrators, particularly prosecutors and judges, law-enforcement officers, social services staff, healthcare personnel, journalists and teachers, in line with the requirements of the Istanbul Convention. Particular attention should be paid to overcoming entrenched stereotypes and a patriarchal culture and to ensuring the continuity and sustainability of the funding of such training, so that it is not project based.

94. In addition, GREVIO urges the Cypriot authorities to ensure the training and relative protocols for law-enforcement officials who directly or indirectly receive reports and investigate cases of violence against women:

- a. underscore the obligation to record all reports of violence against women;
- b. address and debunk prejudices and patriarchal attitudes;
- c. address the concept of power and control and the need to adequately record patterns of abuse in the context of domestic violence;
- d. offer instruction on how and where to receive reports and interview victims in a manner that prevents secondary victimisation;
- e. ...;
- f. clarify how to comprehensively collect all relevant evidence in addition to the victim's statement or, in cases of rape, in addition to the forensic evidence lifted from the victim;

...

95. With regard to prosecutors and judges, GREVIO urges the Cypriot authorities to provide them with robust training on violence against women, as well as guidelines or protocols that address:

- a. the debunking of prejudices and patriarchal attitudes;
- b. especially for prosecutors, the importance of ensuring the collection of additional evidence other than the victim's or perpetrator's statement;

...

d. the dissuasive and revictimising effect that impunity for violence against women has on victims;

e. the implications of the new provision on rape based on lack of consent, including the shift of the onus onto the perpetrator to ensure that all sexual acts are engaged in voluntarily; and the role of interim restraining orders and restraining orders in

breaking the cycle of violence in cases of domestic violence and other forms of violence against women, as well as the importance and preventive role of perpetrator programmes.

...

IV. Protection and support

...

G. Support for victims of sexual violence (Article 25)

149. ... GREVIO notes with regret that no rape crisis or sexual violence referral centers capable of providing holistic and comprehensive support to victims of rape and sexual violence are currently in place in Cyprus.

150. ... [Only] four forensic experts, who are responsible for taking evidence in respect of all types of crimes, are available in the whole country. These experts are not specialised in the taking of evidence in cases of rape/sexual violence and are therefore accompanied by a gynaecologist. While they are on call on a 24/7 basis, the scarcity of experts often entails long periods for the victim, further exacerbating their trauma. Moreover, three out of four forensic experts are men.

151. ...

152. ... From the foregoing it follows that currently the provision of specialist support services to victims of rape/sexual violence is not comprehensive, nor provided on a one-stop-shop basis. Currently a rape victim would in fact need to approach, consecutively, several institutions/entities, including the hospital, social welfare services, the telephone helplines and the Women's House and retell her story multiple times before receiving some of the need support. ...

153. With a view to avoiding secondary victimisation and providing comprehensive support to victims of rape and sexual violence, GREVIO urges the Cypriot authorities to set up rape crisis or sexual violence referral centres in sufficient numbers in the country and provide medical and forensic examinations, trauma support and psychological counselling for victims. ... It also urges in the Cypriot authorities in particular to:

a. ensure that forensic examinations are carried out in line with intentionally recognised standards and that measures are taken to ensure that forensic evidence is collected and stored with the consent of the victims, regardless of whether the matter has been reported to the police;

b. strengthen protocols/guidelines and training on the management of cases of sexual violence and rape in hospitals.

VI. Investigation, prosecution, procedural law and protective measures

...

2. Effective investigation and prosecution

...

229. ..., reports and information obtained by GREVIO are consistent in pointing to rampant prejudices and patriarchal attitudes among the police, as well as excessive administrative requirements and red tape that have led in many cases, and recently, to a failure to record incidents of violence against women and to detect patterns of abuse, leading also to tragic outcomes. In practical terms, until recently, for an investigation to be opened, the victim needed to provide a sworn affidavit or a formal written

statement, in the absence of which no follow-up of the case would ensue. ...In the area of sexual violence and rape, another example of victim-blaming attitudes and inaction of the police is the grave and highly mediatised case of a young British national who alleged being gang raped in July 2019. The young woman turned from being a victim to a suspect after six hours of questioning by the police, in the absence of a defence lawyer, in which she alleged being pressured to withdraw her statement. As a result of this, the investigation into the gang rape was immediately closed and replaced by an investigation for “public mischief” for having lied about the rape, followed by a conviction in first instance and a four-month suspended prison sentence. Even after the reversal of this judgment by the Supreme Court, ascertaining serious shortcomings into the investigation of the case by the police and the prosecutor, as well as violation of the right to a fair trial, to this day, the investigation into the gang rape has not resumed.

230. GREVIO notes that the above shortcomings, in turn, have led to significant underreporting by victims of violence against women due to lack of trust in the institutions. ...

231. As regards evidence collection, GREVIO’s understanding is that thus far, in cases where the victim withdraws her statement, prosecution has often not been pursued as a result of insufficient additional evidence having been collected. GREVIO notes that law-enforcement authorities, under prosecutors’ guidance, primarily rely on the testimonies of the victim and the perpetrator and, in some cases, on those of witnesses. Such over-reliance on the victim’s statement and the failure to collect additional evidence have resulted in a low number of cases proceeding successfully along the criminal justice chain and ending with a conviction. GREVIO would like to recall that a victim’s withdrawal of a statement or the refusal to testify is frequent in cases of domestic violence characterised by power and control dynamics, as well as in other instances of violence against women. For this reason, GREVIO stresses the vital importance of proactively and rigorously collecting all relevant evidence in addition to the victim’s statement. This is especially important to ensure effective *ex officio* prosecution of crimes of violence against women, as required by Article 55 of the [Istanbul] convention. Law-enforcement authorities’ collection of evidence should entail documenting injuries (with the consent of the victim), taking photographs of the crime scene, collecting DNA samples, taking statements from neighbours and any other potential witnesses, and identifying abuse perpetrated through digital means such as the threat of or the sharing of images without consent, or stalking through spyware or other technical devices.

232. On a positive note, and in response to the above-mentioned shortcomings, as well as with a view to aligning legislation and practice with the Istanbul Convention, some welcome legislative and other measures have been taken through the 2021 VAW law and the new protocols in the area of gender-based violence against women adopted by the police. Notably, Article 20 of the 2021 VAW law now clarifies that investigations must be opened and prosecutions must be initiated whether or not a formal complaint has been filed by the victim, with the possibility of continuing criminal proceedings even in cases where the victim withdraws her complaint. Moreover, under Article 22, prosecutors and courts must, *inter alia*, ensure that criminal proceedings for violence against women offences are conducted without delay and without worsening the trauma of the victim and prosecution and court officials must be duly trained in the area of violence against women.

233. Furthermore, the authorities have shared with GREVIO three protocols currently in force providing guidance on investigations on domestic violence, rape and gender-based violence more generally. The domestic violence protocol helpfully calls

for immediate investigations, the systematic carrying out of a risk assessment, the need to open a criminal file for all reports of domestic violence and an obligation to check for prior complaints. It also stresses the importance of continuing an investigation even if the victim does not wish to proceed with the case. On the other hand, GREVIO notes that this protocol does not provide a detailed indication of the importance of collecting all relevant evidence in addition to the victim's and perpetrator's testimony. GREVIO underscores the importance of specific training and guidance in this respect for the reasons mentioned in the previous paragraph. As regards the protocol on gender-based violence, GREVIO notes that while it also calls for prompt investigations, the carrying out of a risk assessment and the taking of adequate protection measures for the victim, it focuses, once again, on the victim's statement and is not specific to the various forms of violence against women. Finally, GREVIO welcomes some positive elements contained in the 2021 protocol on rape, including the requirement that statements must be taken by a police officer of the same sex as the victim and that the investigation must continue even if the victim does not give a statement. Moreover, detailed guidance is provided with regard to the taking of evidence, including, *inter alia*, the examination of the crime scene for evidence and the taking of photographs, taking statements from neighbours and any other potential witnesses and checking CCTV footage. While GREVIO welcomes this guidance, it also underscores the importance of ensuring that such protocol does not focus exclusively on proof of the use of physical violence/threats or coercion.

234. In sum, GREVIO considers that redoubled action and training is required in order for the new legislation and protocols to bear fruit. For example, the authorities have confirmed that to this date, proceedings on gender-based violence come to an end when a victim withdraws her statement, despite the new provisions and guidance currently in place.

...

236. GREVIO urges the Cypriot authorities to:

- a. provide the newly established specialist investigative units on domestic violence with the training, guidance and the expertise to handle other cases of violence against women, beyond domestic violence, such as stalking, digital forms of violence against women, sexual harassment, FGM, forced marriage and rape;
- b. analyse and assess to what extent the new protocols in place on gender-based violence are being applied, including the obligation to open an investigation, regardless of the lodging of a formal complaint by the victim;
- c. provide guidelines for prosecutors and judges for judicial proceedings in the area of gender-based violence against women;
- d. identify and address all factors that contribute to attrition, in order to increase the number of convictions."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3, 8 AND 14 OF THE CONVENTION

54. The applicant complained that the investigation into her allegation of rape had been ineffective, that the authorities had failed to follow a

victim-sensitive approach and that her rights as a rape victim in general had not been respected, exposing her to secondary victimisation and discriminatory treatment contrary to the requirements of Articles 3, 8 and 14 of the Convention in conjunction with Articles 3 and 8, which read:

Article 3

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

Article 8

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Article 14

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. Admissibility

55. The Court notes that the application 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. The parties' submissions

(a) The applicant

56. The applicant argued that the authorities had failed to explore all available possibilities for establishing the surrounding circumstances and had not sufficiently assessed the credibility of the statements made or obtained adequate forensic and expert reports. She argued in particular that the authorities had failed to seek the assistance of experts to properly analyse the effects of rape on a victim's memory and feelings towards herself and the perpetrator. The authorities had also failed to contact the therapist who had been seeing the applicant during the time that her complaint with the police had been lodged. They had never sought to obtain evidence from her mother, who could have attested to the state of her

bruises as well as her psychological state in the aftermath of the rape. The investigators had not sought to ascertain the identity of the woman who had reported to a friend that A.T. had also raped her. The investigators had also failed to enter the warehouse to take pictures of its interior; they had merely relied on information that the warehouse had been demolished. In addition, they had refused to have A.T. physically examined.

57. She further argued that the investigators and prosecutors had showed no awareness of the special features of cases concerning sexual offences and no genuine will to have the perpetrator brought to account. Not only had they failed to listen to the applicant and include all the incidents that related to the commission of the offence, but they had blamed her for their failure. The authorities had therefore shown a lack of training and understanding as to what had had to be recorded. Instead of having focused on the issue of consent and the available evidence, the authorities had considered her fondness of A.T., her prior sexual relations with him and factors such as the fact that her friends had stopped talking to her. This had also revealed anachronistic and stereotypical attitudes towards victims.

58. The applicant argued, in addition, that no specialist, psychological, legal or other support had been made available to her when she reported her rape. No evaluation had been made of her personal situation, age, physical or mental vulnerabilities. She had never been informed of her rights as a victim of a serious crime or sexual violence, nor was there any record that she had received such support and information. In addition, their intensive questioning had caused her to experience post-traumatic stress episodes afterwards. She had not received adequate information about the status of the proceedings, which had also led her to experience a post-traumatic stress episode because she had been informed of the decision to discontinue the proceedings only through the media.

59. Lastly, the applicant submitted that she had suffered discriminatory treatment in connection with the attitude of the domestic authorities; the way she was treated at police stations when she reported that she had been a victim of rape; the manner in which the evidence had been assessed and reviewed, reflecting stereotypes and victim-blaming; and prosecutorial passivity in providing effective protection to victims, which was documented by low conviction rates and lenient penalties. She relied, *inter alia*, on statistics supplied by the third-party Step Up Stop Slavery (see paragraph 66 below). She further argued that the prosecutors' reasoning, particularly that of the Deputy Attorney General, reflected that gender stereotypes and victim-blaming had clearly influenced the authorities' decision and that such stereotypes, even when made in the absence of intent, needed to be eradicated from criminal procedure to protect women and ensure equal protection of the law.

(b) The Government

60. The Government argued that the investigation into the applicant's complaint had been thorough and efficient, and they recounted all the steps taken by the police during the investigation. They submitted that her complaint had been investigated on the basis of the special protocol (see paragraphs 50-51 above). Her request to have a physical examination conducted on A.T. had been unreasonable given the passage of time (ten years since the alleged assault) and the fact that the alleged injury had been caused by the applicant's nails. As regards the warehouse, the Government stressed that the available photos had shown that it had been turned into a coffee shop. As for the applicant's last therapist, the Government submitted that the authorities had attempted to reach her but that they had failed to keep records of their efforts to do so. As regards the applicant's allegation that the authorities had not sought to ascertain the identity of the alleged second victim, the Government submitted that S.N. had refused to provide the police with information or refused to answer police questions in that regard. He had, however, been advised to inform the alleged victim that she could contact the police or social services at any time.

61. The Government further submitted that the decision to discontinue the prosecution had not been hasty. Rather, it had been made following a careful and objective assessment of the evidence collected and a review of the credibility of the applicant's statements by experienced prosecutors and had centred on the issue of consent. The prosecution had been discontinued in the absence of realistic prospects of conviction. The absence of proof of physical resistance on the part of the applicant and the fact that she had had consensual sex with A.T. in the past had not been used against her in that assessment.

62. The Government added that there had been no delays in informing the applicant of the decision not to prosecute A.T. The applicant had been informed of the Attorney General's decision to discontinue the prosecution by the public prosecutor "either on 3 or on 4 December 2021 (that is, only two days after the prosecutor had announced that decision in court)". Before announcing the decision in court, the prosecutor had informed the applicant of the decision over the phone. While it had been unfortunate that the applicant had learned of the decision through the media on the day it was announced in court, that had been A.T.'s fault, as he had immediately made an announcement in the media the moment he had been informed of the Attorney General's decision.

63. Lastly, the Government, while noting that the Court had recognised that violence against women was a form of discrimination against women, argued that the applicant had failed to show that she had indeed suffered such difference in treatment. As regards statistics provided by Step Up Stop Slavery (see paragraph 66 below), the Government submitted that in 2021 there had been twelve convictions for sexual offences and one acquittal by

the district courts, representing a success rate of 92.3%. According to the Government, those statistics revealed that there was no systemic failure by the Cypriot authorities regarding responses to gender-based violence. Rape complaints were investigated by experienced police investigators with specialised training on handling rape victims and investigating rape complaints.

2. Third-party comments

(a) The Advice on Individual Rights in Europe Centre's (AIRE Centre) submissions

64. The Aire Centre provided information on the State's positive obligations under Articles 3, 8 and 14 of the Convention when investigating complaints of rape and other forms of sexual violence. They stressed, among other things, the importance of placing focus on the issue of lack of consent and performing a context-specific assessment of the credibility of statements. They submitted that a State's failure to protect women against gender-based violence amounted to a violation of their right to equal protection under the law.

(b) Step Up Stop Slavery

65. Step Up Stop Slavery submitted that Cypriot authorities lacked sufficient training when it came to effective methods of investigation and prosecution of gender-based violence, which led to a particular form of gender stereotyping in rape cases alluding to the idea that women were inherently untruthful or at least tended to be untruthful and in any event were likely to fabricate allegations of rape. They relied on the example of *X. v. Cyprus* (no. 40733/22, 27 February 2025) and the GREVIO baseline report for Cyprus.

66. They also provided statistics gathered by the Statistical Service of Cyprus. According to the third-party intervener, 72% of sexual offence charges in Cyprus had been withdrawn. Forty-seven individuals had been charged with sexual offences in 2021, out of which thirty-four complaints had been withdrawn, leading to only twelve convictions in district courts. In addition, while seventy-four men had been charged with sexual offences before the district and assize courts, only twenty-two had been convicted in total. Statistics therefore indicated that there had been less than a 30% chance of justice being served in cases of rape.

67. Lastly, they submitted that even if a case involving a rape complaint reached the courts, victims had no formal role other than their status as witnesses. There was no framework to enable their effective participation or receipt of information about the criminal investigation or proceedings; often they depended on the good will and availability of officials.

3. *The Court's assessment*

(a) **General principles**

68. The Court notes at the outset that the alleged abuse falls within the scope of Article 3 of the Convention and engages fundamental values and essential aspects of “private life” within the meaning of Article 8 (see, among other authorities, *E.G. v. the Republic of Moldova*, no. 37882/13, § 39, 13 April 2021). Applying that specific principle, the Court considers that the applicant’s complaints may be examined jointly under Articles 3 and 8 of the Convention (*ibid.*).

69. The relevant principles concerning the State’s obligation inherent in Articles 3 and 8 of the Convention to investigate cases of ill-treatment, and in particular sexual abuse committed by private individuals, are set out in *M.C. v. Bulgaria* (no. 39272/98, §§ 149, 151 and 153, ECHR 2003-XII), *M.G.C. v. Romania* (no. 61495/11, §§ 54-59, 15 March 2016) and more recently in *X v. Greece* (no. 38588/21, §§ 66-70, 13 February 2024). The Court observes in particular that States have a positive obligation inherent in Articles 3 and 8 of the Convention to enact criminal laws that effectively punish rape, and to apply them in practice through effective investigation and prosecution (see *M.C. v. Bulgaria*, cited above, § 153, and *B.V. v. Belgium*, no. 61030/08, § 55, 2 May 2017). That positive obligation further requires the criminalisation and effective prosecution of all non-consensual sexual acts, including where the victim has not resisted physically (see *M.G.C. v. Romania*, cited above, § 59, and *E.G. v. the Republic of Moldova*, cited above, § 39). The Court has also reiterated the crucial role played by prosecution and punishment in the institutional response to gender-based violence and in combating gender inequality (see *J.L. v. Italy*, no. 5671/16, § 141, 27 May 2021). Moreover, in its case-law on violence against women and on domestic violence, the Court has often been guided by the relevant international law standards on the matter, and notably the Istanbul Convention (see *Vučković v. Croatia*, no. 15798/20, § 57, 12 December 2023).

70. As regards the Convention requirements relating to the effectiveness of an investigation the following are of particular relevance in the context of the present case. The Court has held that in order to be effective, the investigation must be sufficiently thorough. The authorities must take reasonable measures available to them to obtain evidence relating to the offence in question. They must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation. Any deficiency in the investigation which undermines its ability to establish the facts or the identity of the persons responsible will risk falling foul of this standard *X and Others v. Bulgaria* ([GC], no. 22457/16, § 185, 2 February 2021).

71. The Court considers that, while in practice it may sometimes be difficult to prove lack of consent in the absence of “direct” proof of rape, such as traces of violence or direct witnesses, the authorities must nevertheless explore all the facts and decide on the basis of an assessment of all the surrounding circumstances. The investigation and its conclusions must be centred on the issue of non-consent (see *M.C. v. Bulgaria*, cited above, § 181, and *M.G.C. v. Romania*, cited above, § 72).

72. However, the obligation to conduct an effective investigation is an obligation not of result but of means. Furthermore, the Court is not concerned with allegations of errors or isolated omissions in the investigation: it cannot replace the domestic authorities in the assessment of the facts of the case, nor can it decide on the alleged perpetrators’ criminal responsibility. Likewise, it is not the Court’s task to call into question the lines of inquiry pursued by the investigators, or the findings of fact made by them, unless they manifestly fail to take into account relevant elements or are arbitrary. Nevertheless, a failure to pursue an obvious line of inquiry can decisively undermine the investigation’s ability to establish the circumstances of the case and the identity of those responsible (*X and Others v. Bulgaria*, cited above, § 186).

73. The Court has already pointed out the evolving understanding of the manner in which rape is experienced by the victim and the development of law and practice in that area which reflects the evolution of societies towards effective equality and respect for each individual’s sexual autonomy (see *M.C. v. Bulgaria*, cited above, §§ 165-66). In its assessment of the State’s compliance with its positive obligations, the Court takes into account the importance of protecting the rights of victims. In conducting criminal proceedings, the authorities must ensure that the image, dignity and privacy of alleged victims of sexual violence are protected, including through the non-disclosure of information and personal data unrelated to the facts. In the Court’s view, it is essential that they avoid reproducing sexist stereotypes in court decisions, minimising gender-based violence and exposing women to secondary victimisation by using guilt-inducing and moralising language that discourages victims’ confidence in the justice system (see *J.L. v. Italy*, cited above, §§ 139-41).

(b) Application of the above principles to the circumstances of the case

74. As regards the applicant’s complaints under Articles 3 and 8 of the Convention, the Court notes that domestic criminal law prohibited rape (see paragraph 44 above) and the State adopted a legislative framework and other practices to protect the rights of victims of sexual violence (see paragraphs 46-48 and 50-51 above). What is important however, is to discern how the domestic authorities applied those provisions in practice (see *M.G.C. v. Romania*, cited above, §§ 63-64).

75. The Court is mindful of the difficulties posed to the authorities in collecting evidence in the present case considering that ten years had elapsed since the alleged offence had occurred. Moreover, they were faced with conflicting versions of the event. In similar cases the Court has held that a context-sensitive assessment of the statements was called for and a verification of all surrounding circumstances was required, which could be done by questioning people known to the applicant and the perpetrator, who could shed light on the trustworthiness of their statements or by seeking an opinion by a specialist psychologist (*I.C. v. Romania*, no. 36934/08, § 54, 24 May 2016). Having regard to this requirement, the Court observes certain defects in the authorities' approach to available lines of inquiry which could have assisted in the establishment of the circumstances of the case. The authorities did not, for example, question people known to the applicant and A.T., that is, other friends and classmates – given the fact that the other girl whom A.T. had allegedly raped had also attended school with the applicant and A.T. – which could have shed light on the credibility of their statements (see, for example, *M.C. v. Bulgaria*, cited above, § 177; *I.C. v. Romania*, cited above, § 54; and, for illustrative purposes, *E.B. v. Romania* [Committee], no. 49089/10, § 58, 19 March 2019; see also point 231 of the GREVIO report cited in paragraph 53 above).

76. Regardless of the above, the Court's primary concern is not so much whether there was enough evidentiary material gathered, but whether the authorities adopted a consistent approach to the assessment of the available evidence, whether the final decision was sufficiently reasoned and convincing and, accordingly, whether the relevant criminal-law provisions and mechanisms were implemented effectively (see *M.M.B. v. Slovakia*, no. 6318/17, § 72, 26 November 2019).

77. In that regard, the Court notes that the decision to discontinue A.T.'s prosecution was not based on lack of corroborating evidence. Rather it was based on the alleged inconsistencies in the applicant's statements. In this connection, the Court notes that the Deputy Attorney General, in his decision which ended up being the final determination in the case, heavily relied on the applicant's expression of sympathy towards A.T., the fact that her friends had stopped talking to her, her uncertainty about whether she would have consented if there had been no violence and the possibility that she had sent the "wrong signals" to A.T. (see paragraph 36 above). The authorities, however, did not obtain a specialist's analysis of the applicant's reactions - particularly considering her age at the time of the alleged rape, her prior relationship and emotional ties with A.T. and the possible effects of trauma (see *I.C. v. Romania*, cited above, § 58, and *I.G. v. Moldova*, no. 53519/07, § 43, 15 May 2012; compare, for example, *M.P. and Others v. Bulgaria*, no. 22457/08, § 111, 15 November 2011). Such particularities might have explained her hesitations both in reporting the alleged abuse earlier and in describing the facts.

78. The Court attaches importance to the failure of the authorities in their central task of assessing the issue of non-consent (see paragraph 71 above). Notwithstanding its subsidiary role in the matter, the Court is particularly concerned that the authorities did not try to weigh up the conflicting evidence and made no consistent efforts to establish the facts by engaging in a context-sensitive assessment (see *M.C. v. Bulgaria*, cited above, § 177). The Deputy Attorney General did not examine the applicant's expressions of guilt or sympathy for A.T. alongside evidence suggesting a lack of consent. This includes her plea for A.T. to "please stop" (see paragraph 5 above), which was not meaningfully countered, the bruises witnessed by C.S. (see paragraph 17 above), the credibility of which remained unchallenged, and her psychological distress that night, which led her to seek help from psychologists and confide in others (see paragraphs 9, 11, 12 and 13 above). These factors were largely ignored in the final decision. Notably, only prosecutor M.P. acknowledged the existence of testimony supporting the applicant's claims (see paragraph 33 above). The Deputy Attorney General's conclusion appears selective, with a victim-blaming attitude. It exposed the applicant to secondary victimisation through guilt-inducing, moralising and sexist stereotypes, placing disproportionate emphasis on her expression of sentiment towards A.T., while failing to consider key elements that may have pointed to the absence of consent (see *J.L. v. Italy*, cited above, § 141, and the GREVIO report cited in paragraph 53 above).

79. Similarly, no direct comparison was made between the applicant's version, supported by C.S., and the alternative account given by G.H., the sole opposing witness. The prosecutors did not devote any attention to the question whether the story proposed by G.H. was credible. The main inconsistency cited – regarding whether the applicant had seen A.T. after 2009 – was in fact a failure of the police, who had more relevant expertise than the applicant, to document her full statement, not an inconsistency on her part. It is undisputed that the applicant indeed mentioned the event in question to the police officer who took her statement (see paragraphs 29 and 31 above). Importantly, the prosecutors had already been aware of her prior affection for A.T. and had been made aware of her messages to him when they decided to bring new charges before the Assize Court on 10 June 2021 (see paragraphs 7, 25, 26 and 28 above). Therefore, the Deputy Attorney General's decision to discontinue criminal proceedings appears unconvincing.

80. As a result, while the Court recognises the difficulties faced by the Cypriot authorities when confronted with conflicting versions of the events in the past and little "direct" evidence, and without losing sight of the fact that it cannot replace domestic authorities in the assessment of the facts of the case or decide on A.T.'s criminal responsibility, it is of the view that the authorities failed to establish the facts by engaging in a context-sensitive

assessment and with due regard to the special psychological factors inherent in cases concerning sexual abuse, especially by a person close to the victim.

81. As regards the applicant's allegations that the authorities had failed to respect her rights as a victim, the Court notes with concern that the applicant had to repeat her statements, partly because of the incomplete recording of her original statement, and was interviewed by the prosecutors in the absence of a lawyer, a psychologist or the social welfare services (see paragraph 34 above). In this context, the Court also refers to GREVIO's recommendations in points 94d, 152 and 153 of the report cited in paragraph 53 above. The Court further observes that there appear to be no available records of the applicant's interview with the prosecutors which seem to have eventually led to the termination of the proceedings, and which she claims had led to her being treated at the emergency services (see paragraph 35 above). In this connection, the Court notes that the State's failure to respect the applicant's rights as a victim and treat her with dignity is further evidenced by the fact that the authorities appear to have officially informed her of the decision to stop A.T.'s prosecution "only two days after the prosecutor announced that decision in court" (see paragraphs 38 and 62 above). In that respect, the Court notes that the Government have not provided the Court with any proof that the lawyer representing her at the time had been made aware of that decision earlier.

82. Regard being had to the requirement that an investigation must be sufficiently accessible to the victim (see *X and Others v. Bulgaria*, cited above, § 189, with further references), the Court also finds highly problematic the fact that the applicant was refused access to the case file without any reasons given in that regard (see paragraph 43 above). In the Court's view, that refusal limited the applicant's effective participation in the process and the possibility of effectively challenging, even by way of internal – if not judicial - review, the decision of the Deputy Attorney General.

83. As regards the complaint under Article 14 in conjunction with Articles 3 and 8 of the Convention, the Court considers that certain language and arguments used by the prosecutors and, ultimately, the Deputy Attorney General in assessing the present case (see paragraph 78 above) convey prejudices and sexist stereotypes liable also to discourage women's confidence, as victims of gender-based violence, in the justice system (see *J.L. v. Italy*, cited above, § 141). The Court's previous findings concerning the secondary victimisation suffered by the applicant are sufficient to enable it to conclude that the grounds of the decision of the Deputy Attorney General (as the final determination in the case) were imbued with discrimination on grounds of sex (compare, in relation to domestic violence classified as gender-based violence constituting in itself a form of discrimination against women, *Opuz v. Turkey*, no. 33401/02, § 184-91 and 200, ECHR 2009; *Halime Kılıç v. Turkey*, no. 63034/11, § 113, 28 June

2016; *Tkheldze v. Georgia*, no. 33056/17, § 51, 8 July 2021; and *A.E. v. Bulgaria*, no. 53891/20, § 116, 23 May 2023).

84. In this connection, the Court observes that GREVIO has reported the existence of “rampant prejudices and patriarchal attitudes among the police” as well as the display of sexist and misogynist attitudes towards women victims of sexual violence by, *inter alia*, certain prosecutors who appeared to “have an inadequate understanding of the paradigmatic shift in proving rape” (see points 88 and 229 in paragraph 53 above). Thus, the Court concludes, on the basis of all the foregoing considerations, that the shortcomings of the national authorities, and specifically the methods used to assess the authenticity of the applicant’s consent, not only deprived her of appropriate protection but also exposed her to secondary victimisation, which also constitutes discrimination.

(c) Conclusion

85. The Court therefore concludes, without expressing an opinion on the suspect’s guilt, that the authorities’ response to the applicant’s allegations of rape in the present case fell short of the State’s positive obligation to apply the relevant criminal provisions in practice through effective investigation and prosecution (see, *mutatis mutandis*, *M.C. v. Bulgaria*, cited above, § 153). There has accordingly been a violation of Articles 3 and 8 of the Convention.

86. With a view to the considerations set out in paragraphs 83-84 above, it also concludes that there has been a violation of Article 14 in conjunction with Articles 3 and 8 cited above.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

87. 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

88. The applicant claimed 13,315 euros (EUR) in respect of pecuniary damage related to the mental health treatment she had had to undergo owing to her rape and the way the national authorities had treated her. She further claimed EUR 20,000 in respect of non-pecuniary damage.

89. The Government argued that there was no causal link between the violation found and the pecuniary damage alleged, as the damage claimed was related to the alleged rape and not the alleged violation by Cyprus of her Convention rights. The applicant had lodged her complaints against

Cyprus when she had initially reported the rape to the police on 10 April 2021, whereas she had been receiving mental health treatment since 2015. The Government further dismissed the applicant's claim for non-pecuniary damage as excessive.

90. As regards the applicant's claim in respect of pecuniary damage, the Court notes that other than an estimate of such costs prepared by a psychologist and various attestations to the effect that the applicant did visit mental health practitioners over the years, she has not provided the Court with invoices or other proof of payment of such consultations, whether old or new. The Court therefore dismisses the applicant's claim in respect of pecuniary damage.

91. As regards the applicant's claim in respect of non-pecuniary damage, taking into consideration the finding of a violation of the respondent State's procedural obligations under Articles 3 and 8 of the Convention as well as a violation of Article 14 in conjunction with Articles 3 and 8 and the distress and frustration the applicant must have experienced as a result of those violations, ruling on an equitable basis, the Court awards the applicant EUR 20,000 under this head, plus any tax that may be chargeable.

B. Costs and expenses

92. The applicant also claimed EUR 15,470 for the costs and expenses incurred before the Court and 10,531.25 US dollars (USD) for the costs of preparing an expert psychological report.

93. The Government rejected the applicant's claims for costs and expenses as excessive and not reasonable as to quantum.

94. 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 rejects the claim of USD 10,531.25 for the preparation of an expert psychological report. That amount is not reasonable as to quantum and it is questionable whether the report was objectively necessary for the purposes of the proceedings before the Court. However, having regard to the lawyer's bills in its possession, the Court considers it reasonable to award the sum of EUR 15,470 covering the costs for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of the respondent State's procedural obligations under Articles 3 and 8 of the Convention;
3. *Holds* that there has been a violation of Article 14 of the Convention in conjunction with Articles 3 and 8;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, 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), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 15,470 (fifteen thousand four hundred and seventy euros), plus any tax that may be chargeable to the applicant, 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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

Ilse Freiwirth
Registrar

Ivana Jelić
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Krenc is annexed to this judgment.

CONCURRING OPINION OF JUDGE KRENC

I am in agreement with the findings of this judgment. However, I would like to emphasise one point in particular, which I consider of crucial importance.

Certain statements in the decision to discontinue the criminal proceedings in the present case convey the idea that the applicant's feelings may have been perceived as indicating consent on her part (see in particular paragraph 36 of the judgment).

In my view, such statements reflect an outdated view of women's free will and undermine their individual autonomy.

As the Court has recently stated, consent must reflect the free willingness to engage in sexual relations at a given moment and in the specific circumstances (see *H.W. v. France*, no. 13805/21, § 91, 23 January 2025). In the same vein, reference should be made to the Istanbul Convention dedicated to combating violence against women, which underscores that "consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances" (Article 36 § 2).

Therefore, any interpretation that presumes a woman's consent on the basis of her feelings gravely legitimises sexual violence. It perpetuates gender stereotypes and constitutes a significant obstacle to providing effective protection for victims. Moreover, it exposes women to secondary victimisation through guilt-inducing comments (see *J.L. v. Italy*, no. 5671/16, § 141, 27 May 2021). Ultimately, it erodes victims' trust in the legal process, fosters victim-blaming and silences women affected by sexual violence, thereby discouraging them from seeking justice.

A woman cannot be blamed for her feelings; nor can they justify any form of violence under the Convention.

For these reasons, I considered it essential that the Court also examine the complaint under Article 14 of the Convention, in conjunction with Articles 3 and 8.