Fighting Domestic Violence - Iceland

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

The primary sources of law in Iceland are as follows:

i. [General Penal Code No. 19, 12 February 1940](http://eng.domsmalaraduneyti.is/laws-and-regulations/nr/1145) ("**Criminal Code**"):

In April 2016, the *Althingi* (Parliament) approved a new provision of the Criminal Code on the punishment of perpetrators who commit violence in close relationships.

Two laws prohibit sexual harassment. The Criminal Code makes sexual harassment punishable by imprisonment for up to two years (Article 218). The Law on Equal Status defines "sexual harassment" more broadly as any type of unfair or offensive physical, verbal or symbolic sexual behavior that is unwanted, that affects the self-respect of the victim and that is continued despite a clear indication that the behavior is undesired. The law requires employers and organization supervisors to make specific arrangements to prevent employees, students and clients from becoming victims of gender-based or sexual harassment. Victims of harassment can report incidents to the Complaints Committee on Equal Status. The law requires only employers with 25 or more employees to provide employees with information on the legal prohibitions against sexual harassment in the workplace. The law establishes fines for violations, but more severe penalties could be applicable under other laws.

ii. Constitution of the Republic of Iceland 1944 (amended in 2013) ("**Constitution**"):

Article 65: Everyone will be equal before the law and enjoy human rights irrespective of sex, religion, opinion, national origin, race, color, property, birth or another status. Men and women will enjoy equal rights in all respects.

Article 66: Every person lawfully residing in Iceland will be free to choose their residence and will enjoy freedom of travel subject to any limitations laid down by law.

Article 67: No one may be deprived of their liberty except as permitted by law.

Article 68: This article includes the following provisions on violence against women. No one may be subjected to torture or any other inhuman or degrading treatment or punishment. No one will be required to perform compulsory labor.

Article 73: Everyone has the right to freedom of opinion and belief.

iii. Other notable legislation:

In June 2011, the *Althingi* approved Act No. 85/2011 that improves the provisions that the authorities have to protect victims of domestic violence.

The Act on Equal Status and Equal Rights of Women and Men No. 10/2008, as amended by Act No. 162/2010 and No. 126/2011, has the following aim, "(...) i. working against gender-based violence and harassment."

It is being implemented through the Centre for Gender Equality.[1]

# 1.2 What is the controlling case law?

Iceland has a civil law legal system; therefore, Icelandic law is characterized by written law. Major sources of law in Iceland include the Constitution, statutory legislation and regulatory statutes. Other legal resources are precedent and customary law. The recognition of the tradition of culture (*eðli máls*) bears significantly on Icelandic law in a variety of contexts. [Act No. 15/2005](http://www.althingi.is/lagas/nuna/2005015.html) stipulates how official material, including adopted acts, is published.

As a civil law country, court practice in Iceland does not have the same authoritative role as in common law countries. A tradition of culture refers to considerations of fairness, justice and feasibility regarding the needs of the society and resembles to some extent the legal term equity. The Supreme Court has no duty to follow its earlier decisions and the district courts are not obligated to adhere to earlier decisions of the Supreme Court. However, in matters of legal uncertainty, the decisions of the Supreme Court have considerable authority for the disposition of future cases. In certain areas of law that did or do not have extensive statutory legislation, e.g., tort, the decisions of the Supreme Court are a source of law of central importance.

The decisions of the *Félagsdómur* (Icelandic courts) have been available [online](http://www.rettarheimild.is/Felagsmala/Felagsdomur/2000)  (only in Icelandic) since 2000.

# 1.3 What are the specific parts of the court system that address domestic violence?

A single court system handles both criminal and civil matters.[2] The district courts and the Supreme Court are considered independent and impartial in civil matters. Lawsuits may seek damages for or the cessation of a human rights violation. Administrative remedies are available as well as judicial remedies for alleged wrongdoing. A new court level was introduced in Iceland on 1 January 2018, replacing the former two tiers with a three-tier system. The new court is called the Court of Appeal (*Landsréttur*) and is a court of second instance, situated between the district courts and the Supreme Court. The introduction of the Court of Appeal is part of a major restructuring of the Icelandic justice system.

All court actions in Iceland commence in the eight district courts (*Héraðsdómstólar*) located around the country. The conclusion of a district court can be appealed to the Court of Appeal, provided that specific conditions for appeal are satisfied. In special cases and after receiving the permission of the Supreme Court, it will be possible to refer the conclusion of the Court of Appeal to the Supreme Court, which will continue to be the country's court of highest instance. In most instances, the judgment of the Court of Appeal will be the final resolution in the case.

The law prohibits domestic violence primarily through the provisions of the Criminal Code. However, violence against women continues to be a problem. The penalties can range from a fine to 16 years in prison, depending on the type of violence committed. In addition, the law permits judges to increase the sentences of persons who commit violence against persons with whom they had a domestic relationship or other close bond. However, there were no domestic violence cases in which judges actually handed down heavier sentences and one respected activist expressed concern that sentences were too lenient.

# 1.4 What are potential causes of action?

Please refer to Section 4.

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