

## **Sex uden samtykke – udviklingen i islandsk ret**

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### **Abstract**

The Penal Code's chapters on sexual offences have been revised in all the Nordic countries in recent years. The concept of rape has been changed and is now much more extensive than before.

In Iceland, the Penal Code's (GPC) provisions on rape and other violations of people's sexual freedom were revised and changed with Act no 61/2007. These amendments included a new, broad statutory definition of the concept of rape, which was supposed to cover incidents where the victim did not consent to having intercourse or other sexual interactions with the offender. The concept of consent was not mentioned in the provision, but instead the unlawful act was defined as rape if the perpetrator had intercourse or other sexual interactions with the victim by using violence, any kinds of threats, for example threats on the internet, or other kinds of unlawful coercion, under par. 1 of Art. 194 GPC. According to par. 2 of Art. 194 GPC, rape also involves the abuse of the situation of a person, who does not have the same capacities as adults generally do to defend themselves against sexual attacks. This can be the abuse of a victim's permanent condition, i.e. a mental illness or any other type of psychological disability, to have sex with the victim, or the abuse of a victim's temporary condition which causes the victim to be unable to defend themselves against the offence, e.g. because the victim is drunk, sleeping, or unconscious because of the use of medicines or drugs.

In 2018 the definition of rape under par. 1 of Art. 194 was revised again and consent is now included in the provision. It is considered consent if an individual expresses it of his or her own volition. It is not considered consent if violence, threats, or any other type of unlawful coercion is used. This new definition from 2018, where consent is included in the provision on rape, is essentially not a big change, because the lack of consent was an underlying element in the act before and the methods that exclude consent are the same as the ones in the provision from 2007.

The article addresses these changes from 2007 and 2018 and the effects they have had on judgments in rape cases, as well as in society.