



EWL BAROMETER ON RAPE IN THE EU 2013



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES

The European Women's Lobby (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to more than 2000 organisations in all EU Member States and 3 Candidate Countries, as well as to European-wide associations

The EWL European Observatory on Violence against Women

In 1997, the EWL formed its Observatory on Violence against Women, which is a group consisting of one expert from each Member State of the EU, the European Economic Area countries as well as countries in the formal process of accession to the EU and associated experts from neighbouring countries, who have extensive expertise in the area of violence against women¹. The Observatory continues to be a central component of the EWL and has been instrumental in maintaining a global perspective on violence against women, in identifying critical and emerging issues, and in monitoring progress in combating violence against women at the national, EU, and international level.

The task of the European Observatory is to advise the EWL on how it should develop recommendations for European institutions to follow up actions and build strategies in order to improve the general prevention of violence against women (VAW) and the protection of women victims/survivors of male violence against women. The EWL and its Observatory members monitor policy developments at national, European and international level. In this context, the experts are at the forefront of identifying critical and emerging issues.

(1) <http://www.womenlobby.org/spip.php?rubrique219>



The EWL Barometer on Rape 2013

The EWL works on all forms of male violence against women, recognising it as the most serious and globally widespread violation of women's human rights and fundamental freedoms, and a cause and consequence of gender inequality in Europe. Yet male violence against women remains invisible and underestimated. This is particularly true for sexual violence. Therefore, it is crucial for the EWL to improve awareness of the importance and scale of such forms of male violence against women.

In 2011, the EWL worked in close cooperation with the experts of the EWL Observatory on Violence against Women to come up with an original mapping report of National Action Plans (NAPs) on violence against women. This first "EWL Barometer" aimed to: take stock of existing NAPs, voice NGO satisfaction with the consultation process held by their government when drafting/implementing/evaluating the NAPs, and highlight women's organisations' assessments of the NAPs in their countries.

The present 2013 Barometer focuses on rape as a form of sexual violence criminalised in all national legislation. While this facilitates European comparison, we also choose this issue for a more strategic reason. Rape, like other forms of sexual violence, is still a "forgotten issue" despite the fact that its prevalence and attrition rates are high everywhere. Even more than in the case of other forms of male violence against women, the general lack of data hides the extent of rape of women and the critical need to prevent and support the victims and survivors as well as prosecute and sanction rapists.

The Barometer comes at a key time with regards to European policy developments on violence against women. The major breakthrough is the signature of the Council of Europe Convention (also known as the Istanbul Convention) on combating and preventing violence against women and domestic violence. Still in the process of ratification, the convention sets the minimum standards for comprehensive policies on many forms of violence against women, recognising that "violence against women is deeply rooted in women's inequality in society and is perpetuated by a culture of tolerance and denial".

At European Union level, the adoption in 2012 of the Directive establishing minimum standards on the rights, support and protection of victims of crime¹, should bring more protection and rights to the victims and notably ensure that they are treated with respect; that police, prosecutors and judges are trained to properly deal with them; that victim support exists in every Member State; and that victims of rape are identified – and are properly protected. EU countries have three years (up to the 16 November 2015) to integrate the directive into their national laws. The European Parliament (EP), which in 2011 adopted a strong resolution calling for a strategy on all forms of violence against women, also calls on both the EU and the individual Member States to sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.

(1) Directive 2012/29 of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32012L0029:en:NOT>



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BAROMETER



EUROPEAN WOMEN'S
LOBBY
EUROPÉEN DES FEMMES

The Barometer is a very important tool to get a European overview of the compliance of/gaps in legislation and data collection on rape of women within the principles set up by the Istanbul convention. By focusing only on rape, a specific form of violence against women, it reveals concretely how and where improvements and changes are needed. EWL members and experts, as well as other women's organisations, are invited to use it to push for the signature and ratification of the Istanbul Convention, to eradicate all forms of male violence against women, as well as to put pressure on their governments to ensure that they consult NGOs at all levels of their policy processes and priorities.

In this context, the EWL Barometer reflects women's organisations' call for concrete policy action at European level to build a Europe free from all forms of male violence against women.



Rape in Europe in 2013

*Sexual violence against women continues to be **one of the most brutal forms of gender-based violence**, while at the same time being very much a taboo subject. Victimisation research shows that a great majority of sex crimes remain undisclosed.¹*

Official data on sexual violence are difficult to find and studies on the prevalence of violence against women are generally very weak on sexual violence. In general, there are few or no services for women victims of rape in most European countries.

The EWL Barometer on rape wants to remedy this invisibility, and thus highlights the problems related to the legislation; the lack of data and the gaps in services for/appropriate structures to support victims.

Here are a few examples taken from the consultation with our experts that you will find in this barometer:

In the Czech Republic one to two rapes per day are officially recorded – it is assumed that rape is reported in only 8% of the cases (and rape occurring in the context of family and partnership is reported only in 3% of cases).

In Denmark, the Crime Prevention Council makes statistics based on data from the rape centres and the police. They estimate that: 2 000 rapes are committed in Denmark every year; 500 cases are reported to the police; in 300 cases the charges are brought and in 150 cases there is a conviction.

(1) Study to identify and map existing data and resources on sexual violence in the EU. The study was commissioned by the European Institute for Gender Equality (EIGE) and carried out by the European Women's Lobby in 2011

In France, the official surveys show 198 000 women between 18-59 years old are victims of actual rape or attempted rape (2005-2006 CVS by INSEE-OND).

In the Netherlands, a recent study (2012) revealed 15% of the women aged between 25-70 and 8% of the women aged between 15-24 were raped at least once in their lives.

In Sweden, the figures for 2011 show 6120 rapes of women and girls; 3388 were rapes of women over the age of 18. In that period, 1030 men were suspected of the crime and 151 were convicted.

In Ireland, 21% of perpetrators of sexual violence against adult females were partners/ex-partners; 90% of perpetrators were known to the survivor of rape. (RCNI Report 2011)

Legislation

Despite recent efforts to help women who have been raped or suffered sexual violence to receive justice, societal attitudes continue to play a significant role in limiting justice for women who have experienced this crime. NGOs' experience and research conducted over the last few years have highlighted the consistent and alarmingly high range of prejudicial attitudes held by the public who blame women for their victimisation and compound an already traumatic experience by attributing the assault in whole or in part to some aspect of women's demeanour or behaviour. The traumatic nature of rape requires a particularly sensitive response by trained and specialised staff. Victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examination to collect the evidence needed for prosecution. Furthermore,



there is often a great need for psychological counselling and therapy – often weeks and months after the event. However, the lack of resources is still a common issue in Europe.

Legislation on sexual violence, including rape, is slowly reflecting the changes, in particular concerning the criminalisation of marital rape in most of the European countries. However, legislation is still marked by history. Historically, sexual crimes have often been addressed through the problematic frameworks of morality, public decency and honour, and were viewed as a crime against the family or society, rather than a violation of an individual's bodily integrity. The most basic definition of rape has evolved differently in the last decades from a forced-based definition with requirement of proof of resistance to a sexual act committed against a non-consenting person. However, the Barometer highlights how the concept of force is still prevalent in the legal definition of rape across Europe.

The European Court of Human Rights (ECHR) has made clear that limited force-based definitions offer inadequate protection for women against sexual violence, whereas consent-based definitions are closer to the human rights principle of protecting bodily integrity. The Istanbul Convention states clearly that a non-consensual act of sexual nature is violence and should be criminalised. The consent, and not the use of force, is therefore the key element.

The lack of consent has sometimes also been denounced as difficult to prove and that “may, in practice, result in the secondary victimization of the complainant/survivor by forcing the prosecution to prove beyond reasonable doubt that the complainant/survivor did not consent. In an attempt to avoid such secondary victimization, some countries

have developed definitions of rape which rely on the existence of certain circumstances, rather than demonstrating a lack of consent.” The Istanbul Convention has based its text on this and specifies that *“Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances”*. (Art. 36)

Recording Data

The other important aspect we wanted to monitor is the collection of gender disaggregated data. The European mapping study for EIGE (2011) highlighted the lack of data in general on sexual violence. Knowing that rape is criminalised everywhere in Europe, what do the criminal statistics reveal in terms of victimology - how many women are victims from the rape cases going through the criminal justice system?

From previous research, large scale surveys and the experience of NGOs working with victims/survivors of sexual violence, we know that only a small number of rapes are reported to the police compared to the real numbers of rapes. References at European level indicate that between 2% and 10% of the rapes are reported. Many factors influence the decision to report the crime to the police: fear of re-victimisation, shame, lack of trust in the justice system (fear and belief that it will not bring tangible results), trauma, or the close links with the perpetrator. Studies show that most crimes of rape are committed by persons known to the woman who is raped (members of the family, friends, boyfriends, etc.) and not by strangers, contrary to the myth. In the news, much importance has been given to the phenomenon of “gang rape”, but what do these represent in the overall picture on rape? Preventing rape and sexual violence



presupposes knowledge of the crimes, the circumstances and the perpetrators. Even if we consider only the small percentage of rape cases going through the pipeline of the police and justice system, we also know that all cases are recorded, that profiles of the perpetrators, circumstances of the crime and victims are part of the case files. But is the system producing the relevant data which should be part of comprehensive prevention and protection policies? Again, the Istanbul convention requires state parties to collect disaggregated data regularly (article 11). Data collection aims at raising awareness on the seriousness of the problem, encouraging victims to report the crime, and therefore contributing to national responses for improving prevention. Although the convention leaves open the choice of data categories used, the drafters insist on certain minimum requirements. As a minimum requirement, recorded data on victims and perpetrators should be disaggregated by sex, age, type of violence, the relationship of the perpetrator to the victim, geographical location, as well as other factors deemed relevant, such as disability. We therefore should be better able to know who the victims are and the victims' relationships with their aggressors.

Methodology

The EWL Barometer on Rape is simple. For each country, and based on the evaluation of the experts of the EWL Observatory on VAW, it gives grades on two issues: legislation on rape and data collection.

Most of the countries of the Council of Europe have signed the Istanbul convention and are now in the process of ratification. To give effect to the convention, and by ratifying it, state parties have to respect the standards included in the convention

and possibly change their penal code or measures to be in accordance with the text of the convention. We wanted to know how the countries of the Council of Europe are doing in relation to legislation on rape and data collection and if they are ready to implement the convention.

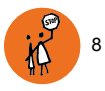
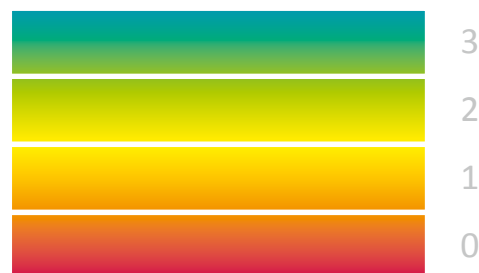
The Barometer delivers two grades for each country: the first grade evaluates the legislation on rape as it is in the text and in relation to the Istanbul convention definition (see box below). The other grade evaluates the data available on women victims of rape.

For the legislation, we have gathered the answers into 4 categories :

The “zero” grade is for the countries which have legislation far from the definition of the Istanbul convention and grade 3 is for legislation doing better than the minimum standards set out in the Istanbul convention, with 2 grades in between.

We encourage you to read the comments which go beyond the simple picture, explaining why the legislation corresponds or not to the Istanbul convention's definition on rape and what improvements are

Legislation



needed, as well as the major concerns for women and women's NGOs related to the implementation or interpretation of the guidance.

For data collection, again we have 4 categories :

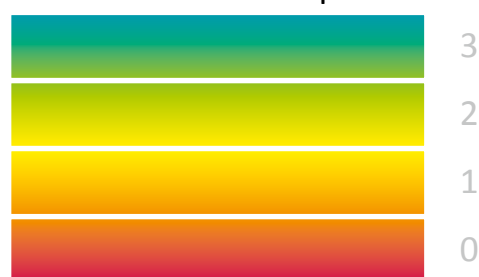
The "zero" grade is given when there is no official gendered data on victims of rape, meaning there is no way to have any idea of the numbers of women victims of rape from reported cases to the police and/or justice system. Grade 1 is given for countries where the police or criminal statistics do not include any gender disaggregated data on victims of rape, but where official surveys are undertaken on crime/security in general or on violence against women, including rape. Those are not always done regularly, but they give gendered information on the experience of women and are generally based on a statistically important sample.

Grade 2 indicates that data on victims of reported rapes are gender disaggregated but they generally give no other information (for instance, nothing about the relationship of the perpetrator and victim).

Finally, grade 3 is the best grade, indicating that the data are gendered and give relevant information such as:

- Marital rapes
- Rape by ex-partner
- Rape by family members
- Rape by other known
- Rape by strangers
- other

Available data on women victims of rape



Main findings of the 2013 Barometer

The Barometer clearly highlights that most of the countries should improve their legislation on rape to include the standards of the Istanbul Convention, as a large majority (21/32) of experts state that their legislation still lacks elements to enable it to correspond to the Istanbul Convention. This is mainly because force or intimidation is still the essential element in determining rape and sexual abuses. In many national legislations, prosecution and investigation depends on the victim's complaint. If the victim refuses to support prosecution, the case will be dropped. The main risk of such a provision is that the victim may waive the complaint under pressure from the perpetrator. Taking this into consideration and taking into account the emotional complexity of criminal proceedings for the victim, including pressure from the perpetrator, the majority of rape cases stay under-reported or do not reach the court.

For six (6) countries (Bulgaria, Hungary, Lithuania, Malta, Serbia, and Ukraine), legislation is far below the minimum standards. Examples of key concerns are the reference to sexual morals in the legislation (Hungary); the definition of rape as a crime against the 'Peace and Honour of Families' (Malta); the possibility for the perpetrator to avoid sanction if he marries the woman before the sentence is carried out (Bulgaria); the lack of criminalization of marital rape (Lithuania).

Only five (5) countries have legislation corresponding to the minimum standards or standards that exceed this minimum.: Ireland, Italy, Turkey, the Netherlands and the UK (Scotland, Northern Ireland and Wales & England).

The low number of recorded cases indicates the inability of the criminal justice system to deal properly with cases involving sexual violence. Legislation is not enough and has to be implemented. This requires an understanding of the phenomenon and the political will to dedicate all the means necessary to ensure justice is reached for the survivors of rape. Experts comment on how the challenge remains getting rape cases to court in the first place. They stress the lack of information available to victims, but also the myths and stereotypes still prevalent, among police, prosecutors and judges. Therefore, women often face additional risk when reporting rape to the authorities, and there is often no guarantee that they will be treated respectfully by the judicial system. Specialised and integrated services for the victims of sexual violence during the criminal proceedings are generally lacking. The lack or non-application of protective measures for rape victims, together with the lack of awareness among law enforcement and legal and judicial personnel endangers the victims' safety and contributes to secondary victimisation. This leads to a low number of cases, with women preferring to hide the fact they have been raped. NGOs working with victims report how they complain about the court proceedings: they are still asked about their sexual preferences, sexual history, possible abortions, drug and alcohol use.



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Available data on women victims of rape is globally extremely poor: with few exceptions, information on women victims for reported rapes is non-existent. The police and judicial systems, when recording the cases, do not publish or even collect gendered data. When data on victims of rapes exist, they mostly are gender blind.

Even in the best cases, official statistics show only a small fraction of the actual prevalence. Many experts highlight that an even larger number of rapes remain unreported because women are afraid to ask for protection, do not know where to go and/or do not believe that the existent legal system is going to protect them. Moreover, gender stereotypes as well as societal expectations with regard to women and men's behaviour (gender roles) can contribute to an atmosphere where date rape is possible and indeed acceptable.

Finally, we have added a question related to **useful contacts for victims/survivors** in each of the countries. By doing this, the lack of these services has once again, become apparent. In the majority of countries (18), there are NO specific services and/or special help lines for women victims of rape. And everywhere, experts denounce short resources dedicated to dealing with this matter, which are insufficient at best and derisory to inexistent at worst. This needs further attention and investment to ensure easily accessible rape crisis referral centres, support and counselling for survivors of rape exist in every country. This is very far from the situation we have right now.

All of the information presented here needs further development. But we are hoping that the EWL Barometer on Rape will be used as a tool to achieve the minimum standards of prevention, protection and justice for women. EWL and the EWL Observatory's actions are intended to contribute to the development of European strategies to combat these widespread violations of women's human rights. The example of rape is taken as representative of acts men use, individually and collectively, to secure their power, maintain control and safeguard their domination over women. It is not enough to be satisfied with strategies which simply address the issue by providing intermediary and incomplete measures. The ultimate objective must be to contribute to a society where male violence is an unacceptable form of behaviour.



EWL Barometer 2013

overview of the grades

Legislation

The Netherlands, United Kingdom	Legislation is better than CoE's minimum standards
Ireland, Italy, Turkey	Legislation corresponds to CoE's minimum standards
Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Latvia, Luxembourg, Macedonia, Poland, Portugal, Romania, Slovenia, Spain, Sweden	Legislation presents some elements defined by the CoE but is lacking others
Bulgaria, Hungary, Lithuania, Malta, Serbia, Ukraine	Legislation does not correspond to CoE's minimum standards



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EWL Barometer 2013

overview of the grades

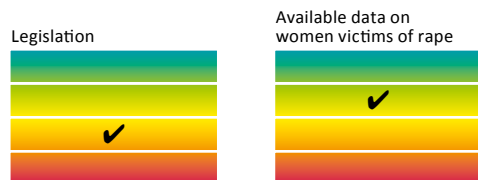
Available data on women victims of rape

	<p>Germany, Slovenia</p>	<p>Official F/M data available with all relevant information</p>
	<p>Austria, Croatia, Cyprus, Denmark, Latvia, Portugal, Serbia, Sweden</p>	<p>Official F/M data available (with or without relevant information)</p>
	<p>France, Iceland, Italy, The Netherlands</p>	<p>Some F/M data available from official surveys</p>
	<p>Belgium, Bulgaria, Czech Republic, Estonia, Finland, Greece, Hungary, Ireland, Lithuania, Luxembourg, Macedonia, Malta, Poland, Romania, Spain, Turkey, Ukraine, United Kingdom</p>	<p>No official F/M data available</p>



NATIONAL ANALYSIS

Austria



Expert
Christiane Ugbor

Legislation

Under the Austrian Penal Code, the definition of rape still includes the use of force (§ 201).

Rape is defined as when a person forces another to perform or undergo coitus or a sexual act equivalent to coitus through violence, deprivation of the person's freedom or threat of body harm or death (§ 89. This offence is punishable by six months to ten years imprisonment. If the act results in grievous bodily harm (§ 84 Abs.1) or pregnancy or if the rape victim is kept in an agonizing condition for a lengthy period or has experienced particular humiliation then the perpetrator must be punished by a term of imprisonment ranging from five to fifteen years. Further, if the act resulted in the death of the rape victim the punishment shall range from ten to twenty years imprisonment.

Source: Jusline Österreich: www.jusline.at/201_Vergewaltigung_StGB.html

Additional comments

Assistance in court proceedings: From 1 January 2006, victims of violence or serious threat of violence or those whose sexual integrity has been violated (e.g. by rape) are, under certain conditions, entitled to claim assistance in court proceedings. While this statutory right applies in cases of deliberate acts, the occurrence of special damage is not a requirement.

Assistance in court proceedings is two-fold ("dual assistance in court proceedings") - first, the provision of psychosocial assistance before, during and after police and judicial questioning, and second, the provision of legal assistance, i.e. legal advice and representation in court by lawyers. From 1 June 2009, the availability of psychosocial assistance in court proceedings was extended to civil proceedings, provided that the latter are related to criminal proceedings. Representation by a lawyer is only

free of charge if - and to the extent that - affected persons are eligible for legal aid.

Victims entitled to claim assistance in court proceedings must be informed about this right upon their first meeting with the police or the court. As a rule, assistance starts when an offence is reported. In exceptional cases it may start even earlier, such as with counselling related to the reporting of an offence. For victims, assistance in court proceedings is invariably free of charge, irrespective of the outcome of the criminal proceedings. In the event of a conviction, the convicted person can be ordered to pay up to EUR 1,000 toward court fees. If the defendant is acquitted, the costs are borne by the state. Experts at Violence Protection Centres/ Intervention Centres against Violence, women's shelters and women's emergency help lines offer free psychosocial and legal assistance in court proceedings for women. (Source: Ministry of Women: www.bka.gv.at)

NGOs, women's shelters and other organisations working with rape victims complain about the lack of initiatives or projects in the area of rape and sexual assault prevention. There are no information materials and myths and stereotypes are still prevalent, even among judges. In rape cases, women victims have to be "trustworthy".

Available data on women victims of rape

The data on relationships between perpetrators and victims of reported rapes show that 32.7% of rapes are perpetrated by a family member, 55.5 % by an acquaintance and 11.8% by persons unknown or unrelated.

Source: Ministry of the Interior, Criminal Report 2011 (BM für Inneres, Kriminalitätsbericht 2011, Statistik und Analyse S. B 23)



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The criminal statistics give gender-neutral data, except when related to the age of victims. Of a total of 858 victims, 96% (824) were women and 4% (34) men.

Age of Victims (M: male, F: female)

Rape	14-18		18-21		21-25		25-40		40-65		65-Older		Male	Female	Persons
	M	F	M	F	M	F	M	F	M	F	M	F	Sum	Sum	Sum
	6	173	8	126	8	142	5	247	7	128	–	8	34	824	858

„Source: Ministry of the Interior, Criminal Report 2011 (BM für Inneres, Kriminalitätsbericht 2011, Statistik und Analyse S. B 20)

The Austrian Prevalence Study of Violence on Women and Men published by the Austrian Institute of Family Research (ÖIF) in 2011 states that 20% of people experience severe sexual violence. In addition, 29.5% of women are victims of sexual violence, and a quarter of these are victims of rape.

In addition, there are only two representative studies about criminal prosecution of rape and sexual assault in Austria (vgl. Breiter 1995; Kelly/Seith 2009). Although, there is a 20 year gap between the two studies, the results are strikingly similar. The 2009 study showed that in Austria less than 10% of rapes are reported to the authorities and less than 20% of reported rapes lead to criminal convictions.

Sources: *Österreichisches Institut für Familienforschung (2011): Gewalt in der Familie und im sozialen Umfeld. Österreichische Prävalenzstudie zur Gewalt an Frauen und Männern.*

Kelly, Liz; Seith, Corinna (2009): Different systems, similar outcomes. Tracking attrition in reported rape cases in 11 countries. Europäische Projektstudie.

Breiter, Marion (1995): Vergewaltigung. Ein Verbrechen ohne Folgen? Wien. Verlag für Gesellschaftskritik.

It seems that Austrian ministries are more interested in collating data on rape and sexual assaults involving

Austrians and foreigners than those involving only Austrian men and women. The reports show a lot of work on which foreigners from which countries are involved in these two issues (rape/sexual assault), while data about the female aspect is very limited.

Useful Contacts

Free women's helpline (tel.: 0800/222 555), offers advice in various languages and refers callers to the nearest specialised facility.

Women's emergency help lines are available in the event of rape, and Violence Protection Centres/ Intervention Centres have been set up to provide help in violent situations occurring in families and/or the social environment.

www.gewaltschutzzentrum.at

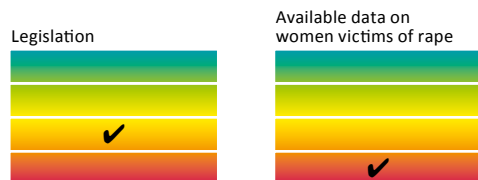
Women's shelters provide safe accommodation for women and their children who are at risk of or affected by violence. www.aoef.at/cms

Further addresses and contacts for Wave other networks and women's shelters are available on www.bka.gv.at



NATIONAL ANALYSIS

Belgium



Expert

Irène Balcers

Legislation

Rape is defined in Article 375 of the Belgian Criminal Code (1989) as ‘any act of sexual penetration committed on a person who does not consent. Consent is deemed to be absent when the act is imposed by means of violence, force or by a trick, or if the victim is suffering from a physical or mental disability.’

Sexual intercourse with a child under 14 years is statutory rape, because of an irrefutable presumption of lack of consent.

The 1989 Criminal code also introduced the concept of rape within marriage.

In the Belgian Criminal Code this is referred to as ‘sexual or indecent assault’ but there is no clear definition of which acts are covered by these terms. There is some consensus (among the police and the judiciary) that these terms refer to “an act which constitutes an assault on the sexual integrity of a person, committed on or with the help of a living person, without consent and with the aim of committing an act of indecency, with the exception of rape.”

Sexual acts with a person other than the partner but committed in his/her presence and with his/her consent are qualified as sexual offences. Sexual acts with more than two people, or in front of third parties, sadomasochism, bestiality, urolagnia and coprophagia are also considered sexual offences.

Inter alia the following acts are prohibited:

- favouring or facilitating sexual acts (1995 Law on Human Trafficking)
- recruiting, accompanying or retaining persons (1995 Law on Human Trafficking)
- running a house of prostitution or debauchery (1995 Law on Human Trafficking)
- selling, renting or providing a space in which sexual offences happen (1995 Law on Human Trafficking)
- any form of sexual exploitation (1995 Law on Human Trafficking)

- enabling the debauchery or prostitution of a minor by offering or promising a material or financial advantage (2000 Law on Human Trafficking)
- advertising services of a sexual nature (1995 Law on Human Trafficking)

In the content of ‘sexual or indecent assault’ in the Criminal Code (see 1 b): this definition should include the notion of ‘indecent assault without violence or threat **to an adult**’. Such an amendment in the Criminal Code would meet the needs of victims of inappropriate behaviour and acts of sexual abuse (excluding rape) by professionals who by their role are always in a dominant position towards the patient or client

The possible consent of the minors or the adults involved in these sexual acts does not prevent their labelling as criminal acts. These acts are punishable even when the perpetrator does not use coercion.

Heavier penalties are imposed when the perpetrator makes direct or indirect use of cunning tricks, violence, threats or any other form of coercion or abuses the particularly vulnerable position in which a person is as a result of an illegal or precarious administrative status or due to pregnancy, illness or a physical or mental disability.

Additional comments

A ‘Set of sexual aggression’ (a rape kit) is made available to the police which allows them to collect DNA materials from the perpetrator. However this is not systematically or adequately used (it should be used in the 72h after the aggression), nor are the results always properly analyzed.



More awareness training should be provided for judges, as well as a special checklist for judges on this issue, as there is a lack of coherence in the verdicts of rape cases.

There is also need for more training of professionals who may have to deal with victims of rape and perpetrators.

Available data on women victims of rape

In 2011 the Belgian Institute for the Equality of Women and Men published a second report on 'Women and men in Belgium' with some general data on gender related violence, and focus on partner violence (pp. 271 – 297).

This report indicates that according to the information in a 2008 police report women represented 87% of victims of rape and 89% of collective rape, but there is no link with actual numbers.

In 2011 the public prosecutor recorded 4,038 reported rapes, an increase of 20% compared to 2009. That is an average of 11 rapes a day!

The crucial problem is that gender-based statistics are not systematically provided. The available administrative data on victims and perpetrators (police reports; figures from the prosecutors on intake and outtake; number of convictions) are not gender differentiated. The same remark applies to administrative surveys.

There are no figures available on rape by partners or ex-partners: although it is stated in the Criminal Code gender of perpetrators and victims is not systematically recorded in police reports.

The following figures are published in a survey of the Belgian Institute 'Les expériences des femmes et des hommes en matière de violence liée au genre' (Experience of men and women in gender based violence) :

Relation victim / perpetrator, as identified for the most serious act according to the victims (N=828), in % (table 40)

	Women	Men	Total
Partner	30,8%	5,7%	17,5%
Family	27,4%	16,2%	21,5%
Acquaintance	11,3%	15,8%	13,6%
Work	17,2%	21,9%	19,7%
Unknown	13,3%	40,4%	27,7%

Useful Contacts

In the Flemish community:

- helpline number 1712 : www.1712.be
- specialised centres : CAW (www.caw.be); SENSOA (www.sensoa.be)

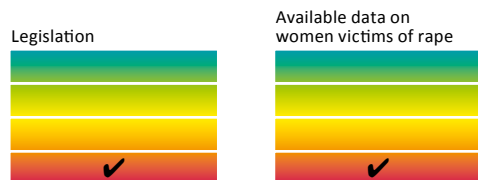
In the French community:

- SOS Viol: www.sosviol.be



NATIONAL ANALYSIS

Bulgaria



Expert
Iliana Stoycheva

Legislation

The Bulgarian Penal Code defines a more severe penalty for a person 'who commits an act in order to arouse or satisfy sexual desire without copulation' when it relates to a person under 14 years of age (Art. 149) than for a person who is 14 years or older (Art. 150).

Specifically, Article 152 defines the penalty for rape of a female:

Art. 152. (1) Someone who copulates with a female person:

1. who is unable to defend herself and without her consent;
 2. by compelling her by force or threat;
 3. by rendering her helpless;
- shall be punished for rape by a term of imprisonment of two to eight years.

(2) The penalty for rape shall be imprisonment of three to ten years:

1. if the rape victim is under 18 years of age;
2. if she is a descending kinswoman;
3. if it is a second offence;
5. if it demonstrates dangerous recidivism.

(4) The penalty for rape shall be imprisonment of ten to 20 years:

1. if the rape victim is under 14 years of age;
2. if severe bodily harm has been caused;
3. if a suicide attempt has followed;
4. if it represents a particularly severe case.

Article 153 defines rape. Someone who forces copulation on a female by using her material or employment dependence on him shall be punished by imprisonment of up to three years.

Art. 158. In the cases of art. 149 - 151 and 153 the perpetrator shall not be punished or the stated penalty shall not be imposed if the man and woman get married before the sentence is carried out.

Additional comments

In the Bulgarian Penal Code, there is no explicit definition of rape as there is in the Istanbul Convention (engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object).

Marital rape is not criminalised, even under Art. 149 (regarding a person under 14) **as long as there is a marriage** between the man (perpetrator) and the woman (victim of rape) (art. 158)

Under the current judicial system, investigation and prosecution depend on a victim's statement when there is no other/or very little material evidence.



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Available data on women victims of rape

In general, the Bulgarian government does not produce data on female victims of rape and there aren't many studies on sexual violence. There is one recent sociological study carried out by the Alpha Research Agency – a private agency. The research, published in 2012, shows that between 100,000 and 250,000 Bulgarian women (11% of all Bulgarian women) are sexually abused. In 80% of cases, the assailant is an acquaintance of the victim. Bulgarian women are embarrassed to talk about sexual violence. Among teenagers between 14 and 18 years of age, there has been an increase in date rape. The data compiled by Alpha Research shows that only half of the respondents consider rape a critical issue. Despite the frequent and often severe cases of sexual harassment, there is no specific State policy on this issue and no mechanism for facilitating the access of women to counseling and to justice. With the exception of a few NGO projects and programs offering counseling and legal aid for women, the State provides no other measures.

Most of the few studies done focus on child sexual abuse at residential institutions (see, for example: www.sapibg.org/attachments/article/1223/Narrative_Repor_BG_ENG_Desk_Review.pdf)

Useful Contacts

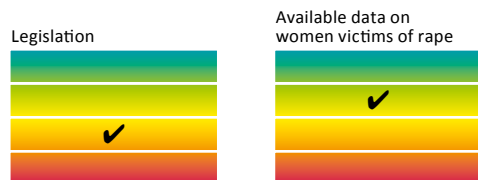
24-hour hot line for victims of violence, including sexual abuse – 02 9817686

Contacts for organizations providing services to the victims of domestic and/or sexual violence, and publications for the victims are available at <http://nasilie.eu/>



NATIONAL ANALYSIS

Croatia



Expert
Nela Pamukovic

Legislation

The new Croatian Penal Code (introduced in January 2013) made some changes towards harmonisation with the Istanbul Convention, though some elements are still lacking, as follows:

Within the text of the articles concerning rape (art. 152, 153, 154), there is no explicit explanation such as the one in the CoE Convention (engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object). Instead, the comments on Article 152 'Non-consensual sexual intercourse' in a special edition of the Penal Code explain what is considered to be non-consensual intercourse. The comments state that "a sexual act of equal qualification" is considered to be vaginal, anal or oral penetration with a bodily part or object.

Rape is still defined by the use of force:

Rape (Article 153)

(1) Whoever commits a criminal offence under Article 152 paragraph 1 of this Code by using force or threatening to attack the life or limb of the person concerned or a third party, shall be sentenced to imprisonment for a term of one to ten years.

(2) A perpetrator who was mistaken as regards consensus under paragraph 1 of this Article, shall be sentenced to imprisonment for a term of six months to five years.

The Penal Code defines also aggravating circumstances for acts qualified as "non-consensual intercourse" or rape (against a family member, a particularly vulnerable person, motivated by hatred, etc.)

In the current judicial system investigation and prosecution depend on the victim's statement when there is no other/ very little material evidence. With regard to marital rape, a woman may choose not to testify out of fear, leading to the dismissal or suspension of proceedings.

Available data on women victims of rape

The Croatian Bureau of Statistics has been publishing a brochure on *Women and Men in Croatia* annually since 2006. This provides data in Croatian and English. The statistics below are from the 2013 edition for 2012 (page 52) (www.dzs.hr/Hrv_Eng/menandwomen/men_and_women_2013.pdf):

Victims of criminal offences against sexual freedom and morality, by type of criminal offence, 2012. Data refer to criminal offences reported to the police.

Source: Ministry of the Interior:



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Sex distribution%

	Total	Women	Men	Women	Men
Total:	568	511	57	90,0	10,0
Rape	81	76	5	93,8	6,2
Sexual intercourse with a helpless person	12	10	2	83,3	16,7
Sexual intercourse by abuse of position	10	10	–	100,0	0,0
Sexual intercourse with a child	71	63	8	88,7	11,3
Lewd acts	195	178	17	91,3	8,7
Satisfying lust in front of a child or a minor	63	49	14	77,8	22,2
Panderin	44	44	–	100,0	0,0
Abuse of children or juveniles in pornography	35	30	5	85,7	14,3
Introducing pornography to children	16	11	5	68,8	31,3
Child pornography on computer system or network	30	29	1	96,7	3,3
Incest	3	3	–	100,0	0,0

The Ministry of the Interior, Department for strategic planning, analysis and development, provides additional information in its annual report Overview on Basic safety Indicators and the Work Results in 2012, Zagreb, January 2013 (page 24). (www.mup.hr/UserDocImages/statistika/2013/statistika_2012_3.pdf)

Useful Contacts

Women's Council Centre
0800 55 44
azkz@zamir.net
www.azkz.net/index.php?id=13

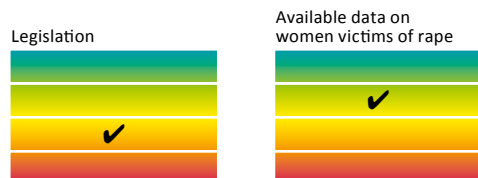
Centre for Women War Victims - ROSA
08007799
cenzena@zamir.net
www.czzzr.hr

Women's Room
01/61 19 444
savjetovaliste@zenskasoba.hr
www.zenskasoba.hr



NATIONAL ANALYSIS

Cyprus



Expert
Susana Pavlou

Legislation

Rape, including marital rape, is punishable by law with a maximum sentence of life in prison and for attempted rape 10 years in prison. The Violence in the Family Law L. 47(I)/1994 recognises rape within marriage.

Punishments for rape and other sexual offences defined by Cyprus Criminal Law are very strict on paper but in reality very few cases of rape proceed to trial.

Section 144 of the Criminal Code CAP.154 states that “Any person who has unlawful carnal knowledge of a female, without her consent, or with her consent, if the consent is obtained by force or fear of bodily harm, or, in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape.”

Section 145 of the Criminal Code CAP. 154 states that “Any person who commits the offence of rape is liable to imprisonment for life.”

Section 146 of the Criminal Code CAP. 154 states that “Any person who attempts to commit rape is guilty of felony, and is liable to imprisonment for ten years.”

Section 153 of the Criminal Code CAP. 154 (“Defilement of girls under thirteen (13) years of age”) states

that “(1) Any person who unlawfully and carnally knows a female under the age of thirteen (13) years is guilty of a felony and is liable to imprisonment for life” and “(2) Any person who attempts to have unlawful carnal knowledge of a female under the age of thirteen (13) years is guilty of a misdemeanour and is liable to imprisonment for three years.”

Available data on women victims of rape

The relationship between offender and victim is not specified.

The data available from Government sources is very limited. It refers to **reported** sexual offences (see link below) and falls under the general category of ‘serious crimes’.

Data is disaggregated by sex in the police administrative data system both for victims and for perpetrators of sexual offences. The data that is publicly available is simplified to only number of reported etc. without details but is available on request.

[www.police.gov.cy/police/police.nsf/All/93254FC38F3C8CA1C22579F40021BEFD/\\$file/sovaroeglimagr.pdf](http://www.police.gov.cy/police/police.nsf/All/93254FC38F3C8CA1C22579F40021BEFD/$file/sovaroeglimagr.pdf)



CRIME	2009			2010			2011		
	Reported	Detected	%	Reported	Detected	%	Reported	Detected	%
Rape	27	22	81,5%	36	28	77,8%	38	31	81,6%
Attempted Rape	3	3	100%	2	1	50,0%	2	2	100,0%

*Note that the term ‘detected’ means that the police investigation led to a positive identification of the perpetrator. It does not reflect conviction rates.

Additional comments

Rape and sexual violence are among the most severely underreported forms of violence in Cyprus, as elsewhere in Europe. Although it is difficult to make country comparisons in rates of reported rape as these only make sense when linked to size of population, the figures suggest that Cyprus has a particularly low reporting rate along with other countries such as Ireland, Turkey, Malta, Italy and Hungary. From the available figures one can also note that although there are variations year on year, there is a shocking trend of increased reporting rates over the time period 1990-1996 with an increase of 361% and from 2000-2003 with an increase of 195%. There seems to have been a downward trend from 2004 to 2007 (41 reported in 2004 and only 19 in 2007) with numbers increasing again in 2009 (27 cases), 2010 (36 cases) and 2011 (38 cases). Despite the increase in reporting rates, when one compares figures for Cyprus with the European mean, reporting rates are still very low indeed. Furthermore, despite the increasing reporting rate there is a very low conviction rate with a 0.3 rate per 100,000 in 2003 and the respective rate for 2007 at 0.6, with the European mean for the years 2003-2007 between 1.7 and 2.0 per 100,000.

In 2008 the Mediterranean Institute of Gender Studies (MIGS) carried out a national study on date rape cases among young women. The study of 500 female students in tertiary education aged 18-24 revealed that although the date rape attempts (1.3%) and date rape cases (1.9%) percentages seemed to be small in this study, 12.2% of women who answered the questionnaire claimed to have had an 'unwanted sexual experience'. Of this number, the majority claimed to have given in to sexual acts due to overwhelming

pressure by their partners and fear of their partners leaving them if they did not consent. The inconsistency between the numbers of reported rapes and attempted rapes with 'unwanted sexual experiences' could be due to women not recognizing rape as such. This assumption is consistent with the focus group discussions that were part of the study which demonstrated that women still hold traditional beliefs that reinforce patriarchal attitudes toward women and sexuality. The focus group discussions confirm that gender stereotypes as well as societal expectations with regard to women and men's behaviour (gender roles) can contribute to an atmosphere where date rape is possible and indeed acceptable.

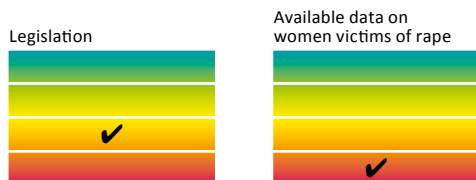
Useful Contacts

There are no rape helplines, rape crisis centres, or specialized resources for rape or sexual assault in Cyprus. Victims can contact the Association for the Prevention and Handling of Violence in the Family helpline at 1440 (free of charge) or contact the Police at 119/112.



NATIONAL ANALYSIS

Czech Republic



Expert

Jitka Polakova, with the help of Adriena Budinova

Legislation

On 1 January 2010, a new Penal Code No. 40/2009 Coll took effect, which replaced the old Act, No. 140/1961 Coll., the Penal Code. Section III covers “offences against human dignity in the sexual area”.

Rape is defined in § 185 as a criminal offence committed by a person who by violence, by threat of violence or by threat of other severe injury, forces sexual contact on anyone, or commits such an act on a defenceless person.

A new § 185 (compared with the old Penal Code) will also include in the crime of rape acts which previously qualified as extortion. This was achieved by removing the condition calling for the threat to violence to be immediate and by expanding the scope of the law to include the threat of another severe injury and by expanding the law to include as a crime all forms of sexual contact (previously only coitus, like sexual intercourse).

The new Penal Code distinguishes among:

- a) sexual intercourse
- b) coitus and
- c) other sexual intercourse comparable with coitus

Within the law, **sexual intercourse** as a more general term includes any kind of satiation of sexual instinct on the body of another person (e.g., genital touching). **Coitus** means conjunction of the genital organs, therefore, **sexual intercourse comparable with coitus** includes cases where the genital organs make contact but don't join,, as well as cases of anal and oral sex. The conditions for rape can also be met by using the **defencelessness** of the victim in cases of unwanted sexual intercourse (a child's youth is also seen as a state of defencelessness, and takes account of the fact that the child is able to identify and evaluate the reasons for rejection of a sexual contact). Rape of a child (a person under the age of 18) results in a higher penalty (paragraph. 2). However, when a child is under 15, the act results in an even more severe criminalisation and penalty (paragraph 3).

A new criminal offence in § 186 of the new Penal Code is **sexual coercion**. It states that:

1. A person who by violence, threat of violence or threat of other severe injury engages in sexual self-abuse, stripping or other comparable action, will be punished by six months up to four years' imprisonment or prohibition of activity. (2) The same punishment exists for those who force another person to engage in sexual intercourse, sexual self-abuse, stripping or other comparable conduct by abusing his or her addiction, defencelessness or position § 187 also includes an offence of **sexual abuse** when the victim is a child under 15 years.



Additional comments

The insufficient protection of the victim in criminal proceedings has an especially negative impact on victims of violent crimes.

Another barrier to addressing interpersonal violence lies in the requirement of victim's consent with criminal proceedings. If the perpetrator is the husband/wife, a domestic partner or another close relative, the prosecution of certain crimes cannot start or sometimes cannot continue without the consent of the victim. In the past, the victim's consent was necessary for the prosecution of rape per Sec. 241 (1) and (2). Today it is required in cases of sexual coercion according to Sec. 186 (1) and (2), but also for some offences of bodily harm and the offence of stalking. Even though at first sight this provision seems to afford autonomy to the victims and respect for their right to decide about the course of the prosecution, in reality it burdens the victims with the responsibility for prosecuting a close person and exposes them to pressure under which they often revoke their consent. (A consent once revoked cannot be granted again).

The legislators have tried to address this issue by adopting Section 163 a that allows exceptions in situations where the victim gives or withdraws consent under obvious pressure or threat, or if she clearly acts from a subordinate or dependent position.

How far this provision really protects the victims who are under the pressure of their abusers is questionable.

Available data on women victims of rape

The research suggests that sexual violence is among the least reported crimes, although, with the exception of murder, rape is considered to be the most painful crime. Official statistics are accompanied by high latency (concealing and hiding offences).

In the Czech Republic one to two rapes per day are officially recorded – it is assumed that rape is reported in only 8% of the cases (and rape occurring in the context of family and partnership, is reported only in 3% of cases).

Sexual violence affects up to 25% of women and 6-10% of men within their lifetime--official statistics show only a fraction of the actual incidences.

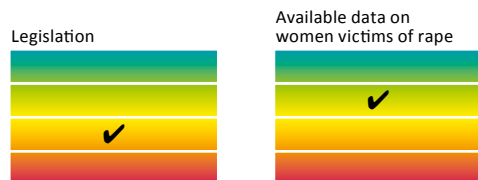
Useful Contact

PERSEFONA, o.s. help line +420. 545 245 996,
+420. 737 834 345



NATIONAL ANALYSIS

Denmark



Expert
Mette Holm Velsing

Legislation

The Danish Penal Code has some elements complying with the Istanbul convention but presents some differences and elements to improve:

Point a: In the Danish penal code (§ 216) the word “intercourse” is used as the basic term for sexual penetration, whereas the convention has a more specific description: “vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object”.

In relation to point b “*engaging in other non-consensual acts of a sexual nature with a person*”, the Danish penal code is compliant (§ 225), stating that the law can be applied in cases of other forms of sexual act (meaning other than intercourse).

The Danish penal code does not include point c: “*causing another person to engage in non-consensual acts of a sexual nature with a third person*”. Danish law only refers to the involvement of a third person in a sexual act in relation to pimping (§ 228, § 229)

The Danish penal code also specifies that it is a criminal act to force sexual intercourse on a person who is disabled, mentally ill or unable to prevent the intercourse (§ 218) and that rape can also take place in cases where victim and perpetrator are of the same sex (§ 225)

Generally speaking the Danish penal code is very old and the Government is planning a revision. The issue of consent in place of force or threat should be integrated more clearly.

Available data on women victims of rape

Regarding official statistics on rape, Statistics Denmark regularly provides figures on criminal offences: www.statbank.dk/statbank5a/default.asp?w=1280

The website is in English. Under living conditions/criminal offences it is possible to get data on reported sexual offences, convictions, etc., not disaggregated by gender.

The national statistics for reported crimes do not include the relationship between the victim and the criminal but give sexually disaggregated data on victims. In 2012, there were 381 cases of rape reported in Denmark (373 women and 8 men). <http://dst.dk/en/Statistik/emner/kriminalitet/ofre-for-anmeldte-forbrydelser.aspx>

There are five regional health centres for victims of rape and sexual assaults and they make yearly reports, though these are not nationally coordinated. These include cases (both reported to police and not reported) under the following three categories:

- Rape by partner or former partner
- “Contact rape” – where the victim and criminal had contact before the rape. It could be a friend, neighbour, college, client or somebody the victim met at a bar/restaurant or on the internet.
- Rape by an unknown person

National reports based on these data are not made regularly.

Here is the link to the latest report from The Centre for Victims of Sexual Assault in Copenhagen (only available in Danish):

www.rigshospitalet.dk/menu/AFDE-LINGER/Enheder+paa+tvaers/Center+for+Seksuelle+Overgreb/Unge/%C3%85rsrapport.htm

According to the report, the Copenhagen centre had 283 cases in 2011 – 276 women and 7 men.

The Crime Prevention Council in Denmark collates statistics based on data from the rape centres and police. They estimate that:

- 2,000 rapes are committed in Denmark every year.
- 500 cases are reported to the police.
- In 300 cases charges are brought.
- In 150 cases there is a conviction.

Useful Contact

Centre for victims of rape:

Center for Seksuelle Overgreb
Rigshospitalet
Blegdamsvej 9
2100 Copenhagen Ø
Denmark

Email: cso@rh.regionh.dk

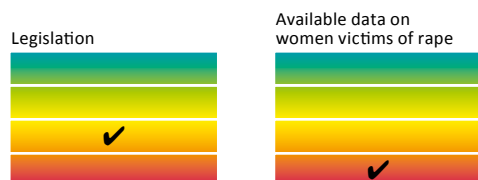
Phone: +45 35453984 or +45 35454085

www.rigshospitalet.dk/menu/AFDE-LINGER/Enheder+paa+tvaers/Center+for+Seksuelle+Overgreb



NATIONAL ANALYSIS

Estonia



Expert
Eha Reitelman

Legislation

The sections of the Penal Code addressing sexual violence use the words “against his/her will”, however, all these sections contain additional prerequisites necessary for creating a specific criminal offence. These include, for instance, use of force, taking advantage of a situation where the victim is helpless (not capable of initiating resistance) or dependency of the victim on the offender.

Regarding rape, the old definition is still used. It makes reference to the use of force or taking advantage of a situation (in which the victim is not capable of initiating resistance). In principle, § 141 also covers marital rape.

Penal Code : Offences against Sexual Self-determination

§ 141. Rape

(1) Sexual intercourse with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation is punishable by 1 to 5 years’ imprisonment.

The Penal Code has more severe penalties (6-15 years’ imprisonment) when rape is committed against a minor (less than 18 years), when the consequences cause “serious damage”, or the death or suicide of the victim, when rape is committed by two or more persons or in cases of recidivism.

Additional Comments

With regard to the implementation of the law, there are serious problems in many cases, including providing proof of rape, especially in marital rape cases where there is little evidence apart from the testimony given by the victim.

The procedure can create serious trauma for the victim, especially concerning the trial. The victim has the right to refuse to testify against a family member. Case law can be extremely varied. Given this, women frequently decide not to file complaints or press charges and these rape cases go unnoticed by law enforcement authorities.

In principle, the victim can apply for compensation based on the Victim Support Act if he/she sustains serious damage to his or her health, or in case of incapacity to work lasting more than six months. The victim will be compensated for 80% of the cost of medical treatment, necessary appliances, costs related to incapacity to work, and damage arising from the death of the victim. The maximum compensation rate is 9590 Euros for a single victim. This is mostly used for psychological counseling (under the cost of medical treatment).



Available data on women victims of rape

No statistics on women victims of rape are available in Estonia.

Statistics Estonia publishes crime statistics which are not disaggregated by gender; statistics are provided on registered cases of rape over several years.

http://pub.stat.ee/px-web.2001/I_Databas/Social_life/07Justice_and_security/03Crime/03Crime.asp

2012: 143 rapes

2011: 91

2010: 81

2009: 124

2008: 160

The website of the Ministry of Justice provides data (in Estonian) on registered crime, without mentioning the sex of the offender and the victim.

www.just.ee/30140

Useful Contacts

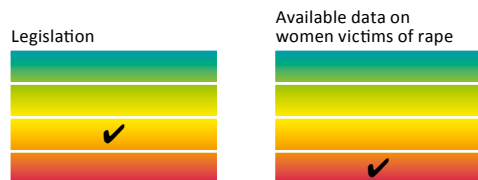
There are no specialised services for women victims of sexual violence.

Women's shelters (the contact data for which can be found at <http://naisteliin.ee/>) and the 1492 hotline also provide assistance for all victims of violence against women, including sexual violence.



NATIONAL ANALYSIS

Finland



Expert
Pirjo Pehkonen

Legislation

In Finland, the law presents some elements of the Istanbul Convention but is lacking others. Finnish law includes points 1a and 1b from the Council of Europe definition but is lacking points 1c and 2.

The **main faults** in our present legislation are the following:

1) Rape crimes are still defined by the **use of violence or threat of it**. The word consent is not mentioned in the law at all.

Rape categorization: there are three categories of rape which are determined according to the severity of the physical violence used by the perpetrator. Categories are rape, aggravated rape and **coercion into sexual intercourse**. The last one is also known as “lesser degree rape” in everyday use of language.

2) The category of “lesser degree rape” is very problematic. The main problem is the definition (violence, threat of violence). If the violence or threats used were slight and if there were mitigating circumstances when the act is assessed as a whole, the crime committed is coercion into sexual intercourse. Secondly, the elements in this category are unclear and may result in very different rulings. It seems that no-one knows what kinds of acts are actually meant by this definition. There are no examples in the preparation papers of this law. This uncertainty may also lead to situations where more severe acts are ruled as “lesser degree rapes”.

3) Coercion into sexual intercourse (“lesser degree rape”) is a **complainant offence**. The police do not start a preliminary investigation unless a victim demands punishment for the perpetrator. A victim of rape can also exercise her “free will” and ask the prosecutor not to prosecute. Therefore victims are exposed to threats and offer to participate in mediation.

4) In Finnish law it is also possible to **mediate** sexual and intimate partner violence. Victims are often not even aware that they may refuse when the police ask if they are willing to participate in mediation.

(Sources: Finnish Penal Code, Rape Crisis Centre Tukinainen and Case Closed, Rape and Human Rights in the Nordic Countries, report by Amnesty International, 2010)

Available data on women victims of rape

The Finnish government does not produce data on rape on a regular basis. The Statistic Finland research institute produces statistics on “family violence” and that includes rapes perpetrated by cohabiting people or close relatives. Specific information on women victims of rape can be found only from separate studies. The latest one is by Kainulainen, Heini (2004) *Raiskattu? Tutkimus raiskausten käsittelymisestä rikosprosessissa. (Raped? A study on how rape crimes are treated in juridical procedure)*. It is not available in English, but a summary is available here: www.optula.om.fi/en/Etusivu/Julkaisut/Kriminologisentutkimusyksikonjulkaisut/1215523702525



By way of illustration, statistics in 1997 show that 468 rapes or attempted rapes were reported to the police, whereas only 47 rape charges were made during that same year. This means that merely 10% of the rapes reported to the police led to a prosecution.

According to the material assembled for the period 1998–1999, some 1,000 cases of rape or attempted rape were reported to the police.

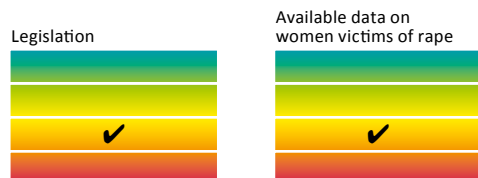
Useful Contact

Rape Crisis Centre Tukinainen Free helpline,
Tel. 0800-97899
www.tukinainen.fi



NATIONAL ANALYSIS

France



Expert

Marie-Gabrielle Campana-Doublet

Legislation

a) Article 222-23 of French penal code defines rape as: “Any act of sexual penetration, of whatever nature, committed on the person of another by violence, constraint, threat or surprise is a rape.” In the absence of aggravating circumstances (such as rape committed on a vulnerable person, by an influential person, by several persons, etc), the punishment incurred is **15 years’ imprisonment**.

These articles of law (written in 1980) include the notion of violence, constraint, threat or surprise in the constituent elements of the legal offence; with any one of these circumstances being enough to characterize the infraction.

b) Sexual assaults other than rape are defined in articles 222-22 and 222-27 of French penal code: “Any sexual infringement (achievement) committed with violence, constraint, threat or surprise constitutes a sexual assault.” In the absence of aggravating circumstances, the punishment incurred is 5 years’ imprisonment.

However, the law contains no reference to the consent of the victim or its proof, which should be added to be in accordance with article 36, paragraph 3 of convention of the Council of Europe of April 7, 2011.

Marital rape as aggravated rape: If the perpetrator of the crime is the husband (or ex) or partner linked by a “civil partnership” [French PACS] (or ex) of the victim, this constitutes an aggravating circumstance. The rape is then liable to a penalty of **20 years’ imprisonment**.

Implementation of criminal pursuit: It is not compulsory for the victim to make a formal complaint to the police or gendarmerie; the Public Prosecutor, when informed about the facts, activates a public action and appoints an investigating judge.

Additional comments

Serious problems and deficiencies in law enforcement: Many cases do not end up in Penal Court but are often dismissed (*sans suite*) mainly because of the predominance of stereotypes about rape in the judiciary. Social services do not have the means to help the victims effectively.

- Too many rape cases are sent to the Court of Summary Jurisdiction (or Magistrates’ Court) and therefore not judged as crimes in front of a Criminal Court but as simple sexual offences in front of a Magistrates’ Court.
- Compensation of victims is largely insufficient and does not take into consideration all the expenses generated by the crime.



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Available data on women victims of rape

The figures are in principle published every two years by the administrative authorities from official surveys.

Sources :

- *INSERM INED (National Institute on Public Health and National Institute for Demographic Studies*
- *INSEE, Institut national des statistiques*
- *OND, Observatoire national de la délinquance*

One major survey on violence against women was published by the National Institute of Demographic Studies (INED) national survey on violence against women in France (Enveff) conducted in 2000. However, other, more general surveys also provide statistical data on this theme: the investigation, "Quality of Life and Security" conducted since 2007 by the National Institute of Statistics and Economic Studies (INSEE), notably in partnership with the National Observatory of crime and criminal responses (ONDRP)-the survey "Context of sexuality in France" (CSF) in 2006 conducted by INED in collaboration with INSERM .

Latest figures given by official sources :

- *6.8% forced sexual intercourse on women between 20-50 years old (2007 CSF by INSERM-INED)*
- *75 000 rapes or forced intercourse on women between 18-75 years old (2007-2008 CVS by INSEE-OND)*
- *198 000 women between 18-59 years old are victims of actual rape or attempted rape (2005-2006 CVS by INSEE-OND)*

The National Observatory of crime and criminal responses undertakes regular surveys. In 2012, the ONDRP based its data on a sample of 13.358 persons. 7.463 women answered the questions on victimisation and the figures on sexual violence, rapes and attempted rapes in 2010-2011 reveal that the number of women victims is estimated at 168.000 for these 2 years.

Source: www.ladocumentationfrancaise.fr/rapports-publics/124000623/index.shtml

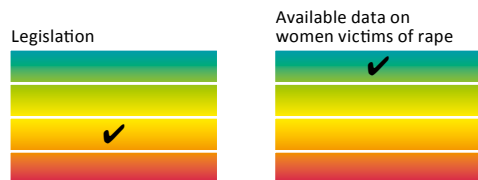
Useful Contact

Collectif féministe contre le viol (Specialized resource) Helpline number: 0800 05 95 95
9 Villa d'Este 75013 PARIS France
TEL : +33 1 45 82 73 00
Mail : collectiffeministe.contreleviol@wanadoo.fr
Internet : www.cfcv.asso.fr



NATIONAL ANALYSIS

Germany



Expert

Mona Kuepers, with the help of Birte Rohles
(Terre des Femmes)

Legislation

Following the Istanbul convention, consent to a sexual act must be given “voluntarily as a result of the free will of the person”. As it is further outlined in the Explanatory Report, prosecution of this offence requires a contextual assessment of the evidence “to establish on a case-by-case basis whether the victim has freely consented to the sexual act performed. Such an assessment must recognise the wide range of behavioural responses to sexual violence and rape which victims exhibit and shall not be based on assumptions of typical behaviour in such situations” (Point 192)

The German criminal law does not correspond to the convention on this point. Currently, a clear “no” is not sufficient. There is still a need to prove coercion, the use of violence, the threat of danger to life or limb or taking advantage of a “vulnerable position”. If the victim has been paralysed by fear and / or didn't resist „enough“ (from fear), then it is often not rated as being submitted to “coercion”. For example, it is not considered a vulnerable position when the rape took place in a house where the victim could have run away or called for help.

The jurisdiction of the courts has adopted a definition that is even more restrictive regarding the “vulnerable position”. The victim must be defenseless to an objective viewpoint of the potential violence of the perpetrator. The subjective views of those affected, possibly crippling fear of impending rape, is often considered irrelevant.

The typical behavioral responses to sexual violence include being paralysed with fear, and the non-physical defence, and therefore must be considered according to the Istanbul Convention when assessing the sexual assault and rape. German criminal law should consider the criminal nature of rape not only in cases of force and coercion depending on a reaction characterised by defence/escape of the victim but also on clear consent.

Available data on women victims of rape

Three State agencies publishing data on sexual crimes:

1. Federal Criminal Police Office (reported cases)
2. Prosecution (prosecuted cases)
3. Penal system (convictions)

Easily available data of reported cases refers to the whole group of offences against sexual self-determination including sexual child abuse, distribution of child-pornography and so on. It is not possible to identify any specific type of offences among this data.

Data of prosecution cases and convictions are also available, but come from different sources and do not use the same categories. It is not possible to analyse the progress of prosecution (attrition) for one single offence (e.g. rape).

For example: the statistic of reported cases is about rape and sexual assault / coercion. The statistic from prosecution office is about the whole group of sexual crimes (also against children). Therefore these two data sets cannot be compared.



There are about 8000 reported sexual violence crimes annually. The number of unreported cases is much higher: only 8 per cent are reported to the police (source: *Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland. Kurzfassung der Untersuchung von Schröttle und Müller, hg. von Bundesministerium für Familie, Senioren, Frauen und Jugend. Berlin 2004, S. 19*).

The official crime statistic has recently improved its data collection and now gives information about the Victim-Suspect-Relationship for rape and sexual assault cases:

- Family member including ex-partner (and husband)
- Acquaintance
- Loose contact
- Stranger
- Unknown

For 2012 statistics, see: www.bka.de/DE/Publikationen/PolizeilicheKriminalstatistik/2012/2012Standardtabellen/pks2012StandardtabellenOpferUebersicht.html

More generally: www.bka.de/nn_205960/sid_2A76550AC195A61DE007573CBC444CA7/DE/Publikationen/PolizeilicheKriminalstatistik/pks__node.html?__nnn=true

Useful Contacts

Federal Helpline: 0800-116 016 : A free, confidential, multilingual, 24 hour accessible helpline for women victims of all forms of violence
Wildwasser: www.wildwasser.eu (sexual violence and rape)

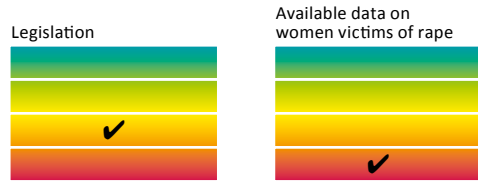
Terre des Femmes : www.frauenrechte.de, 030-40504699-30 (all forms of violence against women, including sexual violence)
bff: www.frauen-gegen-gewalt.de, 030-322 99 500 (domestic and sexual violence)

Local crisis centres like
Lara: www.lara-berlin.de, 030-216 88 88



NATIONAL ANALYSIS

Greece



Expert
Eftymia (Mika) Ioannidou

Legislation

The lack of specialised courts and judges in the country, the lengthy procedures and the lack of specialised personnel in the police and health services mean that the provisions of the law are not practically applicable.

Available data on women victims of rape

The General Secretariat on Equality provides data from the 15900 24 hour helpline. According to the latest data published on 15.3.2012 for a two year period (11.3.2011 - 11.3.2013), the helpline received 10,176 calls and 74 electronic messages. Of these, 79% related to violence against women and 74% came from female victims. Out of the calls from abused women, 2% reported rape and 3% sexual harassment.

According to the police data reflecting the situation in 2010 and 10 months of 2011, in 2010 there have been 215 rapes and 74 attempts and the 10 months of 2011 we had 146 rapes and 52 attempts. The data refers to women who have been raped.



Useful Contact

The General Secretariat on Gender Equality provides official information on the subject.

8 Dragatsaniou str., 105 59 Athens, Greece

Tel. : (+30) 210 3315291 - 5

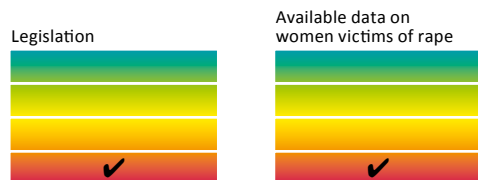
info@isotita.gr

www.isotita.gr



NATIONAL ANALYSIS

Hungary



Expert

Julia Spronz, with the help of Enikő Pap

Legislation

Neither the current Criminal Code, nor the new Criminal Code that came into force from 1 July 2013 is in compliance with the Council of Europe Convention. Key concerns are the reference to sexual morals in the legislation, not basing the crime on the lack of consent, and requiring a private motion – a statement from the victim wishing to prosecute the perpetrator.

In the Criminal Code until recently in force, sexual violence is regulated under the title “Crimes against sexual morals”.

Article 197 (1) on “Violent sexual intercourse” said that “Anyone who forces another person by violence or imminent threat against the life or bodily integrity to have sexual intercourse, or who uses the inability of that person defend him/herself or indicate his/her wishes with regard to sexual intercourse, is guilty of a felony punishable by imprisonment of between two and eight years.”

Article 198 (1) on “Assault against decency” stated that “Anyone who forces another person by violence or imminent threat against life or bodily integrity to engage in or submit to sodomy, or uses the inability of the other person to defend him/herself or indicate his/her wishes in relation to sodomy, is guilty of a felony punishable by imprisonment of between two and eight years.” These basic – not aggravated – cases of the crimes of Violent sexual intercourse and Assault against decency shall only be prosecuted via a private motion.

The new Criminal Code has brought some improvement in the legislation, but it is still not in compliance with the Council of Europe Convention. Sexual

violence is regulated in this Code under the title “Crimes against freedom of sexual life and sexual morals”.

Sexual coercion (Art. 196) in the new legislation is an offence forcing another person to perform or endure a sexual act; while sexual violence (Art. 197) is the offence when sexual coercion is committed with violence or imminent threat against the life or bodily integrity, or using the inability of a person to defend him/herself or indicate his/her wishes. The basic cases of sexual coercion and sexual violence – with the exception of the cases using the incapacity of the victims – shall only be prosecuted via private motion.

Marital rape is not specifically addressed in the Criminal Code, but may be prosecuted under the general provisions. Impunity for perpetrators of marital rape ended in 1997.

The requirement of a private motion for cases of sexual violence is justified by the legislator referring to the delicacy of the victim. Evidence from the legal aid services of women’s rights NGOs shows, however, that this requirement instead stops victims from seeking justice.

Additional comments

With the exception of some – mostly project based – NGO initiatives, specialised and integrated services for the victims of sexual violence are generally lacking. That is also true for victim assistance and support within the justice system/during the criminal proceedings. Evidence suggests that the lack or non-application of protective measures for rape victims, together with the lack of awareness among law enforcement and legal and judicial personnel endangers the victims’ safety and contributes to



secondary victimisation. Neither systematic pre- and in-service training programmes, nor mandatory protocols exist for the different professionals working in the field. The Keret Coalition (Coalition against Sexual Violence, for Survivors) NGO consortium has developed and offered guidelines for professionals working with victims of sexual violence.

The low number of recorded cases indicates the inability of the criminal justice system to deal properly with sexual violence cases. Research among European countries notes that Hungary has a long term trend of declining reporting of rape cases. The country has the lowest reporting rate in Europe at 2.1 per 100,000 of the population, according to the data from 2006, while at the same time its conviction rates are among the highest. It indicates that criminal prosecution only takes place in more serious cases where there is a strong evidence base.

Although there is the legal possibility for state compensation of the victims, there is no information on whether it has been used by rape victims. Moreover, state-provided compensation can only be granted under certain conditions.

Available data on women victims of rape

The Unified Criminal Statistics of the Investigation Authorities and the Public Prosecution contains all the criminal cases (registered criminal offences), in which the investigation authority or the prosecution service declared the act as a criminal offence in its decision in a given year, irrespective of the continuation/result of the criminal proceedings. On the statistical form only one victim's data may be recorded (even if there are more in the given case). Since the relationship between the victim and the

perpetrator is only recorded on the victim's form, we can get data on the perpetrators in question through data on victims. Consequently, it is possible that data on the perpetrators is partial.

Although it is possible within the system of Unified Criminal Statistics to combine and provide data based on the sex of the victim and perpetrator and the relationship between them, the authorities provides this information on request, this data is not routinely made public.

No data on cases of sexual violence are available on the website of the court system.

Official statistics:

Number of convicted offenders of violent sexual intercourse in 2010: 81 (100% of the offenders were men);

Number of violent sexual intercourse cases in 2010: 246; in 2011: 196 (44.7 % of the number of cases in 1992)

Number of assault against decency cases in 2010: 340; in 2011: 266

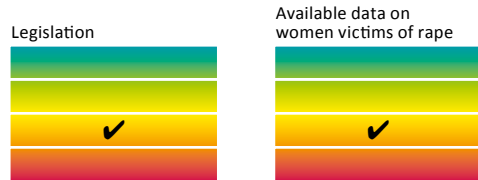
Useful Contact

Helpline of the Keret Coalition (Coalition against Sexual Violence, for Survivors; members: MONA Foundation for the Women of Hungary, NANE Women's Rights Association, Patent Association, Hungarian Women's Lobby, Amnesty International Hungary),
Tel: +3640630006;
blog: <http://keretkoalicio.blogspot.hu/>



NATIONAL ANALYSIS

Iceland



Expert

Gudrun Jónsdóttir, with the help of
Margrét Steinarsdóttir, Anna Þóra Kristinsdóttir

Legislation

The present legislation on rape in Iceland does not include voluntary consent. Those who, by using violence, threats, or other illegal force to engage in non-consensual intercourse or other non-consensual acts of a sexual nature, are guilty of rape.

Violence includes methods like incarceration, drugging or other similar measures.

It is also rape if you have any of the aforementioned sexual relations through exploitation of a mentally incapacitated or a mentally disabled person or if the person is either unable to prevent the event from taking place or to understand the meaning of it.

Marital rape is also penalized. A case is to be prosecuted whether or not the victim is willing to testify but in reality it does not happen without the victim's cooperation.

Only around 3% of reported rape cases end in conviction.

Available data on women victims of rape

The government has produced national data on violence against women. This is a study of male violence towards women in intimate relationships. The objective of the study was to acquire knowledge about the nature, scope and consequences of physical and sexual violence that women experience from men. The survey is available in Icelandic on the following website: www.velferdarraduneyti.is/media/ritogskyrslur2011/26012011_Ofbeldi_a_konum.pdf

The police in Iceland also collect national criminal statistics for different types of crime, including sexual violence. The data is not public but available on request. You can see their latest annual report here: www.logreglan.is/upload/files/AFBROTAT%D6LFR2010_ENDANLEG.pdf___.pdf

The state attorneys in Iceland also collect statistics for different types of crime, including sexual violence. www.rikissaksoknari.is/media/arsskyrslur/Rikissaksoknari_2011_LR.pdf.



According to that report, 172 sexual offence cases were handled by the Prosecutors office (no detail as to number of rapes, incest etc. cases). Charges were brought about in 93, dropped in 2 cases; 74 cases were closed and in 3 the Prosecutor decided to postpone the charges

Landspítali - The National University Hospital of Iceland provides an emergency service for people who have experienced sexual violence (Neyðarmóttaka vegna nauðgana). They collect statistics about those who seek their service but these statistics are not available on the internet.

Useful Contact

Stígamót, education and counselling centre for survivors of sexual abuse. Tel: +354-5626868.

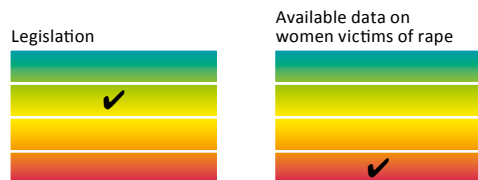
Landspítali - The National University Hospital of Iceland provides an emergency service for people who have experienced sexual violence (Neyðarmóttaka vegna nauðgana).

Tel: +354-5431000



NATIONAL ANALYSIS

Ireland



Expert
Sarah Benson

Legislation

The crime of rape may be charged under the Criminal Law (Rape) Act 1981 or the Criminal Law (Rape) (Amendment) Act 1990. The circumstances of the case, age of the victim and evidence will decide which legislation will apply. The maximum penalty in Ireland for a rape offence is life imprisonment. There are related offences under the law of attempted rape, and separately of aiding and abetting a rape. (That is, assisting another person to commit a rape).

Sexual assault/Aggravated sexual assault: **Section 2 of the Criminal Law (Rape) (Amendment) Act 1990 sets out the law in Ireland on sexual assault. A sexual assault is an indecent assault on a male or a female. Aggravated sexual assault is sexual assault involving serious violence or the threat of serious violence. In common with rape offences, the maximum sentence for aggravated sexual assault is life imprisonment.**

Sexual offences relating to children. **The law in this area changed significantly in 2006. The Criminal Law (Sexual Offences) Act 2006 makes it a criminal offence to engage or attempt to engage in a sexual act with a child under the age of 15 years. This is what is meant by the term 'defilement'. The maximum sentence for this offence is life imprisonment.**

A sexual act for the purposes of the law includes sexual intercourse and buggery between people who are not married to each other and any sexual act which could constitute aggravated sexual assault. The 2006 Act provides that the accused may argue they honestly believed the child was aged 15 years or over. The court must then consider whether or not that belief was reasonable. It is not a defence to show that the child consented to the sexual act.

Section 3 of the Criminal Law (Sex Offences) Act 2006 (www.oireachtas.ie/documents/bills28/acts/2006/a1506.pdf) as amended by Section 5 of the Criminal Law (Sexual Offences) (Amendment) Act 2007 (www.oireachtas.ie/documents/bills28/acts/2007/a607.pdf) makes it a criminal offence to engage or attempt to engage in a sexual act with a child under 17 years. The maximum sentence is five years, ten years if the accused is a person in authority (as parent, step-parent, guardian, grandparent, etc.) or any person responsible for the education, supervision or welfare of the victim.

Sexual Offences involving people with disabilities: **There are specific provisions in Ireland for sexual offences involving people with disabilities (contained in Section 5 of the Criminal Law (Sexual Offences) Act 1993.)**

In 2006 the Department of Health published a National Review on Sexual Assault Treatment Services (www.dohc.ie/publications/pdf/sexual_assault.pdf?direct=1). The report identifies some key areas for the development of sexual assault treatment services. The HSE, the Department of Health and the Department of Justice and Equality work to ensure implementation of the recommendations in the report.



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Available data on women victims of rape

Outside of the NGOs in this sector there is no statutory agency that collates gender disaggregated data. The Central Statistics Office produces quarterly recorded crime figures which includes figures for sexual offences but these figures are not gender disaggregated. The only disaggregation which occurs in the CSO data relates to persons convicted of a sexual offence. The data available from Government sources is very limited and refers to **reported** sexual offences (see link below).*

www.cso.ie/en/media/csoie/releasespublications/documents/crimejustice/2012/recordedcrime_q22012.pdf

This report qualifies itself as follows, in relation to sexual offences recorded: *'In the twelve-month period ending in Q2 2012, the number of offences recorded in this group decreased by over 4% to 1,998, from 2,083 in the corresponding period ending in Q2 2011. Decreases were observed for recorded Rape of a male or female offences (-3.9% to 465) and Other sexual offences (-25.0%). However, as noted, caution should be used in interpreting these figures.'*

There is data provided **by NGOs**, who receive some funding from the Government and have a high quality data collection system, that constitutes the only gender disaggregated, comprehensive source of data on rape and sexual assault in Ireland. The recent sources have been twofold: the Rape Crisis Network of Ireland and the Dublin Rape Crisis Centre. From 2013, however, data from nearly every (NGO) sexual violence support service will be input into a single database providing more comprehensive national figures on sexual violence.

Recent data links:

Rape Crisis Network Ireland (RCNI) Statistical report 2011: www.rcni.ie/national-statistics.aspx

Dublin Rape Crisis Centre Annual Report (Note this statistical data is also incorporated into the RCNI report 2011 above): www.drcc.ie/wp-content/uploads/2011/03/DRCC-Annual-Report-20111.pdf

Sexual Violence Centre Cork Annual Report 2011: www.sexualviolence.ie/wp-content/uploads/2012/06/svcc-activity-report-2011.pdf

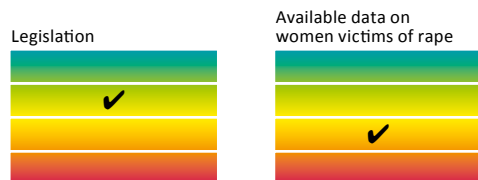
Useful Contact

Rape Crisis Network Ireland: www.rcni.ie
One in Four: www.oneinfour.ie
Listings for all Irish Sexual Assault Treatment Units, of which there are 6 in the Republic of Ireland (statutory: Health /Medical): www.hse.ie/eng/services/Find_a_Service/Sexualhealth/SATU/



NATIONAL ANALYSIS

Italy



Expert
Oria Gargano

Legislation

Under law no. 66/1996, which has been strongly requested by the Feminist Movement for more than 20 years, rape is classified as a “crime against the person” and no longer as one of the “crimes against public morality and decency,” which include offences such as obscene acts and obscene publications and performances.

Article 609bis defines **simple sexual assault** as the use of violence, threats, or abuse of authority to force the victim to perform or submit to sexual acts. There are **aggravating circumstances** covering those who take advantage of the victim’s physical or mental infirmity, those who are present at the time of the offence, or who deceive the victim by impersonating another person and thereby cause the victim to perform or submit to sexual acts.

Article 609 ter defines additional aggravating circumstances when

- 1) the victim is less than 14 years of age;
- 2) the offender uses weapons, alcoholic substances, narcotics, drugs or other instruments or substances posing a serious danger to the health of the victim;
- 3) the offender is disguised as or otherwise feigns that he is a public official or otherwise engaged in public duties;
- 4) the victim is otherwise subject to limitations on her personal freedom;
- 5) the victim is less than 16 years of age and the offender is her ascendant, parent, including adoptive parents, or guardian.

Article 609 defines “*violenza presunta*” or statutory rape when there is no requirement to prove violence, threats, or abuse of authority. There are two forms of this offence:

1) When the offender engages in sexual acts with a minor under 14 years of age.

2) When the victim is a minor under 16 but over 14 and the offender is the victim’s ascendant, parent, including adoptive parents, guardians, or any other person to whom the victim has been entrusted for the purposes of the minor’s care, education, instruction, supervision, or custody, or any adult who lives with the minor.

The new law also narrows the offence of corruption of minors.

This offence punishes anyone who engages in sexual acts in the presence of a minor under 14 years of age, with the goal of having the minor participate in such acts.

An important innovation of the new law is the crime of group sexual assault - when more than one person participates in acts of sexual violence as defined in Article 609 bis, each offender is to be sentenced to six to twelve years’ imprisonment

In addition to these changes to the rape law, the 1996 reform includes provisions that are designed to protect the privacy of the victim. For example, the 1996 law created the offence “concerning the protection of privacy,” punishing anyone who divulges personal details or images of a rape victim with a sentence of three to six months. The 1996 law also added a provision to the Italian Code of Criminal Procedure stating that although sexual assault trials are to be open to the public, the victim may request that these trials be closed partially or completely. This provision also states that all such trials are to be closed when the victim is a minor. Finally, this provision specifies that questions about the victim’s private life or sexuality are not permitted unless this is necessary for the reconstruction of the facts.



Available data on women victims of rape

The lack of data about the crime of sexual violence is endemic in Italy. This fact is very clear when quoting the list of critical issues of the Committee on the Elimination of Discrimination against Women – CEDAW (Pre-session working group, 49th session, 11–29 July 2011), with regard to the consideration of the sixth periodic report on Italy. The answers of the Italian Government are considered unsatisfactory by the anti-violence women’s movement, and a long list of critical issues is highlighted in the Shadow Report that has presented in July 2011 in New York CEDAW Session.

The Italian Official Institute of Statistics (ISTAT) produces data on sexual violence collected in different ways:

1. With the “Citizens Safety Survey”, which is a periodic survey (data are collected **every five years**, using a CATI system of data collection) based on a national sample of about 60,000 statistical units, which includes a dedicated section on sexual violence. That section is completed only by women aged between 14 and 65 years (about 25,000 women). Data collected during the last survey (2008-2009) are already available in draft form (downloadable from the ISTAT website: www.istat.it), and the complete database is almost ready to be published.
2. With the national survey “Violence against Women” (the last survey was carried out in 2006, using a CATI system of data collection): this is a national sampling survey (about 25.000 women between 16-70 years), realised thanks to the agreement between ISTAT and the Italian Ministry for Rights and Equal Opportunities. This survey is the first national Italian research project totally dedicated to investigating all issues associated with gender-based violence.

It collects and analyses data collected by the Italian Ministry of Justice and the Italian Ministry of the Interior, both as far as reported crimes/sexual crimes and convictions for crimes/sexual crimes are concerned.

A new survey on violence against women has been funded and will be carried out in 2013.

The Ministry of Justice publishes reports on law enforcement activities (crimes reported and punishments for perpetrators, but it does not specify sexual violence, included in the category of “crimes against persons”).

In relation to the attorneys and prosecutors offices (PROCURE), every year data on crimes and procedures are published for the start of the judicial year, for each province, but they are inconsistent and do not always show data on sexual violence, or quote it within data on the crime of paedophilia.

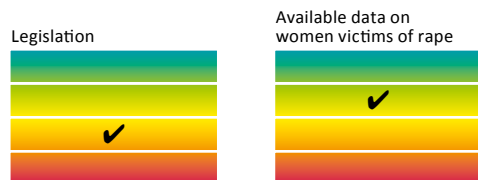
Useful Contacts

National Helpline number: 1522
SVD – Service Domestic Violence – Clinica Mangiagalli – Milan tel 00390264443043
“SPORTELLO DONNA H24” inside Emergency Department of San Camillo Forlanini Hospital – Roma
Tel. 00390658703216
National Antiviolence Network D.I.RE
www.direcontrolaviolenza.it



NATIONAL ANALYSIS

Latvia



Expert

Inta Poudziunas with the help of Edite Kalnina and Inete Ielite

Legislation

Rape and sexual assault are criminal offences under Latvian law. Marital rape is not criminalised in Latvia as a separate offence. In 2004, the CEDAW Committee urged Latvia to criminalise marital rape as a separate offence, prosecute offenders and provide data on this form of domestic violence in its next periodic report.

There is no specific criminal offence for intimate partner violence (IPV). IPV can only be prosecuted under a range of criminal law provisions (e.g. offences against the person). IPV is referred to as domestic violence. There is no official definition by the government neither on IPV nor domestic violence but a definition used for concrete planning documents such as the Programme for the Reduction of Domestic Violence 2008-2011 defines domestic violence as a violent offence (physical, sexual or emotional) between adult persons living together.

Sexual harassment is only criminalised if it takes place in the workplace (under the labour law). Individual victims of violations of labour rights can submit complaints at the State Labour Inspectorate and Ombudsman Office.

Additional comments

Stalking is not legally defined in Latvian law. Protection orders came into force in 2005 but data shows that they are not used. In the cases where the orders are applied, no violations are registered.

Latvia has neither signed nor ratified the Istanbul Convention.

Victim support is primarily provided by non-governmental organisations. State funding is only allocated for child rehabilitation services. Social rehabilitation of children who have suffered from violence (up to age 18) has been legally established since 2000. State-financed services for child victims of violence are provided at their residence (10 consultations by a psychologist, psychotherapist or social worker) or at an institution (up to 60 days). Since 2008 a relative of a child has been allowed to accompany the child and this is covered by the state.

Available data on women victims of rape

The Information Centre of the Ministry of the Interior and Court Administration produces annual statistics relating to criminal law codes. The published data is not separated by gender but gendered data is input into the central statistical agency. In addition, when other institutions request a gendered perspective they can produce such a report from the data available. Administrative data collected by the police, prosecution and health authorities includes questions on the relationship between a victim and an offender. So theoretically, it would be possible to produce such statistics on victims of rape and sexual assaults. For domestic violence we do not have data because there is no definition on that and it is not defined as a specific offence. www.ic.iem.gov.lv/sites/default/files/2012_krim_stat_0.xls

The Central Statistics Agency is planning to publish a report on **Women and Men in Latvia** in 2013 (with data for 2012). The latest edition available in paper form is from 2008 and gives data on rape and women victim of rape and sexual assault.



Useful Contacts

There are no women's shelters for female victims of violence in Latvia.

All helplines for adults and children cover sexual violence as well and medical assistance is provided by hospitals. Hospitals do have social workers in place who are organising the support services for victims.

NGO Skalbes (24h hotline run by trained specialists)

Kungu Street 34, Rīga

Phone : +371 6 7222922

E-mail: skalbes@skalbes.lv

www.skalbes.lv

NGO Shelter Safe House (in Latvian Patvērums Drošā māja)

Lacplesa street 29 - 3, Riga

Phone: +371 67898343

Mob. phone: +371 28612120

Email: drosa.maja@apollo.lv

www.patverums-dm.lv

NGO Marta

Matīsa Street 49 - 3, Rīga, LV-1009, Latvia

Phone: +371 67378539,

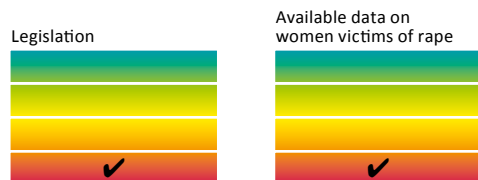
Email: centrs@marta.lv

www.marta.lv



NATIONAL ANALYSIS

Lithuania



Expert
Rugilė Butkevičiūtė

Legislation

In Lithuania sexual violence as a consequence of gender based violence can be classified as an offence of:

Rape (Article 149 of the Criminal Code of the Republic of Lithuania);

Sexual assault (Article 150 of the Criminal Code of the Republic of Lithuania);

Sexual abuse (Article 151 of the Criminal Code of the Republic of Lithuania).

In the Criminal Code of Lithuania the old definition of rape by use of force or threat still exists. The sentence for this offence is more severe if the rape is committed by a group of accomplices (group rape) or against a minor or young child.

Marital rape in Lithuania is still not criminalised either in Criminal Code or in the new Republic of Lithuania Law on protection against domestic violence. (Since the adoption of this law the police have received more calls regarding domestic violence, but sadly sexual violence is still invisible). In Lithuania a sexual relationship with the spouse is still considered a wife's duty, so complaints by women who experience sexual violence from their husbands are not usually regarded as a serious crime, either in public institutions or within society as a whole.

The investigation and prosecution of the aforementioned offences depend on a statement by the victim (or the victim's legal representative) or a request by the prosecutor.

Available data on women victims of rape

Official data on rape cases can be found in the Information Technology and Communication department under the Ministry of the Interior of the Republic of Lithuania. (www.ird.lt/infusions/report_manager/crimes_lithuania.php?id3=13) This information exists only in Lithuanian.

Criminal statistics on sexual violence are not separated according to the type of sexual violence (no statistics on **marital rape**).

Data about sexual violence and its prevalence in Lithuania can be found in a few research studies (mainly focusing on gender based violence) and surveys. The most important survey on *Violence against Women* was conducted in 1997-1998 by Dr. Giedre Purvaneckiene and showed that: "63.3% of Lithuanian women have been victims of male physical or sexual violence or threats after their 16th birthday; 42.4% of all married and cohabiting women have been victims of physical or sexual violence or threats of violence by their present partners; 71.4% of Lithuanian women have been victims of sexual harassment or sexually offensive behaviour by a stranger after their 16th birthday, and 43.8% by a known man." According to the annual catalogue



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“Men and women in Lithuania” (2012) prepared by the Department of Statistics of Lithuania, 281 women were victims of sexual abuse, which is more often suffered by the rural women population. Per 100 000 women population, 21 women in rural and 14 women in urban areas were victims of sexual abuse (no data on marital rape cases).

Surveys can be found at:

www.unece.org/fileadmin/DAM/stats/gender/vaw/surveys/Lithuania/VAW_Report_Lithuania.pdf
http://web.stat.gov.lt/lt/catalog/list/?cat_y=1&cat_

[id=3&PHPSESSID=twmjcuixideyz](#) (catalogue is called Moterys ir vyrai Lietuvoje and is also available in EN)

An anonymous survey done in Vilnius Maternity hospital with 300 women (who are married or have lived with partners) showed that 80% of respondents did not know the difference between normal sex in marriage and marital rape. 60% experienced sexual harassment and 30% per cent were forced into having sex with their husbands against their will.

Rape cases (including attempted rape)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Number of registered crimes	188	278	260	265	253	200	164	149	208	191
Number of investigated cases	162	109	138	172	180	105	125	124	155	156

**Data from the Information Technology and Communication department under the Ministry of the Interior of the Republic of Lithuania.*

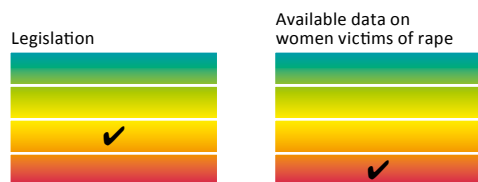
Useful Contact

Help line for women: 8 800 66366 (every day from 10.00 a.m to 9 p.m.)

(Helpline for victims of violence, prostitution or other issues for women)

NATIONAL ANALYSIS

Luxembourg



Expert
Isabel Da Silva

Legislation

1. a) non-consensual penetration

In article 375 of the penal code, Luxembourgish legislation has a wider definition of rape than previously, rape by use of force or threat. It includes also rape by trick and artifice, or by abusing a person unable to consent or resist freely. The Luxembourgish legal definition nevertheless doesn't comply completely with the definition given in the Convention. It is more restrictive as the victim not only has to prove that there was no consent, but must also prove that he/she was either unable to give or refuse his/her consent or that there was force or threat.

1. b) non-consensual acts of a sexual nature

In this case, Luxembourgish Law complies fully with the Convention as under article 372 of the penal code every "attentat à la pudeur" is punished. The "attentat à la pudeur" is defined as an illicit act of a sexual nature, with or without violence or threat, in which the victim finds him/herself physically involved. Only the act of a sexual nature and the non-consent of the victim must be proved.

1. c) causing another person to engage in non-consensual acts of a sexual nature

Again, Luxembourgish legislation complies with the Convention as in accordance to article 379bis 5° of the penal code someone who helps, assists or knowingly protects the prostitution of another or the soliciting for the purpose of prostitution is penalised.

2. Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances

Luxembourgish legislation doesn't mention any conditions concerning consent and there is no jurisprudence about it. Article 483 of the penal code defines "threat" as "all means of moral constraints by fear of imminent harm". This could be interpreted to mean that consent must be given freely and voluntarily and that moral force could also result from the surrounding circumstances but, until now, this interpretation has not been confirmed by Luxembourgish jurisprudence.

Investigation depending on a victim's statement/report/claim: The investigation can be initiated either by a victim's or another person's statement or complaint or by a police report. Continuation of the investigation depends on the prosecutor's decision and the public investigation may not be stopped by the withdrawal of the accusation or complaint.

Victim's compensation: The law of 12 March 1984 on compensation to victims who have suffered injuries resulting from crime, enhanced by the laws of 14 April 1992 and 6 October 2009, provides the right for certain victims of crime to receive compensation from the State budget. The victim of a rape or another non-consensual act of a sexual nature does not need to prove a physical or mental damage, which is presumed, but he/she must have been unable to obtain full and adequate compensation by another source.



Case law

Luxembourgish case law is contradictory in considering the victim's non consent as only condition to establish a rape. Some judgements qualify an act as rape if the victim didn't consent freely to the act. In other cases, rape is not admitted because violence and threat as constitutive elements of a rape have not been proven. In most cases, the decision depends on whether the victim was able to give his/her consent or not. The fact that he/she didn't give it is generally not considered as sufficient to establish a rape. Some judgements refer to a lack of criminal intent by the perpetrator, if the victim's behaviour was contradictory or could only have been interpreted in this way. In conclusion, Luxembourgish jurisprudence does not satisfy the requirements of the Convention, as in general, the lack of the victim's consent is not sufficient to establish a rape.

Available data on women victims of rape

The only official figures concerning sexual offences are included in the annual management report of the Police (Ministry of the Interior- www.police.lu) but do not include any gender disaggregated data.

Survey on a certain number of organizations (NGOs and others) reveals that:

if data relating to violence against women exist, the figures given relate to different forms of violence, including sexual violence. There may be sub-categories such as "rape" or "abuse", but there are no details related to the different "forms" of rape, as reflected in the above list

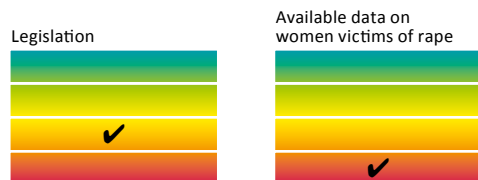
Useful Contact

- Helpline Info Viol-Violence sexuelle: 00352 49 58 54 (composed of professionals working in different associations active in the prevention of sexual abuse, supporting victims and their families.)
- Planning Familial : www.planningfamilial.lu



NATIONAL ANALYSIS

Former Yugoslav Republic of Macedonia



Expert
Biljana Nastovska

Legislation

There are six articles in the Macedonian's Criminal Code (articles **186 to 194**) that criminalise various forms of sexual violence:

Rape is defined (Article 186) as an act where (1) A person who by force or threat of immediate attack upon the victim's life or body or the life or body of a his/her close person, forces sexual intercourse on another, shall be punished with a term of imprisonment of one to ten years.
(...)

Other articles concern:

Sexual intercourse with a disabled person (Article 187);

Sexual assault of a **juvenile under the age of 14 (Article 188), with aggravated circumstances** if the crime is committed by a blood relative in direct line of kinship or a brother, i.e. sister, teacher, educator, adoptive parent, guardian, stepfather, stepmother, doctor or some other person, by misusing their position or while performing family violence; or by abusing his or hers mental illness, mental disorder, disability, insufficient mental development, or other condition that renders him or her incapable of resistance.

Sexual intercourse by abuse of position (Article 189) refers to the case when a person abuses his/her position to force sexual intercourse or other sexual activity on a subordinate or dependent person; or when a teacher, educator, adoptive parent, guardian, stepfather, doctor or other people abuse their position to have sexual intercourse or perform another sexual activity with a minor older than 14 years, who is entrusted to them for learning, education, shelter, or care

Satisfying sexual passions before another (Article 190)

Incest (Article 194) - sexual intercourse with a direct blood relative or a sibling.

Available data on women victims of rape

Aggregated data on victims are not part of the national statistics; the data on rape according to the state statistical office is only available regarding **convicted adult perpetrators**.

The state statistical office produces little data on the perpetrators of criminal offences, particularly data on reported, accused and convicted adult and juvenile perpetrators of crimes. The available data shows the number of cases of rapes, and the number and gender of the perpetrators.

www.stat.gov.mk/PrikaziPoslednaPublikacija.aspx?id=43

Statistics for 2011

In 2011 there were 30 cases of rape. In 28 cases the perpetrators were known persons, and in 2 cases, the perpetrators were unknown. In 8 cases the complaint was dismissed, and in 3 cases the investigation was halted. The total number of indictments for rape in 2011 was 17. One case of incest was committed and one indictment handed down.

www.stat.gov.mk/Publikacii/2.4.11.15_kor.pdf

Statistics for 2010

In 2010, there were 44 cases of rape, In 43 cases the perpetrators were known, while in the remaining case the perpetrator was unknown. In 6 cases the complaint was dismissed and in 4 cases, the investigation was halted. The total number of indictments for rape in 2010 was 33.

www.stat.gov.mk/Publikacii/2.4.10.12.pdf

The following link is to statistics about criminal acts including domestic violence and rape:

www.mvr.gov.mk/ShowAnnouncements.aspx?ItemID=10905&mid=1094&tabId=201&tabindex=0

Useful Contacts

There are no specialised shelter centres and counselling services for victims of rape crime.

There is a national SOS lines for women and children victims of domestic violence ++ 389 2 15 315 and ++ 389 2 15 700 and non-governmental centres for victims of violence:

1. NGO Crises center "hope" (krizen centar "nadez")

tel++ 389 2 3173-424

fax ++ 389 2 3175-516

SOS no ++ 389 2/ 15-315

www.krizencentar.org.mk

e-mail info@krizencentar.org.mk;

sovet@krizencentar.org.mk

2. NGO Shelter center

tel: ++ 389 2 2772 - 400

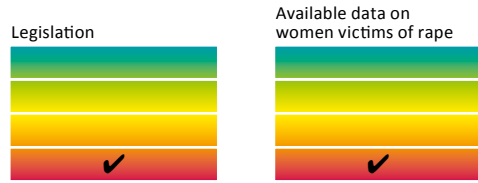
contact@mwrc.com.mk

www.mwrc.com.mk



NATIONAL ANALYSIS

Malta



Expert
Marceline Naudi

Legislation

The current legislation (*Criminal Code, Chapter 9, Title VII 'Of Crimes Affecting the Good Order of Families', Sub-title II 'Of Crimes against the Peace and Honour of Families, and Against Morals'*) considers rape as a crime against the 'Peace and Honour of Families'.

Rape is generally prosecuted only on the complaint of the victim rather than ex-officio (barring certain specific provisos).

The definition of rape is based on penetration. Force or violence is assumed only in cases where the victim is under 12 years old, or considered unable to resist due to mental or physical infirmity.

Marital rape (including where the marriage has been annulled or dissolved) is clearly included and attracts an additional degree of punishment.

www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574

Available data on women victims of rape

The Police have data but is available only on request and at their discretion.

According to an article written in 2009 by Dr Saviour Formosa PhD, senior lecturer at the Institute of Criminology, University of Malta, Malta ranks lowest amongst EU countries for reporting of rape (<http://www.maltatoday.com.mt/2009/09/09/t7.html>).

According to information given in Parliament by the Health Minister in September 2010:

17 called at hospitals or clinics seeking treatment after having been raped. There were:

23 cases in 2009

25 cases in 2008

23 cases in 2007

27 cases in 2006

31 cases in the year 2000, the highest in the past 10 years.

www.timesofmalta.com/articles/view/20100930/local/17-rape-cases-reported-this-year.329212

According to the National Statistics Office publication, *Demographic Review 2009* there were 12 rapes reported to the police in 2009, and 43 violent indecent assaults.

www.nso.gov.mt/statdoc/document_file.aspx?id=2840



The *Demographic Review 2010* gives the figure of reported rape as 11 in 2010, with 43 violent indecent assaults.

www.nso.gov.mt/statdoc/document_file.aspx?id=3173

No information was found in relation to the sex of the victim, relation to offender etc.

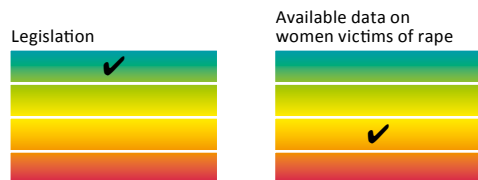
Useful Contacts

Supportline 179 and Victim Support Malta.
There is currently no rape crisis centre but funds for a sexual assault response team based at the main general hospital were mentioned in 2013 national budget speech.



NATIONAL ANALYSIS

Netherlands



Expert

Aleid van den Brink

Legislation

In the Netherlands, legislation relating to sexual violence is more extensive than the definition presented in the model. As well as laws on rape, assault or violation, articles also cover the offences of lewd acts, pornography, juvenile prostitution, and enticing young people under 16 to have sex with a third party. Rape within marriage is also forbidden.

Important issues in the law are the age of the victim and whether the latter is capable of giving consent.

For example, sexual penetration of someone below the age of 12 is always rape, despite consent. Sexual penetration of someone below the age of 16 **outside marriage** is also considered rape according to the law. However, sexual relations among young people who give mutual consent are allowed in everyday life; when problems occur (e.g. when parents have objections) the judge is obliged to hear testimony from the two young people involved (known as a compulsory hearing [*hoorplicht*]).

Also included in the law is the issue of giving consent. When somebody is unable to give consent due to unconsciousness, disorders or other reasons, sexual contact is considered to be rape (in the case of penetration) or assault.

Lastly, abuse of authority or trust in order to have sex is also included in the law. Thus, having sex with an under-aged child, stepchild or foster child, pupil, subordinate, or with an adult who is dependent on the perpetrator is against the law.

Available data on women victims of rape

Every three years, a large-scale, representative study on sexual health is conducted among the Dutch population of 15 years and older. The study is carried out by Rutgers WPF, the centre of expertise on sexuality, and is financed by the government. Experiences of sexual violence are included in this study. The content of the questionnaire may differ every three years, but lifetime and annual prevalence of sexual violence, characteristics (including rape), perpetrator and age of the victim are established each time. The prevalence of sexual violence is established in two ways: first a general question is asked: "Violence and aggression happens everywhere and can (also) be sexual. It can happen at home or on the street; the perpetrator can be a stranger or somebody known to you. It includes being approached sexually in a way that is offensive, being touched against your will, being forced to do sexual things, or being forced to have sexual things done to you. Have you ever experienced sexual violence?" Subsequently, all participants are asked specifically and in detail if they have experienced particular forms of sexual violence, ranging from hurtful remarks to (attempted) rape.



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The most recent study revealed the following results (De Haas, 2012):

With regard to the general question, 33% of the women and 8% of the men (n=7543) answered yes; 1.3% of the women and 1.2% of the men indicated they had experienced some sort of sexual violence in the year preceding the survey.

When measured with specific questions, these figures were 42% among women between 25 and 70, 31% among women between 15 and 24, 13% among men between 25 and 70 and 11% among men between 15 and 24, respectively. These include lifetime occurrences of physical forms of sexual violence, varying from kissing to vaginal or anal intercourse.

In the survey, 17% of the women between 25 and 70 and 16% of the women between 15 and 24 indicated they had experienced (physical) sexual violence before the age of 16. For the men these figures were 3% and 4% respectively. It found that 15% of the women between 25 and 70 and 8% of the women between 15 and 24 were raped at least once in their lives, whereas 2% of the men were victims of rape. Less than 20% of all perpetrators are known to the victim. Women are mostly violated by their partners, and when under 16 by family, neighbours or people they meet when going out. Men also mention partners and friends, and family and neighbours when they are under 16.

The above-mentioned results and more are published in Dutch in S. de Haas (2012): Seksueel grensoverschrijdend gedrag onder jongeren en volwassenen in Nederland. *Tijdschrift voor Seksuologie*, 36(2), 136-145.

Specific results of the 2009 data are about to be published in English: Haas, S., de, Berlo, W., van, Bakker, F. & Vanwesenbeeck, I. (in press). Prevalence and characteristics of sexual violence in the Netherlands, the risk of re-victimization and pregnancy: Results from a national population survey. *Violence and Victims*.

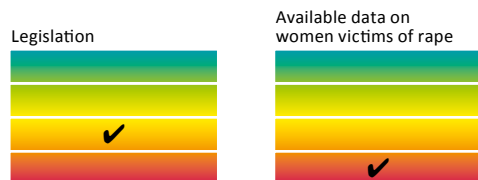
Useful Contacts

Rugterswfpf NL
t +31 (0)30 232 98 17
w.vanberlo@rutgerswfpf.nl
www.rutgerswfpf.nl



NATIONAL ANALYSIS

Poland



Expert

Malgorzata Tarasiewicz

Legislation

Article 197 of the Polish Penal Code states that “whoever, by force, illegal threat or deceit subjects another person to sexual intercourse shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years.” The crime of rape is included in Chapter XXV of the Penal Code dealing with Offences against Sexual Liberty and Decency alongside, for example, such crimes as: taking sexual advantage of the vulnerability of another person (art. 198), abusing a relationship of dependence in order to subject a person to sexual intercourse (art. 199), subjecting a minor under 15 years of age to sexual intercourse or making him/her submit to another sexual act or to perform such an act (art. 200), adultery (art. 201) and forcing another person to practice prostitution (art. 203). All these crimes deal with sexual abuse but only the ones which fulfil the description presented in art. 197 are qualified as the crime of rape in the understanding of the Penal Code.

Often Polish legislation is interpreted in a way that raises expectations that a woman should use active resistance against the perpetrator attempting to rape her in order to make her a credible victim.

Additional comments

According to Prof. Monika Platek, the Polish Penal Code has taken a modern approach to the concept of rape from as far back 1932. This is seen in the fact that, contrary to definitions in many other pieces of legislation, the definition and concept of the crime of rape does not relate to the gender of the victim: the victim can be a woman or a man (while some legislation does not provide for the possibility of raping a man). And since the 1930s, Polish legislation has provided for the existence of marital rape.

The unfortunate fact that the crime of rape is included in Chapter XXV of the Penal Code dealing with Offences against Sexual Liberty and Decency and not in the Chapter on Offences Against Life and Health may suggest that rape is a violation of social and cultural norms and not a threat to women’s life, health and freedom. As investigation, and consequently prosecution, of the crime of rape depends on a victim’s complaint it may suggest a silent concession by the state to the inadequate approach to that crime. In practice, it means that the victims do not report the crime out of fear, loyalty towards the perpetrator (when he is a family member or an acquaintance) or fear of humiliating procedures at the police station and/or the court. The need for a victim’s complaint to start an investigation in a rape case may suggest that the legislator assumes the crime to be of minimal harm.



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The signing of the Istanbul Convention puts an obligation on Poland to change the present provisions, which are unfavourable for the victims, relating to the prosecution being dependent on the victim's complaint. On the 10/5/2013, the Polish Parliament (the Sejm) decided that the Penal Code will be changed and that prosecution will be ex officio.

This change includes a provision according to which, until the beginning of the trial, the victim of rape can postulate that the perpetrator would not be prosecuted.

There are also new provisions protecting a victim from retraumatisation. The victim can be interrogated only once in the presence of a psychologist in a special, friendly room. The interrogation would be recorded.

Available data on women victims of rape

There is very little statistical data on rape in Poland and the gender of the victim is not identified. Data from the political statistics published on the police website and from a paper presented by Jaroslaw Warylewski indicated that in 2009 there were a total of 1,816 criminal investigations into cases of rape. According to the statistics of the Ministry of Justice, in 2011 in Poland, 1,748 cases of rape were reported.

Such a low number of reported rapes (for a nation with a population of 38 million) does not reflect the harsh reality. The low reporting level allows for the speculation that women do not report the crime for reasons such as excessively burdensome procedures and an inadequate system of compensation for the victims. In spite of specific recommendations on the treatment of rape victims (2001) no basic standards have been introduced into the practice of the police, courts and other institutions.

Useful Contacts

Ogólnopolskie Pogotowie dla Ofiar Przemocy w Rodzinie „Niebieska Linia” (National Helpline for victims of domestic violence “Blue Line”)

Tel: 801-12-00-02

From Monday till Saturday between 8 a.m. and 10 p.m.

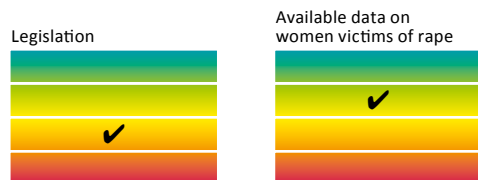
on Sundays from 8 a.m. till 4 p.m. www.niebieska-linia.info

The list of helpline numbers in different parts of Poland can be found on the website: www.vday.za.pl/lista3.html



NATIONAL ANALYSIS

Portugal



Expert

Maria Shearman de Macedo

Legislation

Article 164 of the Portuguese Penal/Criminal Code defines rape as a criminal act by the use of force or threats (paragraph 1); or by using authority over a dependent (paragraph 2). In the case of adult victims of rape, investigation and prosecution depend on the victims' complaints.

The introduction of the crime of domestic violence into the Portuguese Penal Code, Article 152, with the reformulation of the entire legislative framework for Domestic Violence (Law 112/2009 of 16 September), has given more visibility to sexual violence within the marital relationship, namely marital rape and date rape. If a case is classified by the police and prosecution as domestic violence, which may include sexual violence, then it is a "public crime" not dependent on a complaint by the victim, though her testimony will be needed in court.

Compensation for moral and patrimonial damage is possible but depends upon criminal proceedings and must be requested within a specific time frame during court proceedings. In the case of violent crimes – which include rape – where acts of violence have caused serious damage to the victim's physical or mental health, it is also possible to request an advance compensation payment by the state.

Additional comments

In our experience criminal proceedings and court cases are lengthy and do not take into account the needs of the victims. The investigative and court process is based on the production and presentation of evidence and there is a lack of specialised training on the issue of sexual violence. Victims' suffering and risk are difficult to be recognized by the judicial system. Moreover, victims are still subjected to the patriarchal and "macho" perspective that blames the victim for "not resisting" or "wearing a mini skirt"...

A recent (2010) rape court case illustrates this continuing discrimination against women:

A well-known psychiatrist raped an eight month pregnant patient and was convicted in criminal court to five years in prison, with probation.

However two judges from the Court of Appeal decided to acquit the psychiatrist on the grounds that the defendant did not use enough violence to make the victim unable to resist. In the appeal decision, the judges say that "evidence that the psychiatrist raped the eight month pregnant and depressed patient during a consultation must be based on the "practice of acts by the use of physical force[...] in order to force her not to resist[...] or to overcome her resistance." And they added "Simply disregarding the will of the victim cannot be classified as violence."

This case had significant repercussions within both the media and public opinion. Most reactions were of outrage and indignation, but some also disbelieved the victim and defended the psychiatrist's reputation.



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The case had a terrible impact on the woman involved as she was widely exposed in the media and social networks, where links were shared to the trial documents and reports about the violence and humiliation she was subjected to during the rape.

This case illustrates the risk that the women victims of rape have to face when reporting the crime to the authorities, as there is no guarantee that they will be treated respectfully by the judicial system.

A positive note: Portugal ratified the Istanbul Convention on 5/2/2013 and it was recognized that the actual definition of rape must be changed.

Available data on women victims of rape

The annual report “*Internal Security Report for 2012*” from the Ministry of Internal Administration www.portugal.gov.pt/media/904058/20130327_RASI%202012_vers%C3%A3o%20final.pdf gives data on reports/complaints of rape to the law enforcement authorities:

In 2012, **375 complaints of rape** (violação) were reported, classified as a “violent and serious crime”, which represent 20% of all sexual crimes covered by the Portuguese Penal Code.

In 25% of the rape cases the perpetrators were family members and in 34% were known to the victim, in 24% were perpetrated by strangers. The majority of the victims were female and all perpetrators were male. (pag. 136)

Useful Contacts

There are no specialised resources/services on sexual violence against women in Portugal. There are no rape crisis centres and no specific helpline, only the general emergency line 112, police stations, health services and forensic medicine services.

State entity responsible for the issues of Equality and Gender Violence:

CIG: www.cig.gov.pt

NGO giving support to women survivors of violence:

AMCV: www.amcv.org.pt

UMAR: <http://umarfeminismos.org/>

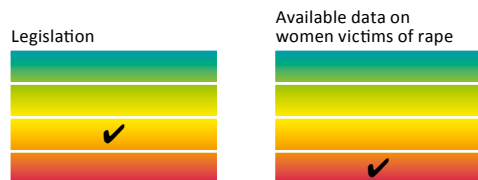
NGO giving support to all victims of crime (men and women)

APAV: http://apav.pt/apav_v2/index.php/pt/



NATIONAL ANALYSIS

Romania



Expert
Albu Laura

Legislation

Under the Romanian Penal Code, rape is a sexual act taking place against the will of one of the partners and a crime punishable by law. It. According to Article 197 the crime of rape is defined as a “sexual act of any nature, with a person of a different or the same sex, through constraint or taking advantage of the victim’s inability to defend him/herself or indicate his/her will.” Decision No. II dated 23 May, 2005 by the Higher Court of Cassation and Justice of Romania established that a sexual act with a person of a different sex, who is related either directly or via a sibling, through constraint or taking advantage of the victim’s inability to defend him/herself or indicate his/her will constitutes both the crime of rape (if the victim lives with or has a relationship with the perpetrator) as well as the crime of incest (Article. 203 of the Penal Code).

Even though marital rape has been declared as a crime via Law 197/2000 which modified Article 175, paragraph. 1, lit. C of the Penal Code, more time is needed for the acceptance that the institution of marriage is not a castle in which the husband has immunity.

According to new regulations, Article 217, paragraph 1 makes the distinction that rape as previously defined is punished with a term of imprisonment of between 3 and 10 years and the removal of certain rights. Paragraph 2 adds: “Punishment is severe detention from 15 to 20 years and the removal of certain rights if the victim is a family member such as a husband or close relative”. These provisions related to family members are not included in new Penal Code, Article. 218, but only with reference to people who are directly related and siblings. The Penal Code does not refer to rape within relationships.

The length of the prison term for a rape conviction depends on the gravity of the circumstances, and the age, physical and psychological state of the victim.

Additional comments

A major problem remaining is how to prove the rape. Shortcomings in the system combined with the victims’ feelings of shame, guilt and fear inevitably lead to a low number of cases, with women preferring to hide the fact they have been raped.

Available data on women victims of rape

The General Inspectorate of Police provides statistics on rape, prostitution and pimping, on www.politiaromana.ro/date_statistice_2012.htm



The Romanian Public Ministry - General Prosecutor Institution – provides statistics on the number of rape convictions. www.mpublic.ro/presa/2013/bilant2012.pdf

The Superior Council of Magistrates (www.csm1909.ro) has no accessible information related to any court rulings.

Useful Contact

There are no helpline numbers, no rape crisis centres or specialised resources available in Romania.

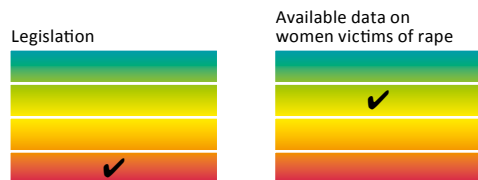
There are several private psychologists' therapy and counselling centres, but not free of charge, and not specialised on rape.

There are NGOs dealing with violence against women, which provide some support, but not specialised support for rape victims. A database of NGOs dealing with violence against women is available on request from the Community Safety and Mediation Center: info@cmssc.ro
www.cmssc.ro



NATIONAL ANALYSIS

Serbia



Expert

Vanja Macanović

Legislation

There are five articles of Serbia's Criminal Code that criminalise various forms of sexual violence (articles 178 to 182):

Rape (Raping) is defined in Article 178 by the use of force or threat of direct attack against the body of another person and punished with imprisonment from two to ten years. A more serious penalty applies in the following cases:

When rape results in grievous bodily harm or death; If the offence is committed by more than one person or in a particularly cruel or humiliating manner; If it is committed against a child or juvenile; Or the act results in pregnancy.

Short explanation

A criminal offence is categorised as rape **only if it includes a use of force or a threat of use of force**, which implies that victim should physically resist. Nowadays, judicial practice is moving from this firm attitude into a more flexible definition of rape. In addition, for the crime of rape or other forced sexual acts, the theory and judicial practice require penetration by the male sexual organ, even in cases against children. All other cases of penetration by hand or foreign objects, or of forcing someone to perform an oral sexual act, are not considered rape or forced sexual acts, but instead prohibited sexual acts (article 182), for which the penalty is monetary fine.

The Criminal Code also states that prosecution for rape within marriage will be undertaken only if the victim agrees with a criminal prosecution, and not ex officio (article 186), even if there is clear evidence that the crime was committed. At any point, the victim of marital rape can withdraw charges and the case is then automatically dismissed.

Available data on women victims of rape

Year 2009-2011

There were 177 criminal charges of rape (article 178), 138 in 2010 and 131 in 2011.

<http://webrzs.stat.gov.rs/WebSite/repository/documents/00/00/05/79/sk12122009e.pdf>

<http://webrzs.stat.gov.rs/WebSite/repository/documents/00/00/38/87/SK122010e.pdf>

<http://webrzs.stat.gov.rs/WebSite/repository/documents/00/00/73/97/sk12122011e.pdf>

Victim statistics 2009 (available only in Serbian)

For the crime of rape, data existed for victims in 61 out of 72 cases. Out of 64 victims of rape, 1 was male and 63 were female, 7 were children under 14 and 19 were children between 14 and 18 years.

Victim statistics 2010 (available only in Serbian)

For the crime of rape, data existed for victims in 46 out of 53 cases. Out of 56 victims of rape, 4 were male and 52 were female, 1 was a child under 14 and 17 were children between 14 and 18 years.



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Victim statistics 2011 (available only in Serbian)

For the crime of rape, data existed for victims in 44 out of 53 cases. Out of 48 victims of rape, 4 were male and 44 were female, 5 were children younger than 14 and 8 were children between 14 and 18 years.

Useful Contacts

Autonomous Women's Center, Belgrade, Tirsova 5a, helpline (+381 11) 266-2222, e-mail: azc@azc.org.rs

www.womenngo.org.rs

and receive psychological help and free legal aid

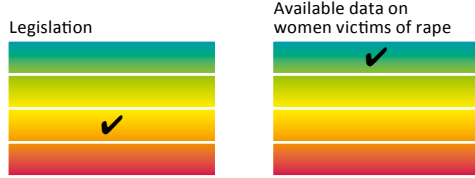
adults and parents of the abused children can

contact: Incest trauma center, Belgrade, Macvanska 8, helpline (+ 381 11) 386 1332 or 344 1737, e-mail: itcentar@eunet.rs, www.incesttraumacentar.org.rs and receive psychological help



NATIONAL ANALYSIS

Slovenia



Expert

Katja Zabukovec Kerin

Legislation

Criminal Code of the Republic of Slovenia, Chapter 19

CRIMINAL OFFENCES AGAINST SEXUAL INTEGRITY

Rape

Article 170

(1) Whoever compels a person of the same or opposite sex to submit to sexual intercourse with him by force or threat of imminent attack on life or limb shall be sentenced to imprisonment for not less than one and not more than ten years.

(2) If the offence under the preceding paragraph has been committed in a cruel or extremely humiliating manner or successively by several perpetrators or against offenders serving a sentence or other persons whose personal freedom was taken away, the perpetrator(s) shall be sentenced to imprisonment for not less than three and not more than 15 years.

(3) Whoever compels a person of the same or opposite sex to submit to sexual intercourse by threatening him/her with a significant loss of his/her property or relatives' property or with the disclosure of any matter concerning him/her or his/her relatives which is capable of damaging his/her or his/her relatives' honour and reputation shall be sentenced to imprisonment for not less than six months and not more than five years.

(4) If offences under paragraphs 1 or 3 of this Article have been committed against a spouse or an extramarital partner or partner of a registered same-sex civil partnership, the prosecution shall be initiated upon a complaint.

Minors are included in another criminal act and are well covered.

Additional comments

A lot of cases of rape are qualified as sexual violence, because of the lower minimum sentence. It is almost impossible to prosecute marital rape without the victim's cooperation. Victims constantly complain about the court proceedings, they are still asked about their sexual preferences, sexual history, possible abortions, drug and alcohol use.



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Available data on women victims of rape

Data on rape is available from the police statistics, published semi-annually.

The latest police report states that they investigated 33 cases of rape in 2011 and 32 cases in 2012. They also investigated 25 cases of sexual violence in 2011 and 23 cases in 2012. The data on victims and perpetrators is available upon special request, but is not published.

Victims of rape:

Number of investigated cases

	2011	2012
Male	2	2
Female	39	44
Sum	41	46

Offenders:

Number of investigated cases

	2011	2012
Male	38	46
Female	1	0
Sum	39	46

It is obvious that only a very small proportion of rapes are ever reported. In our opinion it is because there isn't much public debate about the topic and women tend to report other forms of violence much more often.

Useful Contacts

Association for Nonviolent Communication,
Miklošičeva 38, 1000 Ljubljana, Slovenia,
Phone: +386 1 4344822, www.drustvo-dnk.si,
E-mail: info@drustvo-dnk.si

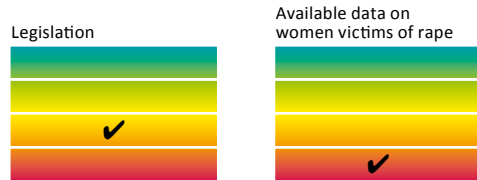
AND

Association SOS Help Line for Women and Children
– Victims of Violence,
P.O.Box 2726, 1001 Ljubljana,
SOS Help Line 080 1155, E-mail drustvo-sos@drustvo-sos.si,
www.drustvo-sos.si



NATIONAL ANALYSIS

Spain



Expert
Carmen Martinez Ten

Legislation

In Spain, criminal acts against sexual freedom are regulated in Title VIII of Book II of the Penal Code. Spain distinguishes between the following types of crimes:

- **Sexual Assault:** Sexual assault against the freedom of another person, using violence or intimidation. This is punished with imprisonment of one to five years. Under sexual assaults, rape includes vaginal intercourse, anal or oral sex, or the insertion of body parts or objects. In this case a prison sentence of 6-12 years is imposed.
- **Sexual abuse:** An attack on the sexual freedom and integrity of another person without consent but without violence or intimidation. It is considered that there isn't consent in the case of persons who are mentally incapacitated or disabled, and crimes committed overriding the will of the victim by using drugs or other substances. It is also considered sexual abuse when consent is obtained by using a position of power that limits the freedom of the victim.

Available data on women victims of rape

All the sources consulted agree that there is a huge discrepancy between the number of assaults that are reported relative to those that occur. The statistics from official sources (Attorney General) don't show the reality.

However, the latest data shows an increase in this type of crime. The Attorney General's Report noted, in relation to crimes against sexual integrity and freedom, provided in Title VIII of Book II of the Penal Code, an increase of 6.58% (from 13,266 lawsuits initiated in 2010 to 14,139 lawsuits in 2011).

On the other hand there is a disparity between the statistics provided by the Ministry of Justice through of the Attorney General's Office and those facilitated by the Spanish Institute for Women's Affairs, which also are not up to date because they only provide data until 2009 (and don't include important areas such as the Basque Country and Catalonia).

The Spanish Institute for Women's Affairs gives data on all reported crimes against sexual freedom and integrity: 6,798 in 2006, 6,845 in 2007, 7,591 in 2008 and ,6562 in 2009, the last year reported in this source. www.inmujer.es/estadisticas/consulta.do?area=10 Specific data on rape are: 2006, 1,481 cases; in 2007, 1,573; 1,469 in 2008 and 1,315 in 2009. For a country like Spain with a population of 47 million, these numbers are extremely low.

Spain relies on women's organisations that provide information and assistance to victims, such as FAMUVI (Federación de Asistencia a Víctimas de Agresiones Sexuales) and ADAVAS (Asociación de Ayuda a Víctimas de Agresiones Sexuales). These organisations have centres and websites that offer information and free psychological and legal assistance to victims of rape, sexual abuse and domestic violence.

FAMUVI- www.violacion.org/quienes/default.html

ADAVAS- www.adavas.org

In conclusion, rape is a crime almost hidden in Spain, because a very small number of cases are reported. In addition, the statistics collected are not consistent with each other.

Useful Contact

FAMUVI Phone (free): 0034 91 574 01 10

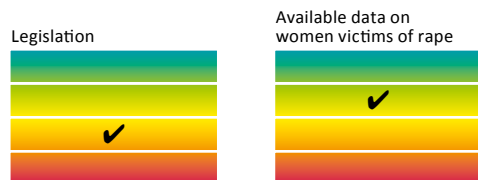
Emergency Phone : 112

The National Police, SAM (Servicio de Atención a la Mujer) : 0034 91 582 25 32 / 41 25



NATIONAL ANALYSIS

Sweden



Expert
Wiveca Holst

Legislation

The Swedish Penal Code defines rape in Chapter 6, Section 1, as such:

“A person who by assault or otherwise by violence or by threat of a criminal act forces another person to have sexual intercourse or to undertake or endure another sexual act that, having regard to the nature of the violation and the circumstances in general, is comparable to sexual intercourse, shall be sentenced for rape to imprisonment for at least two and at most six years.

This shall also apply if a person engages with another person in sexual intercourse or in a sexual act which under the first paragraph is comparable to sexual intercourse by improperly exploiting the fact that the person, due to unconsciousness, sleep, intoxication or other drug influence, illness, physical injury or mental disturbance, or otherwise in view of the circumstances in general, is in a helpless state.

If, in view of the circumstances associated with the crime, a crime provided for in the first or second paragraph is considered less aggravated, a sentence to imprisonment for at most four years shall be imposed for rape.

If a crime provided for in the first or second paragraph is considered gross, a sentence to imprisonment for at least four and at most ten years shall be imposed for gross rape. In assessing whether the crime is gross, special consideration shall be given to whether the violence or threat was of a particularly serious nature or whether more than one person assaulted the victim or in any other way took part in the assault or whether the perpetrator having regard to the method used or otherwise exhibited particular ruthlessness or brutality.”

Additional comments

The issue of “consent” is not yet included in the legislation and there is an ongoing discussion in Swedish civil society. Based on an evaluation of the rape law, several lawyers, civil society and women’s organisations want to amend the law to include consent, as described in the Istanbul Convention.

Available data on women victims of rape

According to the Swedish National Council for Crime Prevention, over the last decade the number of reported sexual offences has increased constantly, and the reports of rape have more than doubled. This is likely due to a combination of an actual increase together with a rising trend of reporting the crime. A large portion of the increase has occurred since 2005, when the new sexual offences legislation came into force, which meant that some actions that were previously classed as sexual exploitation are now classed as rape.

www.bra.se/bra/bra-in-english/home/crime-and-statistics/rape-and-sex-offences.html



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The official statistics just give data on how many women, girls, men and boys have been raped and how many perpetrators the police know about: what sex they are and how many have been convicted.

The figures for 2011 are:

6,120 rapes of women and girls - of these, nearly half (2,732) were under 18 and 3,388 were women over the age of 18 .

1,030 men were suspected of the crime of rape and 151 were convicted.

As few as 10-20% of all sexual offences are reported to the police. The Swedish Crime Survey (Nationella Trygghetsundersökningen, NTU) provides a better picture of the extent of criminality, with data on both victims as well as perpetrators — which is lacking in the criminal statistics. Of those who are suspected for sexual offences, the majority are men and only about 2% are women. The majority of the victims are women. In a third of reported rapes, the victim is younger than 15.

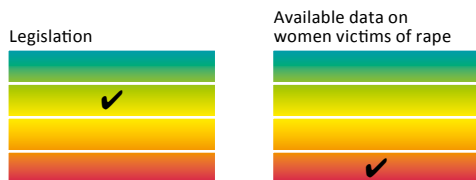
Useful Contact

There is a national helpline for women that have been abused. It is free of charge and calls to the number do not appear on phone bills.
+46 (0)20505050



NATIONAL ANALYSIS

Turkey



Expert

Selma Acuner, with the help of Songül Atak and Dicle Çakmak

Legislation

The new Turkish Penal Code which was enacted on 26 September 2004 has become more inclusive in terms of the sexual crimes it covers. Crimes of sexual violence including rape are defined as “crimes against sexual inviolability”. Defining sexual violence under “crimes against individuals” rather than “crimes against the society” reflects a transformation to regarding women as individuals.

Marital rape is regarded as a crime in the new Code. Still, it is considered as an offence prosecuted on complaint.

Additional comments

In practice, victims of sexual assault experience many problems when they apply to the police and prosecution office. They face prejudice resulting from society’s patriarchal perspectives. The tendency to question women’s behaviour might discourage them from filing a complaint and increase the trauma they experience. Therefore, it is vital to establish a Sexual Assault Crisis Centre and appoint experts in the field of gender equality and sexual violence to overcome these problems.

Available data on women victims of rape

Although we do not have any official data on rape victims in Turkey, there is an independent media institution called Bianet (bianet.org) producing data by gathering news from local and national newspapers, websites and agencies. Since 2009, Bianet has been publishing quantitative information on violence against women and rape on a monthly and annual basis.

According to the latest data produced by Bianet in January 2013, there were 150 rapes of women by men in 2012. Of these, 61% were raped by acquaintances and 39% were raped by unknown men. Acquaintances were comprised of friends, husbands, boyfriends, relatives, colleagues and neighbours, respectively.

Bianet separated the data according to the places where rape incidents occurred. Please see the numbers below:

63 women – at home

37 women – in the street

29 women – at places where they were detained

6 women – at their workplace

7 women – in hotels, bars and restaurants

Also, 8 women were forced into prostitution.



It is important to note that these **are unofficial statistics** gathered by the cases covered in local and national media.

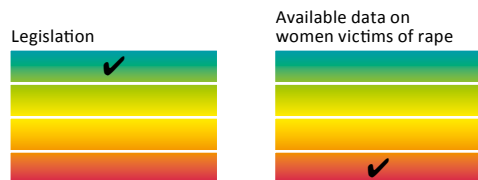
Useful Contact

Foundation for Women's Solidarity – Kadın Dayanışma Vakfı
Mithatpaşa Cad. No: 10/11 Sıhhiye, Ankara, TURKEY
Phone: +90 312 430 4005 – +90 312 432 0782
Fax: +90 312 430 4005
E-mail: kadindv@yahoo.com.tr
Website: www.kadindayanismavakfi.org.tr



NATIONAL ANALYSIS

United Kingdom



Expert
Marsha Scott

Legislation

Scotland

The Sexual Offences (Scotland) 2009 Act reformed the law on rape to broaden the definition from one based on vaginal penetration only to one based on penile penetration of someone's vagina, anus or mouth without consent and without a reasonable belief in consent. Penetration by an object is a separate offence of sexual assault by penetration, which is equivalent in seriousness to rape.

The 2009 Act defined consent for the first time as 'free agreement' and set out explicitly that consent can be withdrawn at any time. The Act also sets out a list of circumstances where consent is assumed to be absent – this list includes when someone is incapable through alcohol or another substance, when they are asleep, where violence is used or threatened and where the only expression of agreement to the sexual activity is from a person other than the complainer.

The provisions in the Act represent a positive change in how rape is defined in Scotland, not least by including male rape for the first time.

However, the biggest challenge for Scotland remains getting rape cases to court in the first place – Crown Office data suggests that only 25% of reported rapes reach court. Scotland is one of the few countries in the world which retains a requirement for corroboration (across the board for all crimes, not just for rape). Due to the nature of rape, it can be very difficult to find sufficient corroboration to meet the legal test for sufficiency, meaning that there are significant barriers in getting rape cases to court. The Scottish Government is, however, considering removing the requirement for corroboration in Scotland, and has issued a public consultation document to this effect.

Northern Ireland

The offence of rape is now defined by the Sexual Offences (Northern Ireland) Order 2008. It carries a maximum sentence of life imprisonment. Definition of rape: A person commits the offence of rape where he intentionally penetrates the vagina, anus or mouth of another person with his penis, and that person does not consent to the penetration, and the defendant does not reasonably believe that person consents. Prosecution rates for sexual violence remain disgracefully low.

England and Wales

Under section 1(1) SOA 2003 a defendant, A, is guilty of rape if:

- A intentionally penetrates the vagina, anus or mouth of B (the complainant) with his penis;
- B does not consent to the penetration; and,
- A does not reasonably believe that B consents.



The new offence of rape in section 1(1) SOA 2003 includes oral and anal penetration with a penis. This is a change from the previous law which was only concerned with vaginal penetration and used other offences to criminalise these forms of sexual violence (such as indecent assault). The person who commits the offence of rape must be a man (as the penetration has to be with a penis). However, both women and men may experience rape. If the penetration is with something other than a penis then the offence is assault by penetration.

For the offence of rape to have been committed the defendant must have penetrated the complainant without the complainant's consent, or continued to penetrate the complainant after the complainant withdrew consent, and the defendant must not have reasonably believed that the complainant was consenting.

Available data on women victims of rape

Scotland

Data is extremely poor in relation to sexual offences, particularly the official statistics on the criminal justice system. The data which is available from the Scottish Government is not broken down at all – it does not give separate figures for female / male victims, and it does not give any breakdown of relationship of assailant e.g. stranger or known attacker.

This situation largely describes data available in the rest of the UK also.

Useful Contacts

Scotland:

Rape Crisis Scotland:
Tel: +44 141 331 4180,
info@rapecrisisscotland.org.uk,
www.rapecrisisscotland.org.uk

In Northern Ireland: Women's Aid Federation
Northern Ireland

Tel: +44 800 917 1414
www.womensaidni.org

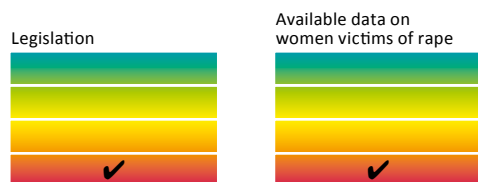
In England & Wales: Rape Crisis England & Wales

Tel: +44 808 802 9999
www.rapecrisis.org.uk



NATIONAL ANALYSIS

Ukraine



Expert

Halyna Fedkovych, with the help of
Marianna Yevsyukova

Legislation

The Ukraine Criminal Code still incorporates the old definition of rape by use of force or threat or taking advantage of the helpless condition of victim, covering only vaginal penetration (Article 152). It is defined as sexual intercourse using physical violence, or the threat of injuries (the will of the victim is suppressed), or by taking advantage of the helpless condition of a victim (her/his will is ignored). **Sexual intercourse** (in terms of rape) usually means a heterosexual sexual act. It means the conjunction of male and female genitals capable, as a rule, of causing pregnancy. Anal or oral penetration of a sexual nature, as well as penetration with an object is covered by another crime recognized by the Criminal Code – violent, perverse gratification of sexual desires.

The helpless condition of a victim in reference to cases of rape means that because of the physical or mental condition of the victim, she or he may not understand the character and value of the actions committed against her or him (mental disability) or, even if understanding it, she or he may not resist. The condition of intoxication may be classified as a helpless condition only in a case when, because of the use of alcohol, narcotics or toxic substances, the person did not understand the conditions or was deprived of the physical ability to counteract the rapist. Consent to the use of alcohol or other substances, even in intimate circumstances, does not constitute consent to sexual relations.

Rape in marriage: The Article 56 of Family Code of Ukraine on the Right of Wife and Husband for Personal Freedom says that: “4. *Compulsion to cease marital relations, the compulsion to stay in marriage, including compulsion to sexual relations by physical or mental violence, is a violation of the right of a wife/husband to personal freedom and can have the consequences set by law.*”

Additional comments

According to the new Criminal Procedural Code that came into force in November 2012, rape without aggravating circumstances (that is, the majority of rape cases) is a private prosecution case, and investigation depends on the victim’s complaint. If the victim refuses to support prosecution the case will be closed. The main risk of such a provision is that the victim may waive the complaint under pressure from the perpetrator. Taking this into consideration and the emotional complexity of criminal proceedings for the victim, including pressure from the perpetrator, the majority of rape cases stay under-reported or do not reach the court.

The new Criminal Procedural Code contains a provision that applies to rape cases without aggravating circumstances concerning an agreement between victim and perpetrator that can be signed, and based on which court verdict will be made. Such an agreement, as well as others, can contain provisions on compensations for victims. As it is a new provision for Ukrainian legislation, we do not know how it will work.



It is very difficult for rape victims to get adequate compensations, as court practice on compensation for moral damages in the Ukraine is very weak. There is no mechanism for determining the amount of compensation and judges often give into stereotypes concerning the victim's guilt and provocative behaviour..

Available data on women victims of rape

The data on rape cases consists of statistics from the Ministry of Internal Affairs and the State Court Administration of Ukraine. However, neither source has the gender disaggregated statistics, and the statistics from the Ministry of Internal Affairs are only divided by age groups - adults and children who are victims.

In 2009-2011, the law enforcement agencies received more than 7,000 **complaints** of rape, but only 2,071 criminal cases were opened.

During the first 9 months of 2012, the law enforcement agencies registered 1,584 such reports, from which 440 criminal cases were opened for rapes (article 152). In 993 cases police refused to initiate criminal proceedings and 363 cases were referred to the court by police after finishing investigation.

According to the data of the State Court Administration of Ukraine, as of the beginning of 2012, there were 263 rape cases in the courts, and 214 cases were added in the next 6 months. Court hearings were held for 242 cases, of which in 207 convictions were made, and 250 persons were convicted.

But an even larger number of rapes remain unreported because women are afraid to ask for protection, are unable to counteract violence by themselves, and do not believe that the existent legal system is going to protect them. And the available official statistics prove how complicated it is to bring these cases to a logical conclusion and to punish rapists through the courts. Also, the society shows different attitudes to such manifestations of violence. A lot of people believe it is the victims who are guilty for what happened to them [1]. Spousal rape is not an additional qualifying attribute and is not considered as a separate crime.

(1) Source: Violence against women and domestic violence/ The Annual Human Rights report "Human Rights in Ukraine 2012" <http://helsinki.org.ua/index.php?id=1362810669>

Useful Contact

National Toll Free Hot Line on Combating Domestic Violence, Trafficking in Human Beings and Gender Discrimination 0 800 500 335 (from fixed phones) 386 (from mobile phones)



Credits:

With warm thanks to all of the Experts to the EWL Observatory on Violence against Women.

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