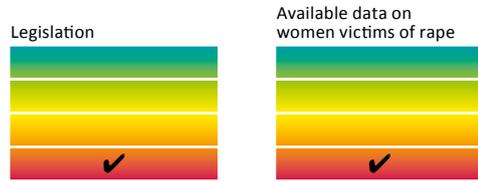


NATIONAL ANALYSIS

Hungary



Expert

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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),
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