



# EWL Barometer 2013

## ON RAPE IN EU – OVERVIEW



EUROPEAN WOMEN'S  
**LOBBY**  
EUROPEEN DES FEMMES



# EWL Barometer 2013<sup>1</sup>

## ON RAPE IN EU – OVERVIEW



(1) The complete version of the barometer  
can be downloaded from the EWL Website:  
[http://www.womenlobby.org/Publications/Reports/  
article/2013-ewl-barometer-on-rape-report?lang=en](http://www.womenlobby.org/Publications/Reports/article/2013-ewl-barometer-on-rape-report?lang=en)



The European Women's Lobby (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 as both a cause and consequence of gender inequality. Yet, male violence against women remains invisible and underestimated. This is particularly true for sexual violence. Thus it is crucial for the EWL to improve awareness of the importance and scale of such forms of male violence against women.

This 2013 Barometer focuses on rape as a form of sexual violence criminalised in each and every national legislation. While this facilitates European comparison, we also choose to focus on the issue of rape for more strategic reasons. Rape, like other forms of sexual violence, continues to be a "forgotten issue", despite the fact that its prevalence and attrition rates are high everywhere. Even more strikingly, compared to other forms of male violence against women, the general lack of data hides the extent of rape of women. Consequently it also fails to bring attention to the critical need to prevent and support the victims and survivors of rape, alongside the vital importance of prosecuting and sanctioning rapists.

**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.**

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. The convention, which is still in the process of being ratified by Member States, sets the minimum standards for comprehensive policies on many forms of violence against women, acknowledging how "violence against women is deeply rooted in women's inequality in society, and is perpetuated by a culture of tolerance and denial".

**At the European Union level**, the adoption of the Directive in 2012 which established minimum standards on the rights, support and protection of victims of crime,<sup>2</sup> should bring more protection and rights to the victims and notably ensure that:

- they are treated with respect;
- police, prosecutors and judges are trained to properly deal with them;
- victim support exists in every Member State;
- that victims of rape are identified –and crucially, are properly protected.

EU countries have three years (up to 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,<sup>3</sup> 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.

**The Barometer is a very important tool for obtaining a European-level 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 in a pointed manner how and where improvements and changes are needed.

(2) the 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=OJ:L:2012:315:0057:0073:EN:PDF>

(3) <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0127>

BAROMETER



# Rape in Europe

*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. Research on victimisation shows that a great majority of sex crimes remain undisclosed<sup>4</sup>.*

Official data on sexual violence is 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 specialised services for women victims of rape in most European countries.

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

Below are a few examples selected from the consultation we conducted with our experts that can be found in full in the longer barometer report:

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

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

- In the Netherlands, a recent study (2012) revealed 15% of women aged between 25-70 and 8% of 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).

## Methodology

The EWL Barometer on Rape is a clear and comprehensive tool. Based on the evaluation of the experts of the EWL Observatory on VAW, it grades each country part of the Council of Europe based on two criteria: legislation on rape and data collection.

Most countries belonging to the Council of Europe have signed the Istanbul Convention and are now in the process of ratification<sup>5</sup>. To give effect to the convention, and by ratifying it, state parties are legally bound to respect the standards included in the convention, and possibly change their penal code or measures to adhere to the text of the convention. We sought to uncover how the countries of the Council of Europe are performing in relation to legislation on rape and data collection – and whether they are ready to implement the convention.

(5) See website of the convention: [http://www.coe.int/t/dghl/standardsetting/convention-violence/default\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/default_en.asp)





The Barometer provides two grades for each country:

- The first grade evaluates the legislation on rape, both as it is in the text and in relation to the Istanbul Convention definition (see box below).
- The second grade evaluates existing data available on women victims of rape

### For the legislation, we have gathered the answers into four categories

The “zero” grade is ascribed to countries whose current legislation positions them far from complying to the terms of the Istanbul Convention. Grade 3 is for legislation that allows a country to perform better than the minimum standards set out in the Istanbul Convention, while grades 1 and 2 denote levels of performance in between these two extremes.

We encourage you to read the comments in the country pages of the barometer that delve deeper than the basic picture. These explain, why the legislation succeeds or fails in corresponding to the Istanbul Convention’s definition on rape and what improvements are needed, as well as the major concerns for women and women’s NGOs related to implementation or interpretation of the guidelines.

#### Legislation:



### For data collection, again we use four categories

The “zero” grade is attributed to countries who have no official gendered data on victims of rape, i.e. there is no way to gain any statistical picture of the numbers of women victims of rape from reported cases to the police and/or justice system. Grade 1 is awarded to 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 indeed on violence against women, including rape. Such surveys are not always carried out regularly, but they provide gendered information on the experience of women and are generally based on a statistically significant sample.

Grade 2 indicates that data on victims of reported rapes is gender disaggregated, but beyond that provides no information (for instance, nothing explaining the relationship between the perpetrator and victim).

Finally, grade 3 is the best grade, indicating that all data is gendered and includes 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

## 1. Legislation

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





The Barometer clearly highlights that most of the countries should improve their legislation on rape <sup>6</sup> to include the standards of the Istanbul Convention, as a large majority (21/32) of experts state that their legislation still lacks the elements needed that would enable it to comply with the Istanbul Convention (grade 1). This is mainly because force or intimidation remains the essential elements defining and determining rape and sexual abuse. In many national legislations, investigation and prosecution depend on the victim's complaint. If the victim refuses to support the 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 account, and considering 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, i.e. grade zero. Experts explain which elements of those national legislation should be changed. 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, i.e. grade 2 and 3: Ireland, Italy, Turkey, the Netherlands and the UK (Scotland, Northern Ireland and Wales & England).

## Legal definition of rape

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

## The Istanbul Convention is an important tool to improve legislation on rape

Force-based definitions of rape offer inadequate protection for women against sexual violence. In the case of *M.C. v. Bulgaria*, the European Court of Human Rights stated this and considered rape legislation that focuses exclusively or unduly on proving the use of force, rather than the lack of consent of the victim, to be in violation of the European Convention on Human Rights. The Istanbul Convention incorporated this judgement by requiring States Parties to adapt their criminal legislation on sexual violence and rape to focus on the lack of consent as a constituent element of the crime.

(6) Data from Slovakia are missing.





**The Istanbul Convention states clearly that a non-consensual act of sexual nature is violence and should be criminalised** (Article 36). The consent, and not the use of force, is the constituent element of the crime.

The lack of consent has sometimes also been denounced as difficult to prove and that “may, in practice, result in the secondary victimisation 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 victimisation, some countries have developed definitions of rape which rely on the existence of certain circumstances, rather than demonstrating a lack of consent.”<sup>7</sup>

**The Istanbul Convention specifies that “Consent must be given voluntarily as the result of the person’s free will assessed in the context of the surrounding circumstances”.** (Article 36).

This substantiates the need to go beyond minimalist notions of consent, towards a possible notion of ‘consent+’ that integrates societal and contextual considerations of inequality and power.

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.**

(7) UN Handbook for Legislation on Violence against Women, 2010.





## On access to justice

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 of the EWL Observatory often comment 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. Hence, women often face additional risks 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 any ensuing 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 making it to the courts, 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.

### *The Istanbul Convention is an important tool to ensure access to Justice*

The Istanbul Convention puts in place a number of measures designed to ensure effective investigation and prosecution of crimes of sexual violence, as well as the protection of victims of such crimes at all stages of judicial proceedings, and among others:

- The Istanbul Convention requires States Parties to make available the following support to victims of violence, including victims of rape: **specialist support services** for victims during investigations and judicial proceedings, such as trained counsellors (Article 55(2)); **appropriate support services** for victims so that their rights and interests are duly presented and taken into account at all stages of investigations and judicial proceedings (Article 56(1e)); **legal assistance and legal aid** (Article 57).
- Parties shall take the necessary legislative or other measures to ensure the possibility for governmental and non-governmental organisations and to assist and/or support victims, at their request, during investigation and judicial proceedings (Article 55(2)).
- **The Istanbul Convention obliges States Parties to take the necessary measures to ensure that in any civil or criminal proceedings, evidence relating to the sexual history shall be permitted only when is relevant and necessary** (Article 54).

Past sexual behaviour should not be considered as an excuse for acts of violence against women. Sexual history evidence should be only presented in a way that does not lead to secondary victimisation. Victims should have access to legal recourse without suffering additional trauma because of their sexual history and conduct.

# Main findings

## 2. Data collection and recording

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





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

**Available data on women victims of rape is scant and of poor quality: 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 gender disaggregated data.**

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 rapes are reported**<sup>8</sup>. 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 common myths.

In the media, much importance has been given to the phenomenon of “gang rape”: but what do these represent within 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 proceeding through the pipelines 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 the system producing

the relevant data should be part of comprehensive prevention and protection policies.

### *The Istanbul Convention is an important tool to improve data collection systems*

**The Istanbul Convention requires States Parties to collect disaggregated relevant statistical data at regular intervals on all forms of violence against women, including rape; to conduct population-based surveys to assess the prevalence of and trends of forms of violence against women, including rape; and to support research in the field to identify root causes and effects, incidences and conviction (Article 11 of the Istanbul Convention).**

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 the choice of data categories used open, the drafters insist on certain minimum requirements<sup>9</sup>. 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 understand the victims’ relationships with their aggressors.

(8) Lovett, J. and Kelly, L. ‘Different systems – similar outcomes: Tracking Attrition in Reported Rape Cases in Eleven European Countries’, Child and Woman Abuse Studies Unit, London Metropolitan University, [http://www.cwasu.org/filedown.asp?file=different\\_systems\\_03\\_web\(2\).pdf](http://www.cwasu.org/filedown.asp?file=different_systems_03_web(2).pdf)

(9) See §76 Explanatory Report to the CoE Convention on preventing and combating violence against women and domestic violence (CETS N°210)



### 3. Provision of services and support to victims

#### On lack of services

In the EWL Barometer we added a question related to useful contacts for victims/survivors in each of the countries. In so doing, 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 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 reality.

The lack of specific services and resources for victims/survivors of rape is still a common predicament in Europe. **The results of the EWL Barometer on Rape in Europe 2013 confirmed that the majority of countries provide no specific services and/or special help lines for women victims of rape.** Furthermore, experts of the EWL Observatory everywhere problematise the resources that are meant to be allocated for dealing with this, denouncing them as being **insufficient at best and derisory, to non-existent at worst.**

#### *The Istanbul Convention is an important tool to ensure access to specialised protection services*

**The Istanbul Convention obliges States Parties to take the necessary legislative or other measures to ensure that there are appropriate mechanisms to protect and support victims of violence, including victims of rape.** The Istanbul Convention requires:

- Ensuring that victims have access to services facilitating their recovery from violence, including legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment (Article 20 – General support services).
- The setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims (Article 25 – Support for victims of sexual violence).
- Importantly, the Istanbul Convention recognises that specialist support services, such as the rape crisis centres, are best when provided by women's organisations, which have experienced staff with in-depth knowledge of gender-based violence that are able to address the multiple and specific needs of women victims of rape.



### *Other positive elements of the Istanbul Convention*

The Istanbul Convention sets comprehensive standards, not only for the legal definition of rape; data collection; protection and support for women victims of all forms of violence against women, including rape but it also has other innovative elements, which can be especially important in relation to rape and sexual violence, and notably on prevention. A whole chapter is indeed dedicated to prevention in order to promote changes in the social and cultural patterns with a view to eradicating prejudices, customs, traditions and other practices based on the idea of the inferiority of women or on stereotyped roles for women and men. These prevention measures are needed, as gender myths and stereotypes about male and female sexuality and sexual behaviour are still prevalent in society, as are the notions of 'appropriate' gender behaviour. There is a persistent and alarmingly high range of prejudicial attitudes held by the public and all too often also by the police and judiciary system, who blame women for their victim status. Thus, they compound an already traumatic experience by attributing the assault in whole or in part to some aspect of women's demeanour or behaviour.

#### **Another important new feature is the specific attention accorded to migrant and refugee women.**

Migrant women victims of gender-based violence, including rape are extremely vulnerable as fear of deportation or the risk of losing the residence status acts as an impediment for them to seek assistance, report, or ask for a separation or divorce. Migrant women can be trapped in situations of abuse, if their status in the country depends on that of their abuser. Undocumented women migrant workers in domestic services are vulnerable to becoming victims of violence, sexual violence and rape, are especially vulnerable to being abused by their employers.

- **The Istanbul Convention introduces the possibility of granting migrant women an autonomous residence permit** if they are trapped in an abusive relationship and to ensure a renewable residence permit to victims if the authority considers that this is necessary for their personal situation or/ and if the investigation or criminal proceeding requires the cooperation and testimony of the victim (Article 59).
- Rape and sexual violence have been used rampantly as a weapon of war and as a form of persecution against women in conflict areas and war affected zones. However, generally at international level, there is an alarming lack of understanding of the different causes of persecution affecting women and men. Only a small minority of countries in the world recognise the status of refugee for women fleeing from gender-based violence. Here also, the Istanbul Convention ensures gender sensitive procedures in the asylum granting process (art. 60).

## Concluding remarks

Despite recent efforts to help women who have been raped or have 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 victim status 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 also 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.

The information presented in the EWL Barometer on Rape requires further development and follow up, on the three key processes of signature, ratification and implementation of the Istanbul Convention. We hope the Barometer will be used as a tool to achieve the standards of prevention, protection and justice for women. EWL and the EWL Observatory's actions aim to make a contribution in the development of European strategies to combat these widespread violations of women's human rights. The focus of rape is taken as representative of acts used by men, individually and collectively, to secure their power, maintain control and safeguard their domination over women. It is not enough to stop at strategies that address the issue solely through intermediary and incomplete measures. **The ultimate objective has to be to contribute to a debate which renders male violence an unacceptable form of behaviour.**



# The European Women's Lobby

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 Candidate Countries, as well as to European-wide associations.

## The EWL Observatory

In 1997, the EWL formed its Observatory on Violence against Women, a group comprising 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, all of whom have extensive expertise in the area of violence against women. 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 on actions and build strategies, in order to improve the general prevention of violence against women 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.

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

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