**Definition and scope of criminal law provisions**

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.

***Criminal code:***

***Article 159 - Rape***

*(1) A sexual intercourse using powerlessness of the victim or a sexual intercourse contrary to the will of the victim, using violence, threats or using trust, authority or other influence on the victim (rape), -*

*Shall be punishable by imprisonment for a term of four to ten years and probation mentoring for a term up to five years.*

*(2) A rape, if committed by a group of persons, or a rape of a minor -*

*Shall be punishable by life imprisonment or imprisonment for a term of five to twenty years and probation mentoring for a term up to five years.*

*(3) A rape, if it has caused serious consequences, or a rape of a person who has not reached the age of sixteen,*

*Shall be punishable by life imprisonment or imprisonment for a term of ten to twenty years and probation mentoring for a term up to five years.*

***Article 160 - Sexual abuse***

*(1) Acts of sexual nature for the purpose of satisfying one's sexual desire in physical contact with the victim's body, if committed using the victim's powerlessness or contrary to the victim's will, using violence, threats or using trust, authority or other influence on the victim,*

*Shall be punishable by imprisonment for a term up to seven years and probation mentoring up to five years.*

*(2) An anal or oral act or a satisfaction of sexual desire in an unnatural way, which is related to vaginal, anal or oral penetration into the victim's body, if it is done using the victim's powerlessness or contrary to the victim's will, using violence, threats or using trust, authority or other influence on the victim,*

*Shall be punishable by imprisonment for a term of four to ten years and probation mentoring for a term up to five years.*

*(3) A criminal offense provided in the Paragraph one of this Article, if it has been committed by a group of persons or if it has been committed with a minor,*

*shall be punishable by imprisonment for a term from three to twelve years and by probation supervision for a term up to five years.*

*(4) A criminal offense provided in the Paragraph one of this Article, if it has caused serious consequences or if it has been committed with a person who has not reached the age of sixteen,*

*shall be punishable by imprisonment of a term from five to fifteen years and by probation mentoring for a term up to five years.*

*(5) A criminal offense provided in the Paragraph two of this Article, if it has been committed by a group of persons or if it has been committed with a minor,*

*shall be punishable by life imprisonment or imprisonment for a term of five to twenty years and by probation mentoring for a term up to five years.*

*(6) A criminal offense provided in the Paragraph two of this Article, if it has caused serious consequences or if it has been committed with a person who has not reached the age of sixteen,*

*Shall be punishable by life imprisonment or imprisonment for a term of ten to twenty years and probation mentoring for a term up to five years.*

***Article 161 - Sexual activities with a person under the age of sixteen***

*A sexual intercourse, anal or oral sex or satisfaction of a sexual desire in an unnatural manner, or the performance of any other sexual activity in physical contact with the body of the victim, if committed with a person under the age of sixteen and committed by an adult,*

*shall be punishable by imprisonment of a term up to five years or by a temporary detention, or by forced labor, or by a fine and by probation mentoring for a term up to five years.*

1. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only YES/NO

*NO.*

* 1. Gender neutral, covering  all persons   YES/NO

*YES.*

* 1. Based on the lack of consent of victim YES/ NO

*YES.*

* 1. Based on the use of force or threat  YES/ NO

*YES.*

* 1. Some combination of the above.  YES / NO

*YES.*

* 1. Does it cover only vaginal rape?  YES /NO

*NO.*

* 1. Does it cover all forms of penetration? YES/NO. If yes, please specify.

*YES. According to the Criminal Code of the Republic of Latvia not only rape, but also anal, oral acts or any other activity performed in an unnatural way can be punishable.*

* 1. Is marital rape in this provision explicitly included? YES / NO

*NO.*

* 1. Is the law silent on marital rape? YES/NO

*NO.*

* 1. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? YES/NO

*YES.*

* 1. Is marital rape excluded in the provisions, or is marital rape not considered as a crime?   YES /NO

*NO.*

1. Are there any provisions excluding criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit it.

*If the victim and alleged perpetrator live together in a sexual relationship/ have a sexual relationship/ had a sexual relationship, in the event of rape, it is still subject to the Criminal Code, where the rape/ sexual violence is regarded as punishable in general despite the link between or the status of the parties.*

1. What is the legal age for sexual consent?

*The legal age for sexual consent in Latvia is 16.*

1. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.

*According to the Criminal Code there are not such provisions that differentiate for sexual activity between peers.*

1. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

*Rape is punishable by imprisonment for a term of four to ten years and probation mentoring for a term up to five years.*

*A rape committed by a group of persons or a rape of a minor is punishable by life imprisonment or imprisonment for a term of five to twenty years and probation mentoring for a term up to five years.*

*A rape, if it has caused serious consequences, or a rape of a person who has not reached the age of sixteen, is punishable by life imprisonment or imprisonment for a term of ten to twenty years and probation mentoring for a term up to five years.*

1. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

*According to the Article 97 (1) of the Criminal procedure code, taking into account the amount of moral damage, physical suffering and property damage caused by the perpetrator, the victim reports the amount of this damage and exercises his/her procedural rights to moral and material restitutions.*

*According to the Article 97 (7), the victim exercises his / her rights [red. to a compensation] voluntarily and to the extent of his / her choice.*

*In addition, the compensation is a payment determined in monetary terms which the perpetrator has caused with a criminal offense and pays to the victim as satisfaction for moral damage, physical suffering and property damage.*

*Compensation is an element of the settlement of criminal relations which is paid by the perpetrator voluntarily or based on a court ruling or a prosecutor's prescription regarding punishment.*

*If the victim considers that all the damage caused has not been compensated by compensation, he or she has the right to demand compensation for it in accordance with the procedures specified in the Civil Procedure Law. When determining the amount of compensation, the compensation received in the criminal proceedings must be taken into account.*

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they?
	1. Is rape by more than one perpetrator an aggravating circumstance?  YES/NO

*YES*

* 1. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; teacher/student; age difference) YES/NO

*YES*

* 1. Is rape by spouse or intimate partner an aggravating circumstance?

*Yes, a rape by spouse or intimate partner is regarded as an aggravating circumstance. In addition, it is explained more explicitly that an aggravating circumstance is an offence involving violence or a threat of violence, or an offence against morality and sexual integrity committed against a person with whom the perpetrator is in the first or second degree of kinship, or against a spouse or ex-spouse, or against a person with whom the perpetrator is or has been in a permanent intimate relationship, or against a person with whom the perpetrator has a common (undivided) household.*

1. Does the law foresee mitigating circumstances for the purposes of punishment? YES/NO If yes, please specify.

*YES. According to the case law on crimes regarding rape or sexual violence, most frequently the court applies the following mitigating circumstances that are also stipulated in the Criminal Code:*

1. *the perpetrator has pleaded guilty, has conscientiously admitted and regretted the offence;*
2. *a crime was committed by a person in a state of diminished accountability.*

*In addition, it is stated in the Criminal Code that, when determining the punishment, the court may recognize another circumstance (related to the committed crime) that is not stated in the law as a mitigating circumstance.*

1. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? YES/NO  If so, at what stage and what are the consequences?

*YES. According to the Criminal procedural code a victim shall be entitled to reconcile with the person who has caused him or her harm. Reconciliation is allowed at any stage of the criminal process.*

*Reconciliation is a voluntary agreement between the perpetrator and the victim, in which the offender pleads guilty and the victim admits that he or she has no further claim against the offender.*

*According to the Criminal procedure code if the victim and the perpetrator announce the reconciliation before the court goes to the hearing room, the court may, without examining the case file, decide to release the accused from criminal liability and to terminate the criminal proceedings. However, according to the Criminal Code the perpetrator cannot be allowed for the non-prosecution in cases of the rape.*

*It is important to mention that in cases of rape the Criminal code does not allow to release the perpetrator from the criminal liability.*

* 1. Regardless of the law, is reconciliation permitted in practice? YES/NO and what is the practice in this regard?

*YES.*

*In practice, as mentioned by the law, reconciliation will not give grounds for releasing criminals from the criminal liability for such a serious crime, it could only be a mitigating circumstance.*

1. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? YES/NO If yes, please specify.

*NO.*

* 1. if the perpetrator marries the victim of rape? YES/**NO**

*NO.*

* 1. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? YES/NO

*NO.*

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? YES/NO

*YES.*

1. Is rape reported to the police prosecuted ex parte (private prosecution)? YES/NO

*NO.*

1. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? YES/NO

*YES, a plea bargain is allowed if the convicted person has helped to discover a crime of the same category committed by another person, more serious or more dangerous crime than the criminal offense committed by that person himself. In such an event, the court may reduce the sentence, or replace the life sentence with deprivation of liberty for twenty years.*

*Also, within the pre-trial criminal proceedings the prosecutor may, on his own initiative, that of the perpetrator and his lawyer, enter into an agreement on admission of guilt and punishment if the circumstances relating to the subject matter of the evidence have been established and the accused agrees with the extent, classification, damage assessment and application of the settlement procedure.*

1. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? YES/NO

*YES.*

1. Please provide information on the statute of limitations for prosecuting rape.

*According to the Criminal Code, a person who has committed a crime against humanity (including a rape) does not have a statute of limitations*.

1. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood?   YES/NO

*YES.*

1. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses?  YES/NO If yes, please specify.

*NO, there are not such mandatory requirements for specific proof of rape, but it is important that a physical evidence or testimony are obtained in accordance with laws and regulations, and that these evidences are valid and applicable to the present case.*

*In addition, it is stated in the Criminal procedure law that an investigator shall carry out investigative activities in order to ascertain whether a criminal crime has been committed by a person concerned, also, to obtain evidence which gives grounds for calling a person to criminal liability.*

1. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? YES/NO

*YES, according to the law a natural person has the right to request that the criminal case does not include information about that person or his or her fiancé, spouse, parents, grandparents, children, grandchildren, brothers and sisters, as well as the person with whom the natural person lives and with whom he or she has joint (undivided) household, private life, commercial activity and property status, if it is not necessary for the fair settlement of criminal law relations.*

1. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? YES/NO. If yes, please specify.

*YES. According to the Criminal procedure code a precautionary measure shall be applied as a coercive measure to a suspect or accused person if there are grounds for believing that the person concerned is continuing criminal activities, obstructing or avoiding pre-trial criminal proceedings or a trial. For instance, a prohibition to the perpetrator for approaching a specific person or place.*

*According to law, a prohibition to approach a specified person is a restriction provided by the decision of the person conducting the proceedings for the suspect or accused person to be closer to the victim, to avoid physical or visual contact with him or her and not to use any means of communication or information transfer.*

*A prohibition to approach a certain place is a restriction provided for by a decision of the person conducting the proceedings for the suspect or accused person to visit the relevant place or to be closer to it than the distance specified in the decision.*

*Detention may be imposed only if the specific facts obtained in the criminal proceedings give grounds for a reasonable suspicion that the person has committed a crime punishable by a custodial sentence and the application of another precautionary measure cannot ensure that the person will not commit, interfere with or avoid a new crime, or will not interfere with or avoid the execution of the pre-trial criminal proceedings, and the court.*

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? YES/NO

*According to the Criminal Code of the Republic of Latvia rape is criminalized as a crime against humanity.*

1. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? YES/NO

*NO.*

1. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? YES/NO

*YES, because the Republic of Latvia has ratified the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.*

1. Has the Rome Statute of the International Criminal Court (ICC) been ratified? YES/NO

*YES.*

**Data**

1. Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

*Initiated cases of rape by article 159- 66 and 23 of these cases are regarding minors (2019) and 90 cases initiated in 2020 from which 57 are regarding minors.*

*Initiated cases of rape by article 160 (sexual violence)- 75 in 2019. Of them 51 is against minors and 85 cases initiated in 2020 where 65 were committed against minors.*

*We do not have information on the prosecuted and sanctioned cases.*

**Other**

1. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.

*In Latvia we don’t have sexual assault centres and rape crisis centres that offer victims of rape and sexual violence medical and psychological help and offering specialized forensic examination in case victim is not yet ready go to the police but might do that at some point later when the evidence would be gone.*

*There is no protocol for police or forensic experts regarding victim-centred and sensitive investigation. The forensic examination could be carried out by a male specialist, and typically victims will encounter a policeman. There is no protocol or standard for both the police and the Centre for Forensic Medical Examination on how to manage these cases, how to provide sensitive and survivor-centred care, and refer to support services. Similarly, there is no protocol or standard for medical professionals to provide medical care in a gender-sensitive and human rights-based manner for survivors of rape and sexual violence. This lack of specialist practice can mean re-traumatisation for victims. There also is often a culture of victim-blaming which caused further damage to the victim. Culture of victim-blaming exists also in society that keeps victims silent.*

*In cases where there is temporary protection against the perpetrator police often fails to control that and keep the perpetrator away.*

*Victims are not always ready to talk and certain details are left out when the sexual violence is combined with other forms of violence, so they are never addressed and the perpetrator is not punished for sexual violence, most often this is in cases of domestic violence. In these cases, sometimes also settlements are signed because the perpetrator threatens the victim and victim is afraid to tell it to anyone, so the perpetrators case gets mitigating circumstances.*

*Victims of sexual violence can receive compensation from the perpetrator but in cases of very sever violence even the judges do not understand the grave effect this leaves to the victim and does not sentence adequate compensation. They are never bigger that 5000EUR and most of it usually is compensation that comes from state.*