**Call for submissions to the UN SRVAW thematic report on rape as a grave and systematic human rights violation and gender-based violence against women**

The United Nations Special Rapporteur on violence against women, its causes and consequences, Ms. Dubravka Šimonović, in her thematic report to be presented to the UN General Assembly in September 2020 will address **States’ responsibility to criminalize and prosecute rape as a grave and systematic human rights violation and gender based violence against women, in line with international human rights standards.**

Rape has been recognized as crime of sexual violence, a war crime, a crime against humanity  and/or genocide in specific circumstances and it has been criminalized and prosecuted in a large number of States and jurisdictions but in different ways, that is: rape has different definitions (force /consent), different scopes (women, men, marital rape, all types of penetrations), with different aggravating and mitigating circumstances, with different sanctions, and with  different statutes of limitations for its prosecution. While victims of rape can also be men and boys, it predominantly affects women and as such, falls under the definition of gender based violence against women as act of violence against women.

Globally, we know that rape is frequently not reported, and if reported seldom prosecuted with vigor; if prosecuted, results in very low numbers of convictions (attrition rates are high) and all this results in impunity for the majority of perpetrators; women thereby lose faith in the criminal system, do not report it, and the result is the mixture of low reporting rates and a culture of impunity and rape becomes normalized.

In general, there is lack of data on rape reporting, prosecution and conviction including on the relationship(s) between the victim and the perpetrator.

The international human rights framework on rape as a human rights violation and gender-based violence against women (GBVAW) has been significantly improved, but those improved standards are not fully incorporated into legislation and practice at the national level.

The aim of this report is to collect as much information as possible on the criminalization and prosecution of rape, and to thereby support and encourage a process of harmonization of national criminal laws and systems and practice with international standards on rape and sexual violence in both peacetime and during conflicts.

In her report, the Special Rapporteur intends **to** provide recommendations to States and other stakeholders on key international human rights standards that should be integrated in national criminal justice responses in order to harmonize them with accepted international standards; to provide access to justice and support for victims of rape; to break the cycle of impunity; and to prosecute perpetrators, ensuring that they are not protected by hidden domestic norms that are still part of criminal law or criminal procedure.

To that end, the Special Rapporteur on violence against women would like to invite all States, National Human Rights Institutions, civil society actors, international organisations, academics and other stakeholders from all countries to send responses to the questionnaire below.

(Due to limited time and resources, please send information including provision of the criminal law in English. If sent in other languages, translation services are not available and it could not be considered at this stage of information gathering).

All submissions should be sent to vaw@ohchr.org by **20 May 2020**. You are kindly requested to indicate if you DO NOT wish your submission to be made public.

Please indicate who is providing the response, along with contact details.

**Response by the Czech Republic**

**Contact point:**

The Office of the Government of the Czech Republic

Department of Gender Equality

**Questionnaire on criminalization and prosecution of rape**

**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 of the Czech Republic:

**Section 185 Rape**

(1) Whoever forces another person to have sexual intercourse by violence or by a threat of violence, or a threat of other serious detriment, or whoever exploits the person’s vulnerability for such an act, shall be sentenced to imprisonment for six months to five years.

(2) An offender shall be sentenced to imprisonment for two to ten years, if he/she commits the act referred to in Sub-section (1) a) by sexual intercourse or other sexual contact performed in a manner comparable with intercourse, c) on a child, or d) with a weapon.

(3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she a) commits the act referred to in Sub-section (1) on a child under the age of fifteen, b) commits such an act on a person in detention, serving a prison sentence, in protective treatment, in security detention, in protective or institutional therapy or in another place where personal freedom is restricted, or c) causes grievous bodily harm by such an act.

(4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she cause death by the act referred to in Sub-section (1).

(5) Preparation is criminal.

**Section 186 Sexual Duress**

(1) Whoever forces another person to masturbation, indecent exposure, or other comparable conduct by a threat of violence or a threat of another serious detriment, or whoever exploits the vulnerability of another for such conduct, shall be sentenced to imprisonment for six months to four years or to prohibition of activity.

(2) The same sentence shall be imposed to anyone who makes another person perform sexual intercourse, masturbation, indecent exposure, or other comparable conduct by exploiting his/her addiction or the offender’s position and credibility or influence derived therefrom.

(3) An offender shall be sentenced to imprisonment for one year to five years, if he/she commits the act referred to in Sub-section (1) or (2) a) on a child, or b) with at least two persons.

(4) An offender shall be sentenced to imprisonment for two to eight years, if he/she 80 a) commits the act referred to in Sub-section (1) with a weapon, b) commits the act referred to in Sub-section (1) or (2) on a person in detention, serving a prison sentence, in a protective treatment, security detention, protective or institutional therapy or in another place where personal freedom is restricted, or c) commits such an act as a member of an organised group.

(5) An offender shall be sentenced to imprisonment for five to twelve years, if he/she a) commits the act referred to in Sub-section (1) on a child under the age of fifteen, or b) caused grievous bodily harm by such an act.

(6) An offender shall be sentenced to imprisonment for ten to sixteen years, if he/she causes death by the act referred to in Sub-section (1) or (2) . (7) Preparation is criminal.

**Section 187 Sexual Abuse**

(1) Whoever performs a sexual intercourse with a child under the age of fifteen, or whoever otherwise sexually abuses a child, shall be sentenced to imprisonment for one to eight years. (2) An offender shall be sentenced to imprisonment for two to ten years, if he/she commits the act referred to in Sub-section (1) on a child under fifteen years of age entrusted to his/her supervision, while abusing their addiction or the offender’s position and, their credibility or influence derived therefrom. (3) An offender shall be sentenced to imprisonment for five to twelve years, if he/she causes grievous bodily harm by the act referred to in Sub-section (1). (4) An offender shall be sentenced to imprisonment for ten to eighteen years, if he/she causes death by the act referred to in Sub-section (1). (5) Preparation is criminal.

**Section 188 Intercourse among Relatives**

Whoever engages in intercourse with a relative in direct generation line or with a sibling, shall be sentenced to imprisonment for up to three years.

Criminal procedure code of the Czech Republic:

**Section 73a Pecuniary Guarantee**

(1) If there is a reason for custody referred to in Section 67 a) or c), the authority deciding on custody may let the accused person at liberty or set him free from custody also if this authority accepts a pecuniary guarantee in an amount it has determined. However, if the accused person is prosecuted for a criminal offence of murder (Section 140 of the Criminal Code), grievous bodily harm (Section 145 of the Criminal Code), torture and other inhumane treatment according to Section 149 (3), (4) of the Criminal Code, trafficking in human beings (Section 168 of the Criminal Code), robbery according to Section 173 (4) of the Criminal 56 Code, hostage taking according to Section 174 (3), (4) of the Criminal Code, rape according to Section 185 (3), (4) of the Criminal Code, sexual abuse according to Section 187 (3), (4) of the Criminal Code, general threat according to Section 272 (2), (3) of the Criminal Code, development, manufacture and possession of forbidden means of combat (Section 280 of the Criminal Code), unauthorized manufacture and other disposal with narcotic and psychotropic substances and poisons according to Section 283 (3), (4) of the Criminal Code, unlawful seizure of an aircraft, civil vessel and fixed platform (Section 290 of the Criminal Code), forcing an aircraft to abroad according to Section 292 (2), (3) of the Criminal Code, treason (Section 309 of the Criminal Code), subversion o republic (Section 310 of the Criminal Code), terrorist attack (Section 311 of the Criminal Code), terror (Section 312 of the Criminal Code), sabotage (Section 314 of the Criminal Code), espionage (Section 316 of the Criminal Code), cooperation with enemy (Section 319 of the Criminal Code), war treason (Section 320 of the Criminal Code), genocide (Section 400 of the Criminal Code), attack against humanity(Section 401 of the Criminal Code), apartheid and discrimination of group of people (Section 402 of the Criminal Code), preparation of offensive war (Section 406 of the Criminal Code), connections imperilling peace (Section 409 of the Criminal Code), use of forbidden means of combat and forbidden wage of combat (Section 411 of the Criminal Code), war cruelty (Section 412 of the Criminal Code), persecution of inhabitants (Section 413 of the Criminal Code), pillage in zones of military operations (Section 414 of the Criminal Code), abuse of internationally recognised State symbols (Section 415 of the Criminal Code), or abuse of flag and truce (Section 416 of the Criminal Code), and if there is a reason for custody referred to in Section 67 c), the pecuniary guarantee may not be accepted. With a consent of the accused person may the pecuniary guarantee be deposited also by another person; however, prior to accepting the guarantee this person must be acquainted with the merits of the indictment and with matters that are found to constitute the reasons for custody.

(2) The authority referred to in sub-section (1) shall decide, upon a motion of the accused person or the person offering to deposit a pecuniary guarantee, that a) accepting the guarantee is admissible and at the same time, with regard to the character and property relations of the accused person or the person depositing the pecuniary guarantee in his stead, to the nature and seriousness of the criminal offence, for which is the accused person prosecuted and to seriousness of the reasons for custody, set the sum of the pecuniary guarantee in a corresponding amount from 10 000 CZK higher and also the means of its deposition, b) with regard to circumstances of the case or to seriousness of the reasons for custody the offer of pecuniary guarantee shall be refused.

(3) If the authority referred to in sub-section (1) decides that accepting the pecuniary guarantee is admissible, it may also decide to impose a restriction consisting in prohibition of travelling abroad. Section 73 (4) to (6) shall apply mutatis mutandis to cases according to the first sentence.

**Section 163 Criminal Prosecution with the Consent of the Aggrieved Person**

(1) Criminal prosecution for criminal offences of Bodily harm (Section 146 of the Criminal Code), Grievous bodily harm out of negligence (Section 147 of the Criminal Code), Bodily harm through negligence (Section 148 of the Criminal Code), Failure to provide assistance (Section 150 of the Criminal Code), Failure to provide assistance by drivers of motor vehicles (Section 151 of the Criminal Code), Threat of venereal disease (Section 155 of the Criminal Code), Illegal restraint under Section 171 (1) and (2) of the Criminal Code, Extortion under Section 175 (1) of the Criminal Code, Breaking and entering (Section 178 of the Criminal Code), Infringement of rights of another (Section 181 of the Criminal Code), Breach of confidentiality of files and other private documents (Section 183 of the Criminal Code), Sexual duress under Section 186 (1) and (2) of the Criminal Code, Theft (Section 205 of the Criminal Code), Embezzlement (Section 206 of the Criminal Code), Unauthorized use of a thing of another (Section 207 of the Criminal Code), Unauthorised interfering with a right to a house, apartment or non-residential premises (Section 208 of the Criminal Code), Fraud (Section 209 of the Criminal Code), Participation (Section 214 of the Criminal Code), Negligent participation (Section 215 of the Criminal Code), Usury (Section 218 of the Criminal Code), Concealment of things (Section 219 of the Criminal Code), Breach of duty in administration of property of another (Section 220 of the Criminal Code), Negligent breach of duty in administration of property of another (Section 221 of the Criminal Code), Damnification of creditors (Section 222 of the Criminal Code), Damage to a thing of another (Section 228 of the Criminal Code), Dangerous threatening (Section 353 of the Criminal Code) and Dangerous pursuing (Section 354 of the Criminal Code) against a person, who is in such a relation to the aggrieved person, that the aggrieved person has the right to refuse testimony as a witness concerning this person (Section 100 (2)), and **the criminal prosecution for the criminal offence of Rape according to Section 185** (1) and (2) of the Criminal Code against any person who is or at the time of the criminal offence was related to the victim as their spouse, unmarried spouse or a partner, as well as for the criminal offence of Insobriety (Section 360 of the Criminal Code), if it otherwise shows the characteristic the merits of any of these criminal offences, criminal prosecution may be initiated or continued **only with the consent** of the aggrieved person. If there are several aggrieved persons harmed by a single act, the consent of one of them is sufficient.

(2) If the aggrieved person fails to submit their statement to the public prosecutor or the Police authority in writing, it shall be recorded in the protocol. The aggrieved person may withdraw his consent to the criminal prosecution by an explicit statement at any time, until the 129 appeal court retires for the final deliberation. However, an explicitly denied consent cannot be granted again.

**Section 163a**

(1) The consent of the aggrieved person to the criminal prosecution for any of the criminal offences referred to in Section 163 (1) is not required, if

a) such an act caused death,

b) the aggrieved person is unable to give his consent due to a mental illness or disorder, for he was mentally incapacitated or due to which was his legal capacity restricted,

c) the aggrieved person is a person under 15 years of age,

d) **the circumstances clearly show that the consent was not given or was withdrawn in distress caused by threats, coercion, dependence or subordination.**

(2) If the aggrieved person does not immediately respond to a call of the authority involved in criminal proceedings, whether they consent to the criminal prosecution pursuant to Section 163, such an authority will provide him with a reasonable time limit according to the nature of the matter, but not exceeding 30 days. After vain expiration of this period the consent with the criminal prosecution may not be given. The aggrieved person must be instructed thereof in writing.

**Section 412 Exceptions from the Double Criminality Rule**

(1) If the surrender be requested for offences punishable in the requesting State by imprisonment with the upper limit of at least 3 years or by imposing a protective measure associated with incarceration in duration of at least three years and which consist in conduct indicated by the authority of the requesting State in the European Arrest Warrant as one or more deeds referred to in sub-section (2), the court shall not investigate whether the deed is a criminal offence according to the legal order of the Czech Republic.

(2) These offences shall be considered as the deeds according to sub-section (1): a) participation in a criminal organisation, b) terrorism, c) trafficking in human beings, d) sexual exploitation of children and child pornography, e) illicit trafficking in narcotic and psychotropic substances, f) illicit trafficking in weapons, munitions and explosives, g) corruption, 274 h) fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on Protection of the European Communities' financial interests, i) legalization of proceeds of crime, j) counterfeiting currency, k) computer criminality, l) environmental crime, including illicit trafficking in endangered animal and plant species and their breeds and varieties, m)facilitation of unauthorized crossing of State borders and residency, n) murder, grievous bodily injury, o) illicit trade in human organs and tissues, p) kidnapping, illegal restraint and hostage-taking, q) racism and xenophobia, r) organized or armed robbery, s) illicit trafficking in cultural goods, including antiquities and works of art, t) false pretense, u) racketeering and extortion, v) counterfeiting and piracy of products, w)forgery of public documents and trafficking therein, x) forgery of means of payment, y) illicit trafficking in hormones and other growth promoters, z) illicit trafficking in nuclear or radioactive materials, aa) trafficking in stolen vehicles, bb) **rape**, cc) arson, dd) crimes within the jurisdiction of the International Criminal court, ee) kidnapping of aircraft or ship, ff) sabotage.

1. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only YES/**NO**
	2. Gender neutral, covering  all persons   **YES**/NO
	3. Based on the lack of consent of victim YES/ **NO**
	4. Based on the use of force or threat  **YES**/ NO
	5. Some combination of the above.  YES / **NO**
	6. Does it cover only vaginal rape?  YES /**NO**
	7. Does it cover all forms of penetration? **YES**/NO. If yes, please specify.

Section 185 (2) criminalises all acts committed by sexual intercourse or other sexual contact performed in a manner comparable with intercourse. By “sexual intercourse” in this subsection is meant connection of male and female genital organs. By “other sexual contact performed in a manner comparable with intercourse” is meant oral sex, anal sex, cunilinctus, fellatio, but also inserting fingers and other objects simulating a gential limb into the vagina.

* 1. Is marital rape in this provision explicitly included? YES / **NO**
	2. Is the law silent on marital rape? **YES**/NO
	3. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **YES**/NO
	4. Is marital rape excluded in the provisions, or is marital rape not considered as a crime?   YES /**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.

The criminal prosecution for the criminal offence of Rapeagainst any person who is or at the time of the criminal offence was related to the victim as their spouse, unmarried spouse or a partner, criminal prosecution may be initiated or continued only with the consent of the aggrieved person. This rule does not apply and consent is not required if the circumstances clearly show that the consent was not given or was withdrawn in distress caused by threats, coercion, dependence or subordination.

1. What is the legal age for sexual consent?

15 years.

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

No.

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

Rape not by intercourse (derive sexual gratification from other’s person body) – 6 months to 5 years.

Rape by intercourse, on a child or rape with weapon – 2 to 10 years.

Rape on a child under the age of fifteen, or on a person in detention, serving a prison sentence, in protective treatment, in security detention, in protective or institutional therapy or in another place where personal freedom is restricted, or cause grievous bodily harm by rape – 5 to 12 years.

Death caused by rape – 10 to 18 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?

Entitlement to financial assistance is enshrined in Act No. 45/2013 Coll on Victims of crime.

A victim may claim compensation for damage from the offender by way of civil proceedings; the victim may also join the claim for compensation for damage to the criminal prosecution of the offender (‘adhesion proceedings’).

If the offender deliberately does not fulfil the obligation to provide compensation for damage imposed by the court, the person having a claim (the victim) has the right to apply to the court for an enforcement of the obligation. A law also entitles the victims of crimes to request that their right to compensation for damage be satisfied by the state from the funds it has recovered from the offender as property sanctions.

The Czech Republic does not pay advances for any performance arising from the offender’s obligation to provide compensation for damage caused by the crime. The Czech legal system strictly separates the victim’s right to compensation for the damage caused by the offender, which is considered to be a tort liability, and to financial assistance in accordance with Act No 45/2013, on victims of crimes, which serves as a cash benefit from the state provided for the alleviation of the social impact of victimisation.

The state does not pay damages in the strict sense of the word (it does not interfere with the property obligations of the offender, does not assume them), but offers victims of crimes financial assistance. In accordance with Act No 45/2013, on victims of crimes, financial assistance may be paid to victims who have incurred statutory minimum damage to health as a result of a crime, victims of sexual crimes against human dignity, tortured children and survivors (from a group defined by law) of those who died as a result of a crime. This assistance is most often provided in amounts ranging from CZK 10 000 (approximately EUR 370) to CZK 200 000 (approximately EUR 7 400) and is calculated either at a statutory flat rate or corresponds to the amount of proven lost earnings and costs of treatment or, where appropriate, the costs of specialised therapy used to alleviate the non-pecuniary harm suffered. The Ministry of Justice decides on applications for the payment of financial assistance, which must be submitted within 2 years from the date when the victim learned of the damage caused by the crime and not later than 5 years from the date of the crime.

**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
	2. 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
	3. Is rape by spouse or intimate partner an aggravating circumstance? **YES**/NO

Czech criminal code includes mitigating circumstances for all crimes:

**Section 42 Aggravating Circumstances**

The Court may consider following circumstances as aggravating, particularly when the offender: a) committed the criminal offence with premeditation or after previous deliberation,

b) committed the criminal offence out of greed, for revenge, due to hatred relating to nationality, ethnic, racial, religious, class or another similar hatred or out of another particularly condemnable motive,

c) committed the criminal offence in a brutal or agonizing manner, insidiously, with special deceit or in a similar manner,

d) committed the criminal offence by **exploiting another person’s distress, duress, vulnerability, dependence or subordination**,

e) **breached a special duty by the criminal offence**,

f) **abused his occupation, position or function when committing the criminal offence**,

g) committed the criminal offence against a person participating in saving life and health or in protection of property,

h) committed the criminal offence to the harm of a child, **close person**, person pregnant, ill, disabled, of high age or impuissant,

i) led another person, especially a child under the age of fifteen, a juvenile or a person of an age close to the legal age of juveniles, to commit an act otherwise criminal, into misconduct or to commit a criminal offence,

j) committed the criminal offence during an emergency situation, natural disaster or another event seriously threatening life, public order or property, or at the territory where evacuation is in progress or has been carried out,

k) caused higher damage or another larger harmful effect by the criminal offence,

l) acquired higher profit by the criminal offence,

m)committed the criminal offence in a larger extent, on more things or more persons, was committing the criminal offence or continued in its commitment for a longer time,

n) committed more criminal offences,

o) **committed the criminal offence as an organizer, a member of an organized group or a member of a conspiracy**, or

p) had already been sentenced for a criminal offence; the court is authorized not to consider such a fact as an aggravating circumstance according to the nature of the previous conviction, particularly in respect of the significance of a protected interest affected by such an act, the manner of commission of such an act and its consequences, the circumstances under which it was committed, the offender’s personality, the extent of his culpability, his motives and the period which has passed since his last conviction; concerning an offender of the criminal offence committed in a state induced by a mental disorder, or an offender who indulges in abuse of an addictive substance and has committed the criminal offence under its influence or in connection with its abuse, also when he/she commenced treatment or took other necessary measures for its commencement.

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

**Section 41 Mitigating Circumstances**

The Court may consider following circumstances as mitigating, particularly when the offender:

a) committed the criminal offence for the first time and under the conditions not depending on him,

b) committed the criminal offence under distraction, out of compassion or by lack of life experiences,

c) committed the criminal offence under dependence or subordination,

d) committed the criminal offence under duress or compulsion,

e) committed the criminal offence under oppressive personal or family circumstances, which he did not cause him-/herself,

f) committed the criminal offence in the age close to the age of juveniles,

g) committed the criminal offence by averting an attack or any other danger without fully meeting the conditions for necessary defence or extreme necessity or otherwise exceeding the limits of admissible risk or limits of other circumstance precluding the unlawfulness,

h) committed the criminal offence in legal error, which could be avoided,

i) caused lower damage or any other less harmful consequence by committing the criminal offence,

j) participated in elimination of the harmful consequences of the criminal offence or voluntarily compensated the caused damage,

k) reported his criminal offence to the authorities,

l) assisted in clarification of his criminal activity or significantly contributed to clarification of a criminal offence committed by another,

m) contributed as a co-operative accused to clarification of criminal activity committed by the members of an organized group, in connection with an organized group or in benefit of an organized criminal group,

n) regretted sincerely the criminal offence,

o) led an upright life before committing the criminal offence.

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?
	1. Regardless of the law, is reconciliation permitted in practice? YES/NO and what is the practice in this regard?
2. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? YES/**NO** If yes, please specify.
	1. if the perpetrator marries the victim of rape? YES/**NO**
	2. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? YES/**NO**

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? **YES**/NO
2. Is rape reported to the police prosecuted ex parte (private prosecution)? YES/**NO**
3. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **YES**/NO – only in cases of rape under section 185 (1). Not in cases of rape under section 185 (2), (3) and (4).
4. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? YES/**NO**
5. Please provide information on the statute of limitations for prosecuting rape.

Rape not by intercourse (derive sexual gratification from other’s person body) – 10 years.

Rape by intercourse, on a child or rape with weapon – 15 years.

Rape on a child under the age of fifteen, or on a person in detention, serving a prison sentence, in protective treatment, in security detention, in protective or institutional therapy or in another place where personal freedom is restricted, or cause grievous bodily harm by rape – 15 years.

Death caused by rape – 15 years.

1. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood?   **YES**/NO
2. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses?  YES/**NO** If yes, please specify.
3. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? **YES**/NO

Preventing of inadmissible questions to victims of crime is enshrined in Act No. 45/2013 Coll on Victims of crime

§ 18 Giving an explanation and questioning the victim

(1) Questions directed to the intimate area of ​​the interrogated victim may be asked only if this is necessary to clarify the facts relevant to the criminal proceedings. These questions should be asked particularly carefully and in a comprehensive manner so that the interrogation does not have to be repeated; their wording must be adapted to the age, personal experience and mental state of the victim, while maintaining the necessary consideration.

(2) The victim has the right to object at any time to the focus of the issue. The objection shall be recorded in the minutes. The hearing shall decide on the merits of the objection.

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

According to Act No. 45/2013 Coll on Victims of crime victims have right to avoid contact with the perpetrator of the rape. The victim has the right to request in whatever state of criminal proceedings, or even prior to their commencement, that during actions in which he takes part, necessary measures would be in place to prevent contact of the victim with a person the victim has indicated as the offender, with a crime suspect or against whom criminal proceedings are being conducted. Questions leading to an intimate area of the interviewed victim can only be asked if it is essential for clarification of facts vital to criminal proceedings. The victim can request to be interviewed in pre-trial proceedings by a person of the same or opposite gender. If an especially vulnerable victim does not wish to have immediate visual contact with a person suspected of committing a crime or with a person against whom criminal proceedings are being conducted, if not prevented by serious reasons, necessary measures are applied in order to prevent such visual contact, especially audiovisual technology is applied if technically possible. It is meanwhile necessary to ensure that the right to a defense is not violated. The victim has the right for a fiduciary to accompany him to actions of criminal proceedings and to submittal of an explanation.

**War and/or conflict**

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

Rape is criminalized as crime against humanity, Section 401 of Criminal Code:

Section 401 Attack against Humanity

(1) Whoever commits within an extensive and systematic attack aimed against civilians 177 a) extermination of people, b) enslavement, c) deportation or forced transfer of a group of civilians, d) rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation or other forms of sexual violence, e) persecution of a group of civilians on political, race, national, ethnic, cultural or religious grounds, on sex or another similar grounds, f) apartheid or another similar segregation or discrimination, g) illegal restraint, kidnapping to an unknown location or any other restriction of personal freedom with following involuntary disappearance of persons, h) torture, i) murder, or j) another inhumane act of similar nature, shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment.

(2) Preparation is criminal.

1. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? YES/**NO**
2. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **YES**/NO
3. Has the Rome Statute of the International Criminal Court (ICC) been ratified? **YES**/NO

**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.

**Number of crimes of rape registered by Police 2015 – 2019**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Rape** | **2015** | **2016** | **2017** | **2018** | **2019** |
| Identified cases | 598 | 649 | 598 | 651 | 683 |
| Resolved cases | 465 | 448 | 418 | 439 | 441 |
| Prosecutions | 387 | 463 | 446 | 439 | 451 |

**Number of sanctioned crimes of rape registered by courts 2016 – 2018**

|  |  |  |  |
| --- | --- | --- | --- |
| **Rape** | **2016** | **2017** | **2018** |
| Sanctioned cases | 227 | 205 | 204 |

**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.