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| **HELLENIC REPUBLIC**  **MINISTRY OF LABOR AND SOCIAL AFFAIRS**  **GENERAL SECRETARIAT FOR FAMILY POLICY AND GENDER EQUALITY**  **Directorate of Social Protection and Counselling Services**  **Observatory of the GSFPGE** |

**REF. No. 419/20-5-2020**

**“Completion of the Questionnaire on Criminalization and Prosecution of Rape – United Nations Special Rapporteur on Violence Against Women - Thematic report on rape as a grave and systematic human rights violation and gender-based violence against women”**

**Questionnaire:**

**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.
* ***Article 336 of the new Penal Code, law 4619/2019.***

***1. Whoever by physical violence or by threat of serious and imminent danger to life or physical integrity, forces another person to take part or tolerate a sexual intercourse is sentenced to at least 10 years imprisonment.***

***2. Sexual intercourse is penetration and actions of the same gravity/importance.***

***3. If the act of paragraph 1 was committed by two or more perpetrators that worked together, or had as a consequence the death of the victim, life sentence or a temporary imprisonment of at least 10 years is sanctioned.***

***4. Whoever, except for paragraph 1, attempts sexual intercourse without the consent of the victim, is sanctioned to an imprisonment of at least 10 years.***

* ***Article 338 of the new Penal Code***

***1. Whoever overuses the mental of physical inability of another person or by any reason the person’s incapacity to resist to commit sexual intercourse with the person, is sentenced to imprisonment of up to ten years.***

***2. If the act of the previous paragraph was committed by two or more perpetrators that worked together, temporary imprisonment is sanctioned.***

* 2. Based on the wording of those provisions, is the provided definition of rape:

1. Gender specific, covering women only…….**NO**

2. Gender neutral, covering all persons………**YES**

3. Based on the lack of consent of victim……..**YES**

4. Based on the use of force or threat……….. **YES**

5. Some combination of the above……………. **YES**

6. Does it cover only vaginal rape?.................**NO**

7. Does it cover all forms of penetration? **YES** It covers penetration of the vagina, anus or mouth of another person by a sex organ, other body part or foreign object without the consent of the victim. (Explanatory memorandum of the new Penal Code that specifies the meaning of penetration and actions of the same gravity/importance).

8. Is marital rape in this provision explicitly included?........**NO**

9. Is the law silent on marital rape?**...................................NO**

10. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **…..YES**

11.Is marital rape excluded in the provisions, or is marital rape not considered as a crime? …**MARITAL RAPE is considered as a crime**

* 3. 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.

**NO**

* 4. What is the legal age for sexual consent?........

**15 years old, Article 339 of the Penal Code**

* 5. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.
* ***Article 339 of the new Penal Code in paragraph 2 differentiates the sexual activity between peers under fifteen years old. It allows sexual activity between peers unless their age difference is more than three years. In this case therapeutic measures must be taken.***
  + ***Article 339 paragraph 2 of the new Penal Code***

***2. Sexual intercourse between minors under the age of fifteen is not punishable, unless the age difference between them is more than three years, in this case only remedial or therapeutic measures can be imposed.***

* 6. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.
* ***Rape is punished by imprisonment, and according to the Greek Penal Code it lasts from 5 to 15 years, or life sentence (See above art.336 par.3 of the Greek Penal Code).***
* 7. 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?
* ***The victim of rape and/or sexual violence can be compensated by filing a compensation action according to the Greek Civil Code.***

**Aggravating and mitigating circumstances**

* 8. 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**

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**

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

* 9. Does the law foresee mitigating circumstances for the purposes of punishment? **NO**
* 10. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? **NO** 
  + Regardless of the law, is reconciliation permitted in practice? **NO**
* 11. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator**? NO** 
  + if the perpetrator marries the victim of rape? **NO**
  + if the perpetrator loses his “socially dangerous” character or reconciles with the victim? **NO**

**Prosecution**

* 12. Is rape reported to the police prosecuted ex officio (public prosecution)? **NO**
* 13. Is rape reported to the police prosecuted ex parte (private prosecution)? **YES**
* 14. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **NO**
* 15. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? **NO**
* 16. Please provide information on the statute of limitations for prosecuting rape.
* 17. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood? **YES (Art. 113 par.4 of Greek Penal Code)**
* 18. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses? **NO**
* 19. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? **NO**
* 20. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? **NO**

**War and/or conflict**

* 21. Is rape criminalized as a war crime or crime against humanity? **YES/NO**
* 22. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? **YES/NO**
* 23. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **YES/NO**
* 24. Has the Rome Statute of the International Criminal Court (ICC) been ratified?

**YES/NO**

**Data**

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

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|  | **Reported**  reported rapes to the police  art. 336 PC  women victims | **Prosecuted**  domestic violence  art. 8 l.3500/2006  men | **Sanctioned**  domestic violence  art. 8 l.3500/2006  men |
| **2015** | 183 |  |  |
| **2016** | 217 | 40 | 26 |
| **2017** | 215 | 30 | 26 |
| **2018** | 204 | 22 | 22 |
| **2019** | 217 |  | 18 |

**Other**

* 26. 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.