



# Reported and cleared rapes in Europe

Difficulties of international comparisons

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## **The Swedish National Council for Crime Prevention (Brå) – a knowledge centre for the criminal justice system**

The Swedish National Council for Crime Prevention (Brå) works to reduce crime and make society safer. We do this by compiling facts and sharing knowledge about crime and crime prevention, primarily for the Swedish government and agencies within the criminal justice system.

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# Foreword

According to the statistics presented by the EU, Sweden has long had the highest number of reported rapes per capita in Europe. According to the available statistics, the percentage of rapes cleared in Sweden is also low compared with other European countries. In many different contexts, the government, the Ministry for Foreign Affairs and Brå are questioned about the underlying causes. In the light of this, Brå has conducted a study which aims to compile a better basis for answering such questions.

In the report, Brå addresses the different problems involved in comparing different countries in terms of the incidence of rape and clearance rates based on crime statistics. Brå also recalculates certain figures to illustrate how various factors, other than the actual incidence of rape and the effectiveness of the criminal justice system, affect the statistics on both reported and cleared rapes.

Brå hopes that this report can contribute to a more balanced and fact-based discussion on the extent of rapes reported to the police in different countries. The report is intended for both Swedish and foreign readerships. To this end, it is being made available in both Swedish and English.

The study has been conducted by Lars Lewenhagen, researcher at Brå, and Stina Holmberg, docent and senior research advisor at Brå.

Sven-Åke Lindgren, professor emeritus of sociology at the University of Gothenburg, has peer-reviewed the report and offered valuable feedback.

Stockholm, September 2020

*Kristina Svartz*  
Director-General

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# Summary

Sweden has long had the highest number of reported rapes per capita, according to the statistics from Eurostat. Moreover, the percentage of rapes cleared up in Sweden is low compared with other European countries, according to the official statistics. The government, the Ministry for Foreign Affairs and Brå are often questioned about the underlying causes. The aim of this report is, therefore, to attempt to compile a better basis for answering such questions.

The report discusses and analyses possible causes of the reported differences in the number of reported rapes. The focus is on causal factors other than the actual crime, such as differences in the propensity to report, the legal conditions and statistical methods. The primary aim is to highlight the problems of using Eurostat's report statistics as a basis for comparing the incidence of rape in different countries.

The report also addresses the differences in the reported percentage of rapes cleared up in five European countries. The extent to which differences in clear-up rates reflect actual differences in the effectiveness of the criminal justice system is analysed by, among other things, examining how a cleared-up crime is defined in the different countries.

## Method

The study is mainly based on publicly available sources. Central to these are Eurostat's statistics on reported rapes in Europe. Since Eurostat publishes data with an 18-month delay, the study period was set to 2013–2017. Other sources of importance to the number of reports have also been used, primarily a study of the prevalence of physical and sexual violence against women (FRA, 2014a) to examine issues regarding the propensity to report and the willingness to talk.

More detailed analyses were also conducted of the situation in five countries: Sweden, Norway, Denmark, Germany and England/Wales (which are of course two separate countries, but in this respect are treated as a single entity since they comprise a single jurisdiction).

## **Reported rapes according to Eurostat**

When reviewing Eurostat's statistics on the average number of reported rapes per 100,000 inhabitants and year for the period 2013–2017, it is apparent that the countries with by far the most reports are Sweden and England/Wales. Generally speaking, a pattern can be discerned with more reported rapes per capita in north-western Europe than in countries in southern and eastern Europe. This pattern is regularly raised by the media and is often interpreted as differences in the number of committed rapes. Using different countries' crime statistics as a basis for comparing the extent of rape is, however, problematic for several reasons. Brå has identified four circumstances indicating that Eurostat's report statistics cannot be said to reflect differences in actual crime rates in the countries:

- There can be differences in the legal conditions.
- There can be differences in the statistical methods.
- There can be differences in the propensity to report.
- There can be differences in the propensity to register.

## **The legal conditions as regards rape statistics differ between the countries**

Eurostat's definition of rape is broad: there is no need for force to be involved for the sexual act to be defined as rape, only a lack of valid consent. However, many countries lack the prerequisites for specifying how many such rapes are reported, as they have a narrower definition of rape in their national legislation. According to an analysis by the European Institute for Gender Equality (EIGE) from 2016, only seven countries in Europe had consent-based legislation. However, most countries did have various forms of exception to the need for the use of force, such as a victim who was sleeping or heavily intoxicated at the time of the incident. In one third of the countries analysed, some form of violence or threat was required for the act to be classified as rape. The European countries also differed in terms of the sexual acts included under rape in their national legislation. In 17 of the 30 countries encompassed by the study, only sexual intercourse was included in the definition of rape.

## The statistical methods used also differ between countries

There are considerable differences between countries as regards how the statistics on reported rapes are recorded and the exact information submitted to Eurostat. This mainly boils down to the following factors:

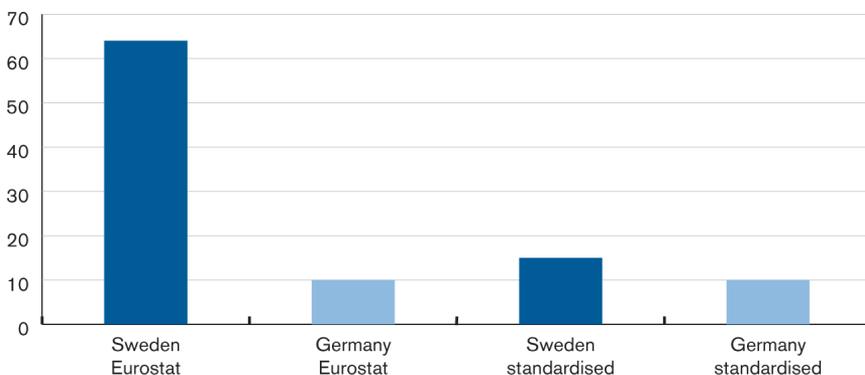
- Whether attempted crimes are included in the rape statistics submitted to Eurostat.
- Whether the basis for the statistics is compiled from the information available when the crimes were reported or once the investigations were completed.
- How the reported crimes are counted.

Brå's review shows that the countries differ in terms of all three factors, which affects the number of reports submitted to Eurostat.

## When the statistics are made more comparable, most of the differences in the number of reports disappear

To obtain a more detailed picture of the possible significance of these differences, we have compared Germany and Sweden. In doing so, Brå has recalculated Sweden's statistics using the same legal conditions and statistical methods as in Germany. The calculation shows that much of the differences in reports per capita disappear if the statistics are made more comparable.

Figure 1. Rapes reported to the police per 100,000 inhabitants 2016, unadjusted and standardised numbers. *Source: Eurostat and Brå.*



## **Propensity to report**

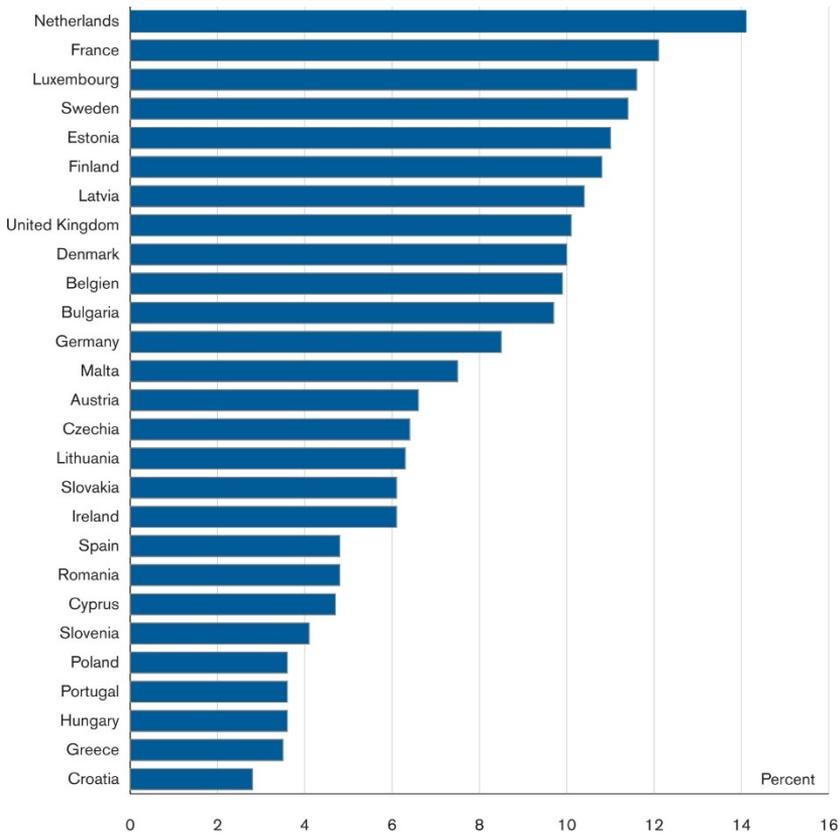
The propensity of victims to report rape is of considerable importance to the number of reported crimes in the statistics. It is impossible to say how much the propensity to report differs between countries, as it is impossible to know exactly how many rapes are actually committed. Victims of crime surveys are, however, generally considered a better source than report statistics when studying the extent of actual crime.

## **Using victims of crime surveys to measure rape**

Victims of crime surveys offer advantages over report statistics, as they are not affected in the same way by factors such as the propensity to report, legislation and statistical methods. They are, on the other hand, affected by how the respondents perceive the incidents they have experienced and their willingness to talk about them. This is usually referred to as the willingness to talk.

In order to be able to use victim surveys for international comparisons, it is important that they are conducted in equivalent manners, as differences in, for example, collection methods and question formulations have been shown to have a significant impact on the results (Stefansen et al., 2019). International victim surveys on rape are uncommon. The most recent one was conducted in 2012 by the EU Agency for Fundamental Rights (FRA). This study has been the subject of criticism, including for the fact that the data was not collected in the same manner in all countries (Walby and Towers, 2017). Accordingly, the results of the FRA study must be interpreted with great caution.

Figure 2 Percentage of women stating that they have been raped since the age of 15 years. *Source: EIGE and FRA 2014a, n=42,023.*



The results show that the reported prevalence from 15 years of age varies between 3 percent in Croatia and 14 percent in the Netherlands. In Sweden, 11 percent responded that they had been raped after the age of 15 years. In one third of the countries included in the survey, the reported prevalence varied between 10 and 12 percent. In other words, the differences between the countries are less prominent in FRA’s survey than in Eurostat’s police report statistics.

## **The propensity to report to the police most likely varies between countries**

Several different factors are considered to be able to affect the propensity to report a rape to the police. Two of these factors, which according to research are of importance to the propensity to report, are the prevalence of rape myths and public confidence in the criminal justice system.

Accordingly, the extent to which rape is reported to the police and registered is determined by, among other things, generally held views on what constitutes rape. In this regard, the discussion often turns to rape myths, which contribute to upholding a situation in which rape is common but seldom reported to the police. This is caused by, for example, misinformed ideas as to what rape is. If the picture of rape is of a woman being attacked by a stranger, this can lead to incidents which do not match this idea not being reported to the police.

The fact that there are differences in attitude between countries becomes apparent in Eurobarometer 449. Among other things, the respondents were asked whether a woman is at greater risk of being raped by a stranger than someone she knows. Sweden stood out in the responses to his question, in that considerably fewer people considered this to be the case.

## **Low confidence in the criminal justice system can prevent people from filing a police report**

Public confidence in the criminal justice system has also been raised as a factor of importance to the propensity to report (von Hofer, 2000). The level of confidence in the criminal justice system in different countries was measured in Eurobarometer 385. If the responses are compared with Eurostat's statistics on reported rapes, we can see a positive correlation between the level of confidence in the criminal justice system in each country and the number of reported rapes per capita.

To summarise, there is much to indicate that the propensity to report differs between the studied countries and that a high propensity to report can be linked to attitudes which are to be considered desirable, such as confidence in the criminal justice system and greater rejection of rape myths.

## **Reports have highlighted shortcomings in the propensity to register**

Finally, there may be differences between countries in terms of the tendency for the police to register a reported rape in accordance with the country's regulations, which here is referred to as the propensity to register. Ignored or incorrectly classified reports are, for obvious reasons, difficult for Brå to identify and measure. That there can be shortcomings in the propensity to register has, however, been raised in England/Wales as well as in Denmark.

## **Cleared-up rapes in national statistics**

One important task for the police and prosecutors is to clear up the crimes of which they are made aware. The officially reported percentage of crimes cleared up, the clear-up rate, differs significantly between different countries. The extent to which this depends on how the influx of crimes is calculated, how cleared-up crimes are defined or differences in the effectiveness of the police is analysed and discussed in the report. The analysis is limited to the five countries studied in greater detail in the comparison of report statistics.

What, then, could explain why the clear-up rates reported in the different countries' national statistics vary so greatly? In the main, it concerns variations in:

- The manner in which cleared-up crimes are defined.
- The reports included in the influx of crimes.
- The time at which the statistics on cleared-up crimes are prepared.
- The opportunity for and the capability of the police to investigate and clear up reported rapes.

## **The manner in which cleared-up crimes are calculated differs**

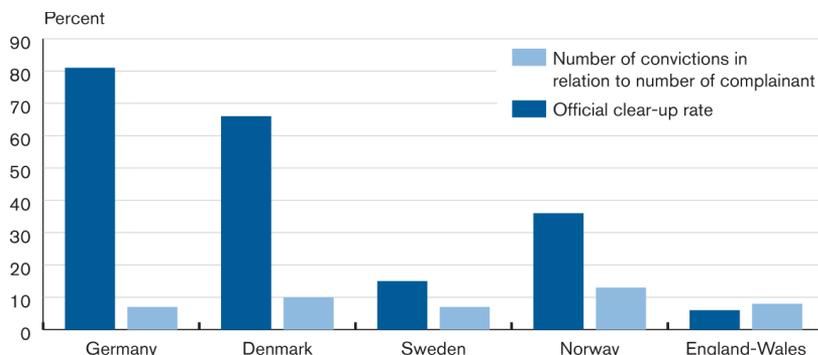
The countries differ greatly in terms of what is counted as a cleared-up crime. They also differ in terms of which rape reports the cleared-up crimes are to be divided by to calculate the clear-up rate, and what time the statistics are prepared.

To obtain a fairer picture, Brå has recalculated the countries' statistics on cleared-up rapes so that they are based on as equivalent principles as possible. In the recalculated figures, a cleared-up crime is defined as a person being convicted of the

reported crime in a court of law. The influx of crimes is based on the number of complainants who during a particular year have reported a rape which has been investigated by the police and where suspicion remains after the investigation.

Figure 3 presents the average clear-up rate for rape during the period 2013–2017 using two different measurement methods.

Figure 3. Official clear-up rate for rape and number of convictions in relation to number of complainants in investigated rapes where suspicion remains, average 2013--2017. *Source: national crime statistics and Brå.*



With Brå’s recalculation of cleared-up rapes, the percentages are much lower. In particular, the levels are very much lower in countries which, according to the original statistics, exhibited very high clear-up rates, such as Germany and Denmark. The differences between the countries are also considerably smaller when calculated in a more equivalent manner.

## Brå’s assessment

Brå’s overall assessment of the review is that the differences between Sweden and other European countries as regards the incidence of rape are smaller than indicated by Eurostat’s report statistics. If the legal conditions and statistical methods had been the same as in Germany, Sweden would rank somewhere in the middle of the report statistics from Eurostat. Nor does Sweden stand out in FRA’s survey when it comes to the percentage of women who have stated that they have been raped at some point. Out of the total of 27 countries included in the survey, Sweden is among the 10 where the stated prevalence is between 10 and 12 percent. In other words, there is no support for the claim that Sweden deviates significantly from other countries in north-western Europe when it comes to the incidence of rape.

However, according to both the adjusted report statistics and the victim survey, more women are raped in Sweden than in countries in southern and eastern Europe, such as Spain, Portugal, Poland and Greece. It is impossible to rule out that these differences are due to more rapes actually taking place in Sweden. However, as previously mentioned, it could also be due to women who are raped in Sweden having a greater propensity to report the incident to the police and more willingness to talk about it in a victim survey (as well as being more aware that they have been subjected to sexual assault and therefore a criminal act).

Consequently, there is no infallible source of knowledge with which to compare countries when it comes to the incidence of rape. However, in a comparison between report statistics and victims of crime surveys, Brå's assessment is that a well-executed European victims of crime survey is a better source of knowledge than Eurostat's report statistics.

# Introduction

According to the statistics presented by the EU (through Eurostat), Sweden has long had the highest number of reported rapes per capita in Europe. According to the available statistics, the percentage of rapes cleared up in Sweden is also low compared with other European countries. In many different contexts, the government, the Ministry for Foreign Affairs and Brå are questioned about the underlying causes. The aim of the report is, therefore, to attempt to compile a better basis for answering such questions.

The study is divided into two parts, with the emphasis on the first, which discusses and analyses possible causes of the reported differences in the number of reported rapes. The focus is on causal factors other than the actual crime. The primary aim is to highlight the problems of using report statistics from Eurostat as a basis for comparing the incidence of rape in different countries. The review reveals that there are clear differences between the countries as regards the legal conditions, the way in which statistics on reported rapes are recorded, and the attitudes considered associated with the propensity to report sexual crimes. To some extent, Brå attempts to estimate how large an effect the differences in legal conditions and statistical methods have on the rape statistics in Eurostat. On the other hand, we are unable to provide the “true” picture of how common rape is in Sweden compared with other countries.

The second part of the report addresses the differences in the reported percentage of rapes cleared up in five European countries. Statistically, the number of rapes cleared up varies greatly between the countries. The extent to which these differences reflect the effectiveness of the criminal justice system is examined by reviewing the differences in how cleared-up crimes are defined and calculated. How the percentage of rapes cleared up can be compared internationally is also explored.

## Questions

The questions which the study aims to shed some light on are as follows:

- In what way are Eurostat’s statistics on the number of rapes reported to the police affected by differences in legal conditions and differences in the way in which statistics are recorded?

- What role do differences in the propensity to report play, and which factors can affect the extent to which rapes are reported to the police?
- What role do differences in the propensity to register play, that is, to what extent do the police register filed reports in accordance with the applicable regulations?
- What theories are there for what affects the actual incidence of rape, and what picture of the differences in the incidence of rape can we obtain from victims of crime surveys?
- Which factors can affect the number and percentage of reported rapes which, according to the statistics, are cleared up in different countries?

## Method

The study is mainly based on publicly available sources. Central to these are Eurostat's statistics on reported rapes. Since Eurostat publishes data with an 18-month delay, the study period was set to 2013–2017. The guidelines used to govern the collection of statistics and the accompanying description of different countries' statistical circumstances (metadata) have also been thoroughly reviewed.

In order to analyse the conditions and differences in the underlying material which each country submits to Eurostat in greater detail, five countries have been studied in greater depth. The countries chosen for this study are Sweden, Norway, Denmark, Germany and England/Wales (which are of course two separate countries, but in this respect are treated as a single entity since they comprise a single jurisdiction). These countries have also been chosen for a review of the differences in the percentage of rapes cleared up.

The reason for choosing these particular countries is primarily down to language, although also because many of the other European countries' crime statistics are not refined enough to provide a basis for the analyses Brå wanted to conduct. Where the principles behind the national crime statistics have not been clearly stated, we have contacted the bodies responsible for the official statistics of the concerned countries and asked for clarifications. Specially ordered statistics on rape reports in Sweden were also requested from Brå's unit for judicial statistics. Microdata from a previous report on rapes reported to the police in 2016 (Brå, 2019b) have also been used to

examine the composition of the rape crimes reported to the police in Sweden.

Other sources of importance to the number of reports have also been used, primarily a study of the prevalence of physical and sexual violence against women (FRA, 2014a) to examine issues regarding the propensity to report and the willingness to talk. A great deal of information has been retrieved from the European Institute for Gender Equality (EIGE). For example, we have used EIGE's analysis of FRA's victim survey and its compilation of European countries' rape legislation and levels of equality. We have also used surveys of views on sexual crime and confidence in the criminal justice system as a basis for this work. Finally, the statistics on factors which, according to research, can be of significance to the incidence of rape have been retrieved from Eurostat and the World Bank.

# Reported rapes

In international comparisons of crime statistics, Sweden is among the countries with the most rapes reported to the police per capita. This fact is regularly raised by the media. It is not uncommon for the relatively high number of reported crimes to be linked to Sweden's generous immigration policies.<sup>1</sup> On other occasions, the many reports are compared with Sweden's prominent position in matters of gender equality.<sup>2</sup> Rape statistics can also be used as an argument in international politics.<sup>3</sup>

Using different countries' crime statistics as a basis for comparing rape in those countries is, however, problematic, and for several reasons. First, there is no universal definition

of rape, and how rape is defined in law can differ significantly between different countries. This means that when comparing the number of rapes reported in different countries, we are not comparing like with like.

The number of unreported crimes, that is, the number of rapes of which the police are not even aware, is considered to be large. *Exactly* how large is determined by the general propensity to report, which most likely also varies between countries, depending in part on how taboo the subject of sexual violence is. Another problem is the differences between countries in whether all reported rapes are included in the statistics, and how those statistics are counted.

This means that differences between countries in the number of reported rapes cannot be said to reflect the actual numbers of rapes in a fair manner. The size of this discrepancy cannot be measured, as the true number of rapes remains unknown. On the other hand, we can study and measure the effect of other conditions on report statistics, such as the differences in how crimes are counted.

This section of the report discusses and analyses such factors affecting the statistics on reported rapes. The focus is on rape, but the approach can also be used on a more general level to

<sup>1</sup>Two examples can be found at <https://www.dn.se/nyheter/varlden/svenska-ambassaden-kritiserar-italiensk-tv-kanal-efter-logner-om-sverige/> and <https://www.bbc.com/news/uk-politics-39056786>.

<sup>2</sup> <https://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=2795676>.

<sup>3</sup> Following a dispute between Sweden and Turkey, travellers at the airport in Istanbul were met by the following message: "Travel warning! Did you know that Sweden has the highest rape rate worldwide?" See <https://www.aftonbladet.se/nyheter/a/7lyGJ4/varnar-for-resor-till-sverige-pa-turkisk-flygplats>.

highlight the difficulties involved in international comparisons of crime based on crime statistics.

## Previous research

The extent to which crime statistics can be used to establish the incidence of and trends in crime is a classic field of study in criminology (Aebi et al., 2014; Westfelt & Estrada, 2005). One well-known problem is that crime statistics are influenced by a number of factors other than actual crime levels. For example, the police are not even made aware of all crimes. The general propensity to report and the working methods employed by the police can have a major impact on how many and which crimes are registered and counted in the statistics. When it comes to international comparisons, there are even more problems, which is why some people claim that no analyses should be conducted on the basis of crime statistics (Van Dijk, 2015). Others claim that certain comparisons can be made, provided the analysis is limited to homicide or only focuses on trends rather than levels (von Hofer, 2000; Harrendorf, 2018).

von Hofer (2000) investigated the causes of differences in levels in report statistics between countries, with a focus on rape. He divided the factors that affect the statistics into three categories: statistical, legal and substantive.

Statistical factors relate to the step in the judicial chain at which a reported crime is registered in the statistics and how the number of crimes is counted, such as whether repeat offences of the same type involving the same victim and perpetrator are counted one or more times in the statistics.

Legal factors encompass, for example, how rape legislation is worded. This may concern how the sexual assault of children is classified or which sexual acts are considered rape. The statistics are also affected by different legal process factors.

By substantive factors, von Hofer means the extent of the “actual” crime, as well as the general propensity to report crimes and the extent to which the criminal justice system addresses and registers these reports.

According to von Hofer, the statistical, legal and substantive factors contribute to the level of reported rapes in Sweden becoming inflated in relation to the European average. As such, he asserts that crime statistics are largely a social construct and not a “true” picture of reality. However, according to the author, one cannot rule out the possibility that more rapes are

actually committed in Sweden than in, for example, countries where women are subject to stricter social control.

In a previous report (1999), Brå has attempted to estimate the effect of differences in the point at which crimes are registered and the manner in which they are counted.

The analysis included a number of different types of crime, including rapes reported in 1997. If the statistics had been prepared after the investigations were completed, rather than at the time the reports were made, the number of rapes reported to the police would have fallen by 16 percent. If only the most serious crime in a report was counted in the statistics (the principal offence approach), the number of reported rapes in the statistics would have fallen by eight percent. If serial crimes had been counted once instead of several times, the reported rape statistics would have fallen by 14 percent. If Sweden had recorded its statistics in the same manner as those countries which are restrictive in all the aspects listed above, the number of reported rapes in the statistics would have fallen by 29 percent.

Aebi (2008) conducted a similar analysis of reported crimes in Europe. This study focused on the rules governing how crime statistics are compiled in individual countries. The author found that the difference in *when* the statistics are compiled is the main reason why report statistics levels vary between countries.

## Reported rapes according to Eurostat

When comparisons are made between the number of rapes reported to the police in European countries, the most cited source is Eurostat.<sup>4</sup> Eurostat is the statistical office of the European Union, and its mission is to provide comparable and high-quality statistics for Europe. The aim is to enable crime statistics to provide a basis for deciding on, planning and implementing EU policies. Eurostat collects data from the member states, but also works together with them to refine and harmonise European statistics. In Sweden, Brå is responsible for crime statistics and, consequently, submits the concerned data to Eurostat each year.

However, the duty to report only regulates the fact that statistics are to be submitted on reported crimes, prosecutions and verdicts – it does not regulate how the statistics are to be

<sup>4</sup> In other cases, the source can be the United Nations Office on Drugs and Crime (UNODC), although since 2014 Eurostat and UNODC coordinate their crime statistics collection and as such the figures should largely agree.

recorded.<sup>5</sup> Instead, the level of detail to be found in the submitted data is governed by the content of Eurostat's annual questionnaire and the accompanying guidelines and instructions. At this level, data collection is conducted in accordance with voluntary agreements and, as such, is not strictly mandatory, even if there is a natural desire for the member states to report the requested data. The voluntary nature is expressed, for example, in the guidelines clearly stating that in cases where the countries cannot comply with the definitions in the questionnaire, they are instead to submit statistics based on national definitions and rules.

The guidelines for which statistics are to be submitted as regards rape have been amended somewhat over the years. Since 2017, rape data are to be submitted in compliance with the ICCS (International Classification of Crime for Statistical Purposes) system. At the same time, the instructions accompanying the questionnaire were supplemented with certain recommendations from the UN regarding how the number of crimes is to be counted. How well these guidelines can be implemented varies greatly between the member states. This is mainly due to the crime statistics of the different countries being based on their national legislation, which differs between the countries.

Hence both legal and statistical factors affect the level of the rape statistics, which affects their comparability. Eurostat also writes that *the statistics currently available reflect the diversity of policing and legal systems within the EU: as such, comparisons of crime statistics between EU Member States should focus on trends over time, rather than directly comparing levels between countries for a specific year.*<sup>6</sup>

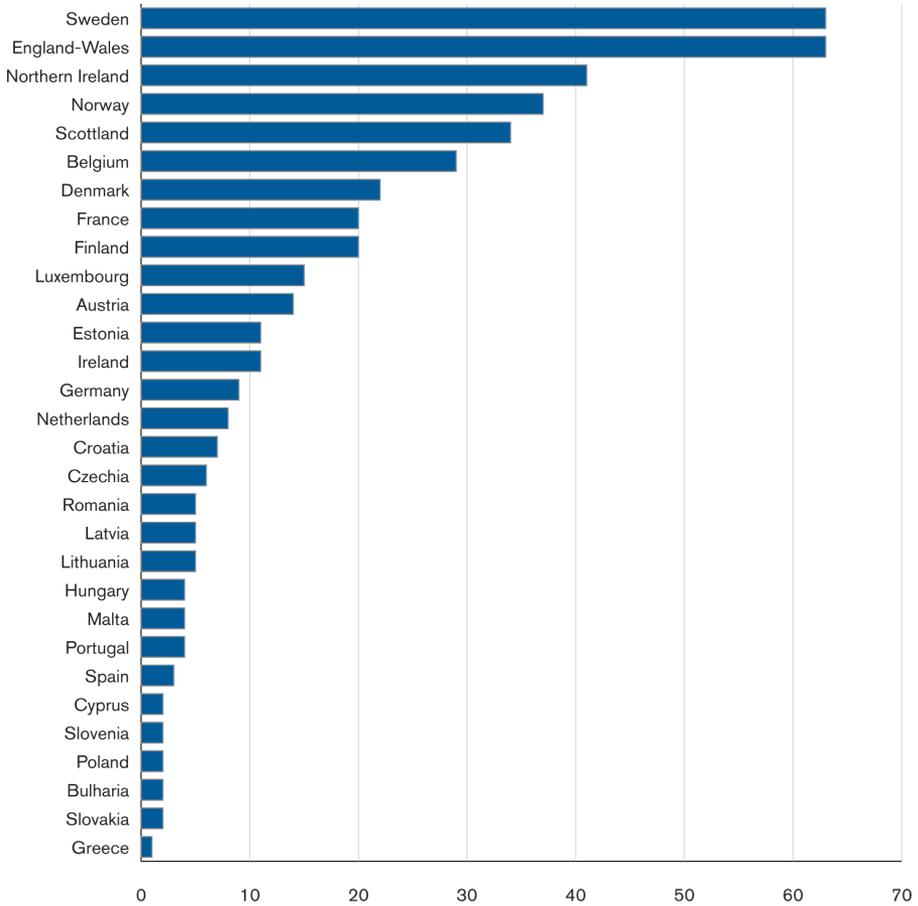
Figure 4 presents statistics from Eurostat on the average number of reported rapes per 100,000 inhabitants and year for the period 2013–2017.<sup>7</sup> It is apparent that the countries with the most reports are Sweden and England/Wales. Generally speaking, a pattern can be discerned with more reported rapes per capita in north-western Europe than in southern and eastern Europe.

<sup>5</sup> Regulation (EC) No 223/2009 on the development, production and dissemination of European statistics.

<sup>6</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Crime\\_statistics/sv](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Crime_statistics/sv)

<sup>7</sup> Italy does not differentiate between rape and other sexual offences in its statistics, and as such is not included in the summary. The United Kingdom is divided into three jurisdictions: England/Wales, Scotland and Northern Ireland, which are therefore reported separately. The Eurostat cooperation also includes European countries which are not members of the EU, such as Norway.

Figure 4: Average number of reported rapes per 100,000 inhabitants and year for the period 2013–2017. Source: Eurostat.



The main question discussed in this section of the report is which factors can contribute to the figures in the chart not reflecting the actual occurrence of rapes in a comparable manner. Here we differentiate between formal and substantive factors. On the following page is a schematic overview of these different concepts.

Table 1. Overview of formal and substantive factors affecting the comparability of crime statistics.

Formal factors		Substantive factors
Legal conditions	Statistical factors	
How rape legislation is worded	When the basis for the statistics is compiled	General propensity to report rape to the police
Laws governing how the criminal justice system works	How different offences on the same occasion are counted	The propensity of the police to register reported rapes
	How repeat offences of the same type are counted	
	How an offence committed by several people is counted	

The next chapter analyses the formal factors affecting the comparability of crime statistics, concluding with an attempt to standardise the report statistics based on these factors.

The following chapter discusses circumstances that are much more difficult to measure, namely the extent to which committed rapes are reported and registered. It also presents the available sources of knowledge on the actual occurrence of rape.

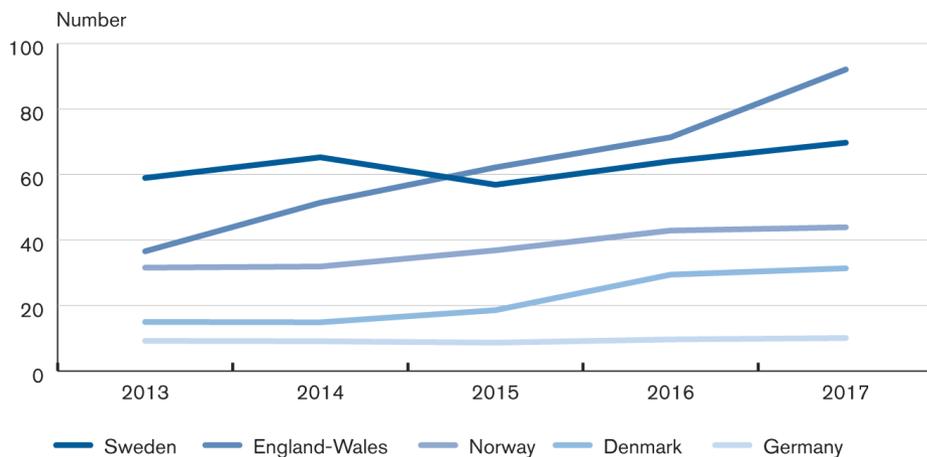
### A closer look at five countries

An in-depth analysis has been conducted of five countries: Sweden, Norway, Denmark, Germany and England/Wales. By examining the national legislation and crime statistics of these countries in greater detail, we can assess how well Eurostat's guidelines for and description of the statistics correlate as a whole.

Figure 5 presents the trends in reported rapes per 100,000 inhabitants for the period 2013–2017 in the five countries studied in depth.

Figure 5. Reported rapes per 100,000 inhabitants 2013–2017.

Source: Eurostat.



In all five countries the number of reported rapes has increased during the five-year study period. In Germany, the number of reports in the statistics increased by 10 percent. In Sweden, which had the largest number of reports at the beginning of the period, the number increased by 18 percent. In Norway, the increase was 40 percent. The largest increase was seen in England/Wales, which in 2017 had two-and-a-half times more reports than in 2013. All in all, this trend means that England/Wales is on a par with Sweden when measuring the average number of reported rapes per 100,000 inhabitants and year (presented in Figure 4). Denmark also saw a significant percentage increase with the number of reports more than doubling during the period.

The analysis in this study mostly concerns the differences between different countries in terms of reported levels, not trends. However, certain sections also report figures about trends since sudden changes in levels in the crime statistics can illustrate how factors other than actual trends in crime rates can come into play when the number of reported rapes changes.

# Formal factors

This chapter discusses what are known as formal factors: written rules that affect Eurostat's statistics on rapes reported to the police. The chapter is divided into two parts, with the first addressing the legal conditions for the number of reported rapes. This encompasses, among other things, which acts are legally considered rape in each country. The second part of the chapter covers the rules and guidelines governing how statistics are recorded in different countries.

The chapter concludes with an attempt to standardise the report statistics for Sweden and Germany by taking into account to the greatest extent possible the differences in formal factors between these two countries.

## Legal conditions

Several different legal factors affect the report statistics in Eurostat. First, there are factors associated with the legal definition of rape. This mainly concerns three aspects which can differ, namely:

- Whether force must be involved for an act to be classified as rape
- Which sexual acts are included in the definition of rape
- Who can rape and who can be raped

The rape statistics are also affected by the extent to which sexual activity with a minor is classified as rape. In addition, there are factors concerning how the criminal justice system processes reported rapes.

The following pages describe these factors systematically. For each factor, we begin with the wording of the Eurostat guidelines. However, the data submitted by each country are determined by the legal definition of rape in that particular country, which is also highlighted by Eurostat. This is why the legislation of the individual countries is the main focus of this section.

First, we present the situation in each European country based on the available sources. We then present a more detailed study of the legislation in five countries.

## The legal definition of rape

In order to make the statistics comparable, Eurostat asks the member states to follow the ICCS<sup>8</sup> classification system when submitting their crime data. This comparability is, however, complicated by the fact that the ICCS system provides a broad definition of rape: “Sexual penetration without valid consent or with consent as a result of intimidation, force, fraud,

coercion, threat, deception, use of drugs or alcohol, abuse of power or of a position of vulnerability, or the giving or receiving of benefits.” (UNODC, 2015: p. 50). In other words, there is no need for *force* to be involved for the sexual act to be defined as rape, only a lack of valid consent. However, many countries lack the prerequisites for specifying how many such rapes are reported, as they have a narrower definition of rape in their national legislation, and consequently narrower report statistics. Harrendorf (2018: p. 160) illustrates this problem in the following manner:

*National statistics necessarily mirror the criminal law and criminal procedure in a given country. They cannot record behaviour that is not considered criminal in a particular country.*

### *Rape legislation changes over time*

The definition can also change over time in the different countries, and considerable amendments have been made to the rape legislation in individual countries in recent years. Both Sweden and Denmark broadened their rape legislation in 2013, Norway made some amendments in 2015 (including in the classification of child abuse), and Germany introduced consent-based legislation in 2016, as did Sweden in July 2018. Appendix 1 presents the full legal texts on rape of the five countries studied in depth, as well as abbreviated legal definitions of rape from the other EU member states.

The study period runs until 2017, which means that the data from Sweden stem from the time before the above-mentioned amendments to the law. Even in the case of Germany, the study primarily encompasses the situation before the law was amended.<sup>9</sup> The information about the other European countries

<sup>8</sup> ICCS stands for the *International Classification of Crime for Statistical Purposes*. It was implemented in 2017, with the option to revise previous years based on the new guidelines (Eurostat 2017).

<sup>9</sup> This is because rape statistics in Germany are not recorded until the rape investigation has been completed and a large share of the reports made after the law was amended have not yet been entered in the statistics being studied. Accordingly, when we present information about the legislation in Germany, we are referring to the situation before the law was amended.

is based on a report produced by the European Institute for Gender Equality (EIGE) in 2016.

The development of the definition of rape in the Swedish criminal code can serve as an example of how narrow or broad a rape definition can be. When the Swedish criminal code came into force in 1965, rape was described as follows:

*If a man forces a woman to have sexual intercourse through violence or threats entailing imminent danger, he is guilty of rape and is sentenced to imprisonment, for at least two and at most ten years. Rendering a woman powerless or putting her in a similar state is to be equated with violence.*

Since then, the Swedish legislation on rape has been amended on six occasions. Among other things, sexual acts other than sexual intercourse have gradually been added and the definition has been made gender neutral, which means that women can rape and men can be raped. The requirement for force has also been lessened. The necessary condition of violence has been reduced from the threat of violence entailing a danger to life and health<sup>10</sup> to unlawful coercion, and it has been completely revoked in certain situations, such as if the victim was asleep or under 15 years of age. Since 1 July 2018, the rape definition is based on consent:

*A person who performs sexual intercourse, or some other sexual act that in view of the seriousness of the violation is comparable to sexual intercourse, with a person who is not participating voluntarily is guilty of rape and is sentenced to imprisonment for at least two and at most six years<sup>11</sup>.*

## **Rape legislation in different countries often criticised in international studies**

Within the scope of this study, Brå has reviewed rape legislation in five countries but has not had the opportunity to take a closer look at the national legislation of all European countries in this area.

There are, however, previous studies with a broader focus. In 2013, the European Women's Lobby (EWL) studied the rape legislation of European countries and concluded that six countries in particular needed to modernise their rape

<sup>10</sup> Violence or threats aimed at the victim and entailing or perceived as entailing imminent danger.

<sup>11</sup> It should be noted here that the maximum penalty for rape has not been lowered in practice, rather rape has been divided into different levels of severity, with the definition provided here being that of the lower level of severity. The penalty for aggravated rape is currently imprisonment for at least five and at most ten years.

legislation: Bulgaria, Hungary, Lithuania, Malta, Serbia and Ukraine. Among other things, they were criticised for wording in the legislation referring to honour and morality.

In another study, reflecting the situation in 2015, it was found that marital rape was not criminalised in Bulgaria, Hungary, Latvia, Lithuania, Poland and Slovakia (Greenfield, 2019).

According to an analysis by the European Institute for Gender Equality (EIGE) from 2016, only seven countries in Europe had consent-based legislation. However, most countries did have various forms of exception to the need for the use of force, such as a victim who was sleeping or heavily intoxicated at the time of the incident. An overview of the requirement for force in the rape legislation of the different countries is presented in Table 2.

Table 2. Level of force required for rape, according to the legal definition of rape in 30 European countries in 2016. *Source: European Institute for Gender Equality (EIGE).*

Absence of consent	Violence/threats or vulnerable situation	Violence/threats
Belgium	Bulgaria	France
Cyprus	Denmark	Greece
England/Wales	Estonia	Croatia
Ireland	Finland	Malta
Luxembourg	Latvia	Poland
Northern Ireland	Lithuania	Portugal
Scotland	Netherlands	Slovenia
	Norway	Spain
	Romania	Germany
	Slovakia	Austria
	Sweden	
	Czechia	
	Hungary	

***Of the five countries, only England/Wales had consent-based legislation***

Of the countries studied in depth, only *England/Wales* had consent- based rape legislation during the period studied by Brå. That is, legislation with no necessary condition of violence or threats, rather the requirement for rape was fulfilled if the other person had not consented to sexual activity and the suspected perpetrator did not have reasonable reason to believe that the other party had provided their consent.

The rape legislation of the Nordic countries was largely similar up until 2018 (Egelström, 2019; SOU, 2016:60). For an offence to be classified as rape, this required either some form of coercion through violence or threats, or for the perpetrator to have taken advantage when the victim could not defend themselves. The necessary condition of force was, however, on a low level and did not require that the victim had fought back. In Sweden, the necessary condition of force was met if the perpetrator used their body weight to constrain the victim's movement or to spread the victim's legs.

The Nordic countries also had similar descriptions of situations in which a person shall be considered to have been in a helpless state or a particularly vulnerable situation. In the Swedish legislation, this was described as

*improperly exploiting the fact that the person, due to unconsciousness, sleep, grave fear, intoxication, the influence of drugs, illness, bodily injury, mental disorder or otherwise in view of the circumstances, is in a particularly vulnerable situation.*

Germany had the strictest requirement for force for an act to be classified as rape. For the necessary condition of force to be met, the victim was required to have attempted to defend themselves from their attacker, with verbal resistance considered insufficient (Amnesty, 2018: p. 10).

In a review of rapes reported in Sweden in 2016, in cases regarding completed rapes of women aged 15 years or over (Brå, 2019b), it was assessed that half of the complainants, based on their personal accounts, did not attempt to physically prevent the assault. This was often due to the fact that they were asleep, heavily intoxicated or paralysed with fear. Accordingly, these cases would not have been included in the statistics with the German definition of rape.

### *The acts considered rape differ*

Eurostat also has a definition of which acts are considered rape: *sexual penetration, at minimum, is the penetration of the vulva, anus or mouth with any body part or object* (UNODC, 2015: p. 50). However, the European countries differed in terms of the sexual acts included under rape in their national legislation. In 17 of the 30 Eurostat countries encompassed by the study, the definition of rape only included sexual intercourse. In some of these countries, this only encompassed vaginal penetration, while in other countries it also included anal and oral penetration. Other countries also included other sexual acts in

their definition of rape, such as vaginal penetration by finger.<sup>12</sup>

Of the five countries studied in depth, *England/Wales* had the narrowest definition in this respect. For the offence to be classified as rape, it required that a man penetrated another person's mouth, vagina or anus with his penis. Penetration using fingers or objects was instead classified as "assault by penetration". Accordingly, these offences are not included in the rape statistics for the study period.

In *the Nordic countries*, rape included more sexual acts than in England/Wales. In Sweden, rape included *sexual intercourse, or some other sexual act that in view of the seriousness of the violation is comparable to sexual intercourse*, such as to insert fingers, objects or other body parts in the victim's vagina or anus. If the perpetrator's and the victim's genitalia have touched (even without penetration taking place), this is considered sexual intercourse and as such is classified as rape.

Denmark and Norway had similar definitions of rape. One minor difference between the countries was that in Sweden and Norway, but not Denmark, rape included the victim being forced to perform sexual intercourse or a comparable act with themselves or a third person.

In Germany, the description of the acts included in rape are worded more loosely than in the other four countries: *sexual acts by the offender or a third person on their own person or to engage actively in sexual activity with the offender or a third person*. We have not been able to investigate exactly what is meant by "sexual activity" within the scope of this study.

### **Sexual activity with minors was illegal in all countries – but the offence is not always included in the rape statistics**

All countries in Europe prohibited the performance of sexual acts with children under a certain age, regardless of whether they are performed by force or with consent. On the other hand, there were differences between the countries in terms of the age of the child and whether the offence was classified as rape or another sexual offence.

According to Eurostat's guidelines, *statutory rape* (equivalent to child rape in Swedish legislation) is included in the definition of

<sup>12</sup> That such differences in the definition impact the rape statistics is illustrated by the fact that about one in five rapes reported in Sweden in 2016 involved a sexual act other than sexual intercourse, defined as penetration with the penis of the vagina, anus or mouth (Brå, 2019b).

rape since a minor cannot provide valid consent to sexual activity. Despite this, sexual activity with minors was not included in the rape statistics submitted to Eurostat by the following ten countries: Scotland, Finland, Ireland, Germany, Czechia, Hungary, Portugal, Slovenia, Poland and Greece.

That this has a bearing on the report level in the statistics is indisputable, but exactly how much it affects the statistics is difficult to say. The percentage of rape reports involving victims who are minors varies, for example, between countries. In Sweden, about one third of all rapes reported during the period 2013–2017 concerned child rape. In Germany, the number of offences which under Swedish legislation would be classified as child rape is comparable to that for adult rapes. If sexual activity with a minor was included in Germany’s rape statistics, the number of reports in Germany would have doubled.

#### *The age of consent varies between the five countries*

When it comes to the sexual assault of children, the legislation of the different countries differs in two ways that are of importance to the rape statistics. The first is the age of consent, the second is the extent to which assaults are classified as rape.

In *Sweden*, the age of consent is 15 years. Having sexual intercourse or performing an act comparable to sexual intercourse with a child under the age of 15 years is classified as rape regardless of whether force is used. If the child is aged between 15 and 18 years and is the offspring of the perpetrator, is under their care or otherwise has a similar relationship to the perpetrator, this is also classified as child rape. Both rape and child rape are included in the statistics that Sweden submits to Eurostat.

*Norway*’s legislation is largely similar to Sweden’s, with the difference that the age of consent is 14 years. In October 2015, Norway adopted a new criminal code, which among other things means that sexual intercourse and other comparable acts with a child under 14 years of age are always classified as rape (Kripos, 2018). Previously, under certain circumstances this would have been classified as sexual activity with a child.

In *Denmark*, all sexual acts comparable to sexual intercourse with a child under 12 years of age are classified as rape. Having sexual intercourse or performing comparable acts with a child between 12 and 15 years of age is also punishable by law. If the act meets the general criteria for rape (violence, threats or vulnerable situation), it is classified as rape and included in the

general statistics for rape.

Otherwise, it is instead recorded as a sexual offence against a child under 15 years of age. Despite the crime “sexual offence against a child” not being classified as rape in the national statistics, it is included together with other sexual violence in the statistics that Denmark submits to Eurostat (in accordance with the ICCS guidelines).

In *England/Wales*, the age of consent is 16 years of age. However, having sexual intercourse with a child aged between 13 and 16 years is not classified as rape but rather sexual activity with a child, unless the other necessary conditions are met (that is, whether consent was provided). To be classified as rape regardless of whether consent was provided, the perpetrator must have vaginal, anal or oral sexual intercourse with a child under the age of 13 years. Only the offences classified as rape under national legislation are included in the report statistics that England/Wales submits to Eurostat.

In *Germany*, the age of consent is 14 years. Having sex with a person younger than this is not classified as rape but rather sexual assault of a child, and as such is not included in the national rape statistics. This means that nor is it included in the statistics that Germany submits to Eurostat. However, particularly serious cases of sexual assault of a child are still classified as rape, as about 2 percent of rape victims are under 14 years of age, according to the statistics.

## Other legal factors

There are other legal factors which affect the report statistics. These do not concern the wording of legal paragraphs on rape, but rather how the criminal justice system processes the reports that are made. These include, for example:

- How crimes committed abroad are processed by the criminal justice system
- Whether the police must register all crimes brought to their attention

There are other legal conditions which could affect the rape statistics, such as whether rape falls under public prosecution and the limitation period. However, our assessment is that these are of lesser importance to the report statistics, and hence they will not be described in any greater detail in the report.

### *Crimes committed abroad*

The Nordic countries also record in their statistics reports on crimes committed abroad, even if they cannot always be investigated. In England/Wales and Germany, however, the principle is that the offence is to be reported and investigated in the country in which it is committed. How the other EU countries act in these respects has not been possible to investigate within the scope of this study. However, our assessment is that this factor is of relatively marginal importance to the level of the report statistics. For example, about two percent of the rapes reported in Sweden have taken place outside Sweden, according to the crime statistics.

### *The principle of legality versus the principle of opportunity*

One factor of greater importance is the set of rules governing how the police are to act when they receive information that a rape has been committed.

Sweden's model is based on the principle of legality, which means that under the Swedish Police Act the police are obligated to file a report in the event of the suspicion of an offence subject to public prosecution, which includes rape. In other countries, such as the Netherlands, the authorities have greater freedom to make decisions based on considerations including cost efficiency and relevance (known as the principle of opportunity).

This can be assumed to result in fewer reported rapes in these countries than in Sweden (von Hofer, 2000).

## **Statistical factors**

There can be considerable differences between countries as regards how statistics on reported rapes are recorded and which data are submitted to Eurostat. Accordingly, in international comparisons of rapes reported to the police using Eurostat as a source, one ought to keep the following in mind:

- Are attempted crimes included in the rape statistics submitted to Eurostat?
- Is the basis for the statistics compiled from the information available when the crimes were reported or once the investigations were completed?
- Which unit of analysis are the statistics based on:

individual offences, reports or victims?

- If a report includes different types of offence committed on the same occasion, are all the offences counted?
- If a report includes repeated offences of the same type, are all the offences counted?
- If a report includes an offence committed by several perpetrators, are all the perpetrators counted?

## **Sweden does not include attempted crimes in data submitted to Eurostat**

How attempted crimes are handled in crime statistics is governed by both legal and statistical factors. It is influenced in part by whether attempted rape is criminalised, and in part by how such attempted crimes are categorised in the statistics.

We have not succeeded in finding out whether attempted rape is criminalised in all Eurostat countries. Eurostat's view on whether attempted rapes are to be included in the statistics submitted by the countries is also unclear. This is not mentioned in the ICCS guidelines or the accompanying description of the statistics (the metadata).

In all five countries studied in greater depth, attempted rape is a punishable offence.<sup>13</sup> There are, however, differences in how these crimes are categorised, which determines the conditions for how they are handled in the statistics. For this reason, we have chosen to present this aspect under statistical factors.

In Sweden, Norway and Germany, attempted rape has its own criminal offence code and is reported separately in the national statistics. This is not the case in Denmark or England/Wales, however, where completed and attempted rape are not differentiated in terms of criminal offence codes or the national statistics.

How, then, are attempted crimes recorded in Eurostat? The statistics that Sweden and Norway submit to Eurostat do not include attempted crimes. They are, however, included in the statistics from Denmark and England/Wales, as these countries cannot differentiate between attempted and completed crimes. The data which Germany submits to Eurostat also include attempted rapes, even though they would be able to remove

<sup>13</sup> In Sweden, attempted rape was criminalised with the introduction of the Swedish criminal code in 1965 (Lindahl, 2016).

them.

The number of attempted rapes as a percentage of all reported rapes varies between the countries where such data are available. In Germany, attempted rapes comprise about 15 percent of all reported rapes.

In the Swedish statistics and the Norwegian statistics, the equivalent figure was about 6 percent during the period 2013–2017. In this respect, the differences in how crimes are recorded results in the number of reported rapes in Sweden and Norway being underreported in relation to Denmark, Germany and England/Wales.

### **The time at which offences are recorded affects the level**

Eurostat has no guidelines as to at which stage of the criminal justice system's work reported crimes are to be recorded in the country's statistics (and thereby provide Eurostat with comparable data).

Eurostat does, however, ask the member states to fill in a form in which they are to describe at which stage of an investigation information about a reported crime is recorded in the country's statistics.<sup>14</sup> Three different recording practices are used. If the basis for the statistics is recorded in conjunction with the police report, they are referred to as *input statistics*, while *process statistics* means that the statistics are recorded after the report has been made but before the investigation is completed.

The statistics can also be based on offences that remain following the completion of the investigation, and these are designated *output statistics*.

If the basis is compiled in conjunction with the police report, the statistics reflect how the police register and categorise the information provided by the person making the report.

The police investigation may later show that the reported incident did not take place, or that no crime was committed in the legal sense. None of this, however, affects input statistics; they are based solely on the initial assessment of the police in conjunction with a reported rape.

The later in the investigation process that the information about reported crimes is recorded in the statistics, the greater the

<sup>14</sup> Each country's response in the questionnaire is presented in the metadata that Eurostat provides together with the crime statistics.

probability that reports have been purged. This results in fewer reported rapes being included in the statistics than in countries with input statistics (Aebi, 2008; von Hofer, 2000). Table 3 shows which countries use each recording practice.

Table 3. Recording practice according to Eurostat's metadata. *Source: Eurostat.*

Input statistics	Process statistics	Output statistics
Belgium	Estonia	Bulgaria
Cyprus	Croatia	Poland
Denmark	Latvia	Romania
England/Wales	Norway	Slovenia
Finland	Slovakia	Spain
France		Czechia
Greece		Germany
Ireland		Hungary
Lithuania		Austria
Luxembourg		
Malta		
Netherlands		
Northern Ireland		
Portugal		
Scotland		
Sweden		

The above table does, however, provide a simplified picture of the whole.

In reality, some form of processing of the data occurs between the time of the police report and the time the statistics are compiled in all countries studied in greater depth that are considered to use input statistics. There are also considerable differences between countries that on paper would appear to use the same recording practice. This can be seen in the following description of the systems used in the five countries studied in greater depth.

#### *Sweden includes all reports in the statistics*

When a crime is brought to the attention of the police in Sweden, a police report is filed and this is registered in the case management system, which then delivers the relevant data to Brå. Sweden's report statistics are based on administrative

information delivered electronically to Brå. The selected criminal offence code determines the report's designation in the statistics.<sup>15</sup> Information from the public prosecution service's case management system is also delivered to Brå.

At Brå, the data are reviewed and processed before being compiled into statistics. This review is, however, purely statistical; unreasonable values are checked and duplicates are removed. No reports are removed based on legal or police assessments. Sweden's combination of following the principle of legality and using input statistics means that the report statistics levels are generally higher. The police in Sweden are obliged to file a report, even if the incident is obviously made up at the time of the complaint. In other words, the statistics also encompass such reports, as well as cases where once the reported incident has been investigated, the case is closed since no offence has been committed.

#### *Denmark, Norway and England/Wales purge certain reports*

According to Eurostat, Denmark also uses input statistics, although at the time the report is made the police assess whether the reported incident actually comprises a criminal offence. If it is not considered to comprise a criminal offence, the report can instead be registered as an "incident" in the police authority's own statistics<sup>16</sup>, although it is not included in the official crime statistics.

If we compare the Danish police authority's statistics on rape incidents with the official Danish crime statistics, we find that about one in five reported rapes is registered as an "incident" and as such is not included in the Danish statistics.

According to Eurostat, England/Wales uses input statistics too. The system is reminiscent of that in Denmark, as reported incidents and registered crimes are differentiated. Reported rapes where the supposed victim remains unknown or does not confirm that the reported incident has taken place are not registered as criminal offences and remain incidents. In other words, they are not included in the official statistics on reported crimes. The same applies to reports where there is clear contradictory evidence. If it is later found that a registered rape did not take place or has been duplicated in the records, it can

<sup>15</sup> The criminal offence code can be adjusted by the investigating authorities up to three months after the end of the year. If new information is received, a report on sexual molestation can be changed to rape and vice versa.

<sup>16</sup> <https://statistik.politi.dk/>

be deregistered and is then removed from the statistics (HMIC, 2014). Based on a calculation performed by Brå within the scope of this study, about 20 percent of reported rapes were purged, either because they were never registered as crimes or because they were deregistered once the investigation was completed (known as “no criming”).<sup>17</sup> That Eurostat categorises this practice as input statistics is, in Brå’s opinion, misleading. Norway uses process statistics. Here, the police authority’s working statistics and the final statistics are differentiated. The police authority’s working statistics encompass *all* reports, but the final statistics do not include clearly flawed reports. In a comparison between the official statistics and the police authority’s working statistics<sup>18</sup>, about seven percent of the reported rapes seem to have been removed.

### *German statistics based on confirmed and fully investigated crimes*

Germany is one of the nine countries which, according to Eurostat, uses output statistics. If a report does not result in an investigation, or if the investigation finds that the reported incident does not constitute a criminal offence, there is no crime to register. According to the German guidelines, the statistics only encompass cases that have been “sufficiently specified”. This requires “confirmatory indicators” that the reported act is a crime in the legal sense, and that the place and time of the crime are specified, even if they need not be exact (PCS, 2018: p. 6).

### *Practice used to register reports in the statistics of great importance to rape statistics levels*

The above indicates that countries which according to Eurostat’s metadata are said to use input statistics differ to a significant extent in terms of the rules and procedures they employ when registering reports. According to Brå’s estimate, about one in five reported rapes would be purged from the Swedish statistics if the police applied the same purging procedures as Denmark and England/Wales. Even Norway, which is considered to use a registration practice where the statistics are prepared at a later stage than in Denmark and

<sup>17</sup> Based on data for 2016 and 2017. A report can also remain an incident or be deregistered if the rape took place in another police district. In this case, the report is transferred to and registered in the appropriate police district. Reports which are not counted for this reason are not included in the above calculation.

<sup>18</sup> <https://statistik.politi.dk/https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/strasak/2017/strasak-2017.pdf>

England/Wales, the police seem to purge a smaller percentage of all reports than in the latter two countries.

The statistics on reported rapes that Germany submits to Eurostat comprise reports where suspicion remains once the investigation is completed. We do not know how this figure compares to the total number of reported rapes in Germany.

Statistics that are prepared once the investigation has been completed are based to a greater extent on confirmed crimes. On the other hand, there is also a risk that not all rapes brought to the attention of the police are registered, such as due to different types of (improper) selection criteria. This is discussed in the next chapter under the heading Propensity to register.

### **Most countries base their report statistics on individual crimes**

One factor of importance to the comparability of different countries' report statistics is the differences in how the reports are counted.

Eurostat had issued no guidelines for this during the study period.<sup>19</sup>

One important difference concerns which unit of analysis the statistics are based on – offence or case. Most of the studied countries, 25 of 30, count the number of *transgressions of the law* (offences) and not *police cases*.

Four of the five countries Brå has studied in depth base their statistics on the number of offences. Germany, on the other hand, stands out in that it instead counts the number of *police cases*, which means that a report can never result in more than one (1) registered offence in the statistics, regardless of how many victims, perpetrators or crimes the report concerns.

### **Principal offence approach of marginal importance in rape**

There are differences between the countries in how they count when a report encompasses several different offences committed on the same occasion. In some countries, the principal offence

<sup>19</sup> The instructions do, however, recommend certain counting rules, although it is also stated that these should not be considered general guidelines. According to the recommendations, the statistics should be based on individual transgressions of the law, the principal offence approach should not be used, repeated offences of the same type should be counted several times and offences committed by several people should be counted once.

approach is used when preparing the report statistics, which means that only the most serious crime is included in the statistics.

Germany and England/Wales are among the twelve countries that employ the principal offence approach, while Sweden, Norway and Denmark do not. However, this difference in the way of counting ought not have any major impact on the number of rapes registered in the statistics as rape is a very serious crime. Most other crimes that can be committed in conjunction with a rape have more lenient sentencing guidelines, aside from murder and attempted murder.

Of all completed rapes reported in 1997, in only one percent of the cases was rape not the principal offence in the report, according to a calculation performed by Brå in 1999.

### **How the number of offences is counted differs between the countries**

Even if most of the countries based their statistics on the number of transgressions of the law, they can differ in how the number of offences is counted. One difference concerns, for example, those cases where a report contains repeated offences of the same type with the same victim and the same perpetrator. These can then be counted once or for each specific time a transgression took place.

Whether repeated rapes with the same victim and the same perpetrator are counted several times can have a major impact on the report levels seen in the statistics on rapes reported to the police. Say, for example, that a woman reports that her partner has raped her 14 times during the past year, this can result in one (1) or 14 offences in the statistics, depending on which statistical procedure applies.

Germany and England/Wales are examples of countries where such reports would have been counted once (1 time) in the statistics.

According to Eurostat, Sweden, together with Denmark, Norway, Belgium, Austria, the Netherlands, Croatia, Latvia, Lithuania, Hungary, Malta, Slovenia, Poland and Greece, is among the countries that count serial offences several times.

However, a closer look at the Nordic countries' national statistics indicates that Sweden is considerably more inclusive in its counting than both Denmark and Norway. In these two countries, the difference between the number of reported crimes

and the number of complainants in the same year is not particularly large.

In Sweden, the crime statistics cannot be used to retrieve the relationship between the number of reported offences and the number of complainants as there are no official statistics on complainants. To provide an estimate, we have used microdata to calculate how many complainants the rape reports concerned during the period 2013–2017. This analysis indicates that Sweden is considerably more inclusive in its counting as the number of reported rapes averages 31 percent more than the number of complainants. This is due in part to individual cases encompassing a large number of rapes. As an example, we can mention that of the 6,294 rapes reported in 2014, about 300 stemmed from a single case (Brå, 2019c).

### *How gang rape is counted varies between the five countries*

There can also be differences in how reports are counted in cases with several perpetrators, such as gang rapes. Depending on the counting principle, these can be counted as one or several offences.

Since 2012, the *Swedish* guidelines for rapes involving several perpetrators is that one (1) offence is counted for each complainant (RIF, 2012). The same practice is employed in *Denmark*. Since *Germany* counts the number of police cases, a reported gang rape can never result in more than one (1) registered rape in the statistics.

*England/Wales*, on the other hand, now employs a more inclusive counting method in this respect. Prior to July 2016, the principle was to count one offence per victim, while now it is to count every connection between a victim and a perpetrator as a single offence in the statistics (Home Office, 2019).

*Norway too* is said to count each perpetrator, but since the number of reported rapes is so close to the number of rape victims, Brå questions just how strictly this is done in practice.

How much the method used to count the connections between a victim and a perpetrator affects the statistics is determined by how common it is for rapes to be committed by groups of perpetrators and how many perpetrators are involved in the assault. Research shows that gang rapes comprise between 11 and 19 percent of the rapes reported in England/Wales (da Silva et al., 2014).

Based on data on completed rapes against women aged 15 years or over in Sweden in 2016 (Brå, 2019b), there were two or

more alleged perpetrators in 10 percent of the reports. The coded cases encompassed 743 complainants and 891 alleged perpetrators.

Accordingly, the effect of counting the number of perpetrators can be expected to result in the level of rape statistics increasing by 20 percent<sup>20</sup> compared to if the counting is limited to one offence per victim and report.

## **Formal factors in summary**

This chapter presented the legal and statistical factors that can impact the report statistics. The review demonstrated major differences between the countries as regards these factors. It also revealed that both types of factor can have a major impact on the number of reports in the statistics.

Above we presented how the statistical methods differ between the five countries studied in depth. Now we would like to try to provide an overall picture of how all European countries differ, in terms of both legal factors and statistical methods. The presentation includes the factors for which we have been able to retrieve data for all countries.<sup>21</sup> This means that we can present data regarding five legal and four statistical factors. The following aspects are illustrated in Figure 6:

<sup>20</sup> This is because 891 perpetrators are 20 percent more than 743 complainants.

<sup>21</sup> We have not been able to check how attempted crimes and crimes committed abroad are handled in all countries included in the study. Nor have we been able to study the extent to which reports are purged from the statistics. According to Eurostat's metadata, all countries count the number of perpetrators once. Since we know that this is not true, we have excluded this factor from the review.

Figure 6. Factors in the European countries' legislation and statistical methods that influence the number of rapes reported to the police. Source: Eurostat and EIGE.

1. Is marital rape criminalised?
2. Is sexual activity with a minor classified as rape?
3. Can men be raped?
4. Does the definition of rape include acts other than sexual intercourse?
5. Does the definition of rape include acts that do not involve violence/threats?
6. Are the statistics based on the influx of reports?
7. Do the statistics use offence (rather than victim/case) as the unit of analysis?
8. Are serial crimes counted several times?
9. Are multiple offences counted several times (as opposed to the principal offence approach)?

An affirmative answer (denoted by a green checkmark) indicates that formal factors in this regard contribute to an increase in the number of reported rapes. A negative answer is denoted by a red X. The countries in Table 6 below are listed in descending order based on the average number of reported rapes per 100,000 inhabitants 2013–2017.

Country	1	2	3	4	5	6	7	8	9
Sweden	✓	✓	✓	✓	✓	✓	✓	✓	✓
England/Wales	✓	✓	✓	✗	✓	✓	✓	✗	✗
Northern Ireland	✓	✓	✓	✗	✓	✓	✓	✓	✗
Norway	✓	✓	✓	✓	✓	✗	✓	✓	✓
Scotland	✓	✗	✓	✗	✓	✓	✓	✓	✓
Belgium	✓	✓	✓	✓	✓	✓	✓	✓	✓
Denmark	✓	✓	✓	✓	✓	✓	✓	✓	✓
France	✓	✓	✓	✓	✗	✓	✗	✗	✗
Finland	✓	✗	✓	✗	✓	✓	✓	✗	✓
Luxembourg	✓	✓	✓	✓	✓	✓	✓	✗	✓
Austria	✓	✓	✓	✓	✗	✗	✗	✓	✓
Estonia	✓	✓	✓	✗	✓	✗	✓	✗	✓
Ireland	✓	✗	✗	✗	✓	✓	✗	✗	✓
Germany	✓	✗	✓	✓	✗	✗	✗	✗	✗
Netherlands	✓	✓	✓	✓	✓	✓	✓	✓	✗
Croatia	✓	✓	✓	✓	✗	✗	✓	✓	✗
Czechia	✓	✗	✓	✓	✓	✗	✓	✗	✓
Romania	✓	✓	✓	✓	✓	✗	✓	✗	✗
Latvia	✗	✓	✓	✓	✓	✗	✓	✓	✗
Lithuania	✗	✓	✓	✗	✓	✓	✓	✓	✓
Hungary	✗	✗	✗	✗	✓	✗	✓	✓	✓
Malta	✓	✓	✓	✗	✗	✓	✗	✓	✗
Portugal	✓	✗	✓	✗	✗	✓	✓	✗	✗
Spain	✓	✓	✓	✓	✗	✗	✓	✗	✓
Cyprus	✓	✓	✗	✗	✓	✓	✓	✗	✗
Slovenia	✓	✗	✓	✗	✗	✗	✓	✓	✓
Poland	✗	✗	✓	✗	✗	✗	✓	✓	✗
Bulgaria	✗	✓	✗	✗	✓	✗	✓	✗	✗
Slovakia	✗	✓	✗	✗	✓	✗	✓	✗	✗
Greece	✓	✗	✗	✗	✗	✓	✓	✓	✓

From the figure we can discern a correlation between on the one hand a country's legislation and statistical method and on the other hand the level of reported rapes according to Eurostat's statistics. Countries with legislation and statistical methods which in several respects create the conditions for more rapes to be registered and counted in the statistics also register more reports to a greater extent than other countries, and vice versa. Sweden, Belgium and Denmark are the three countries where all observed factors regarding legislation and statistical methods contribute to an increase in the number of registered reports.

Naturally, this overview presents a simplified picture of reality. For example, countries with consent-based rape legislation are equated with countries where force is not required in situations where the victim is in a helpless state. In Brå's more detailed review of the legislation and statistical procedures of five countries, it also became clear that the issue of how the countries differ in terms of legislation and statistical method is considerably more complicated than a number of yes-no questions can cover.

*Formal factors explain much of the difference between Sweden and Germany in the level of reported rapes*

To conduct a deeper analysis of the significance of the formal factors, we have focused on a comparison between just two countries: Sweden and Germany. Brå has recalculated Sweden's statistics on reported rapes using the same legal conditions and statistical methods as in Germany. The Swedish report statistics have been recalculated with the aid of specially ordered statistics from Brå's unit for judicial statistics and microdata from a previous report on rapes reported to the police in 2016 (Brå, 2019b).

The German statistics have also been processed to some extent to achieve the highest possible comparability.

The recalculation was performed in several stages. First, attempted rapes were also included in the Swedish statistics, since they are included in the data that Germany submits to Eurostat. Following this, child rape was excluded from the Swedish statistics, since sexual activity with a minor is not classified as rape in Germany and is therefore not included in the statistics. Two percent of rape victims are under the age of 14 in Germany, so these have been removed from the German figures.

The Swedish statistics are input statistics, which means that all

reports are included in the statistics. In Germany, the statistics are based on reported rapes that still stand following investigation.

Accordingly, we removed from the Swedish statistics reported crimes where the cases were closed immediately, closed due to no crime having been committed or closed due to having taken place abroad.

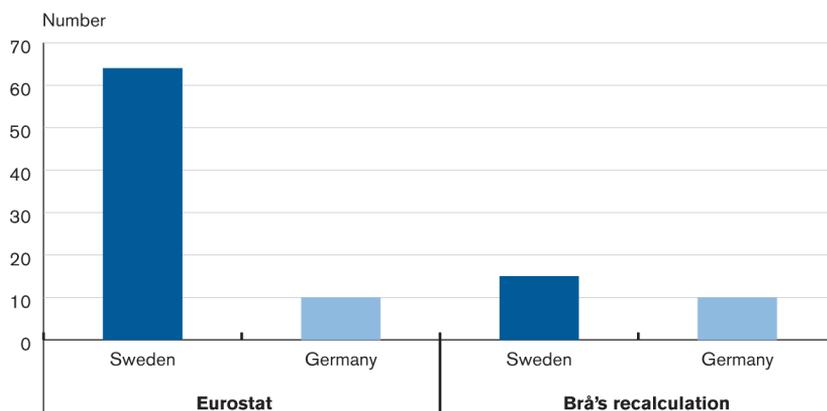
We then recalculated the Swedish statistics to reflect the number of complainants rather than the number of criminal incidents. This was done by only including unique combinations of police case number and criminal offence code. The German figures are based on the number of complainants aged over 14 years and not police cases.

Finally, the Swedish statistics were purged of reports that did not fulfil the necessary conditions for rape in Germany. This was done based on data from Brå's report on rapes against women aged over 15 years reported to the police in 2016 (Brå, 2019b).<sup>22</sup>

Figure 7 below presents the statistics on reported rapes in Germany and Sweden as reported by Eurostat and the "standardised" statistics that Brå has produced as described above. According to Brå's calculation, three-quarters of the rapes in the statistics for Sweden would be excluded if applying the same formal conditions as in Germany.

<sup>22</sup> The cases are sorted by whether (and to what extent) the victim, according to their personal account, had physically resisted. The alternatives were "no", "unclear", "to some extent" and "strongly". In about half of the cases (which were not closed immediately, closed due to no crime having been committed or closed due to having taken place abroad), the victim had not physically resisted. This usually involved situations in which the victim, due to sleep or intoxication, could not defend themselves. Such acts are certainly punishable in Germany, but they are not classified as rape. Accordingly, the Swedish statistics were purged of such reports.

Figure 7. Rapes reported to the police per 100,000 inhabitants 2016, unadjusted and standardised numbers. Sources: Eurostat and Brå.



Here we should point out that the new measurement is only a construct to illustrate the significance of differences in legislation, registration rules and statistical methods. The result shall not be interpreted as the “true” level of reports in the two countries. There may be other differences that affect the number of reports registered in Germany, such as if in addition to the legitimate purging, further purging outside what the law permits takes place. Nor shall this be interpreted as Brå recommending that Sweden change its statistical method.

Based on the calculation described above, the average number of reported rapes per 100,000 inhabitants in Sweden 2013–2017 would fall from 63 to 15. Sweden would then be ranked somewhere in the middle of the list of countries with the most reported rapes. However, the number would still have been several times greater than those of the countries at the bottom of the list. Possible reasons for this are discussed in the next chapter.

# Substantive factors

The previous chapter discussed a number of what are referred to as formal factors, which affect the level of European rape statistics without necessarily having anything to do with actual crime rates. In other words, Eurostat's statistics on reported rapes do not comprise a reliable source of knowledge for determining that the risk of being raped in Sweden is higher than the European average.

However, even if all countries in the EU had the same legal conditions and the same statistical methods, there are still what are known as substantive factors that also affect comparability. In addition to the number of rapes actually committed, the statistics are also affected by the general propensity to report these crimes to the police, as well as the extent to which the police register the reports in line with the applicable rules.

Before discussing the propensity to report, we address theories and empirical studies of the actual incidence of rape in a separate section. This provides a foundation for the discussion on the propensity to report and illustrates the opportunity to gain knowledge about the level of rape in different countries from sources other than report statistics.

Finally, we look at the propensity of the responsible authorities to correctly register reported rapes, which most probably varies both over time and between countries.

## The actual incidence of rape

There are several theories concerning individual risk factors for rape (see, for example, Harrell et al., 2009). Factors that are commonly mentioned include substance abuse, sexual deviation or mental disorder on the part of the perpetrator. Since this study is centred on comparisons of rape

levels in different countries, the focus will not be on such individual factors, but instead on explanations at a higher sociological level.<sup>23</sup>

Examples of structural factors that, according to research, are of significance to the incidence of rape in a country include, among other things, the ratio between men and women

<sup>23</sup> Each individual factor can, of course, be interpreted in terms of sociological consequences, such as the level of substance abuse in a society, for example.

(O'Brien, 1991), the prevalence of pornography (Bauserman, 1996), age demographics (Brå, 2019a), and internet access and use (Bhuller et al., 2013).

However, the above factors are not normally considered the most central. The three foremost sociological explanatory models for rape point to a lack of equality between men and women, social disorganisation and the cultural acceptance of violence (Makin, 2015). These three theories can all be said to be linked to the presence of informal social control. Social control refers to the processes and mechanisms that encourage individuals to act in accordance with the prevailing rules, norms and values. Control theories of crime focus on conformity and how the majority refrain from crime due to the control exercised by the surrounding society or that they exercise on their own behaviour (Sarnecki, 2003: p. 216).

### *The level of gender equality can affect the number of rapes*

Feminist theory generally asserts that rape, and not least the threat of rape, is a central part of male dominance in society and a way to control women (Brownmiller, 1975). Whether increased gender equality leads to more or fewer rapes is, however, an area on which opinion is divided in the research literature. According to one hypothesis, increased gender equality leads to reduced levels of rape because power is more evenly shared and gender roles are less concrete. Others say that when women gain more power and freedom, it can result in a backlash that causes more rapes because men feel that their dominant position is threatened and therefore realise the threat of rape to a greater extent (Bailey, 1999; Brå, 2008; Martin et al., 2006).

In an attempt to combine these hypotheses, Whaley (2001) found that increased gender equality in the USA, in the initial stages, was associated with an increased level of rape, although the correlation was negative in the longer term.

Yet other researchers highlight the fact that increased gender equality could lead to more rapes due to reduced social control over women. They would have more freedom to move about freely outside the home, or alone with other men, and thereby increase the number of meetings with men, which could entail an increased risk of rape. According to von Hofer, who did not make the connection with gender equality, one cannot rule out the possibility that more rapes are actually committed in Sweden compared to other countries where women cannot move about as freely and are instead controlled to a greater

extent (2000; p. 87). Differences in behavioural patterns and socialising habits could also cause substantive differences in rape levels.

### *Social control mechanisms counter deviant behaviour*

Social control need not only encompass women. It can also entail informally monitoring and punishing deviant behaviour among both sexes. On the whole, the type of informal social control discussed above tends to *curtail* crime (Hirschi, 1969). The reach of the control is largely determined by the level of social cohesion.

According to the theory on social disorganisation, factors that can reduce social cohesion and thereby social control result in increased crime. Examples of such factors include urbanisation, divorce, migration and cultural heterogeneity (Baron & Straus, 1987; Tewksbury et al., 2010). Swedish studies have, for example, shown that foreign-born individuals are suspected of rape to a greater extent than natives (Brå, 2005; Adamson, 2020). One reason could be that moving to another country can result in a kind of “norm disintegration”, whereby the social control exerted in the native and adopted countries leaves no real impression.

### *The acceptance of sexual violence affects social control mechanisms*

The impact of social control on rape levels is also determined by the cultural acceptance of violence in general and sexual violence in particular (Baron & Straus, 1987). If the use of violence is generally considered a legitimate means, it can “spill over” into how society views forced sexual intercourse. And if there are norms and values that contribute to rape being considered acceptable, this weakens the informal social control over such behaviours. The term rape culture is used to describe a social context in which rape myths are deeply rooted. In the worst case such a culture encourages sexual violence, and in the best case it excuses it (Makin, 2015).

The significance of this factor on the rape level risks being underestimated as the norms and values associated with such an increased prevalence of rape are the same as those that contribute to these assaults being swept under the carpet. In this way, the correlation is concealed at an aggregated level. At the individual level there is strong evidence for the belief in rape myths being associated with both a higher probability of

committing rape (McMahon & Farmer, 2011) and a greater risk of the victim not identifying the incident as a rape or choosing not to talk about or report it (Arhens, 2006).

## **Measuring the extent of rape**

The primary purpose of the report statistics is not to illustrate the extent of crime. Their primary purpose is to describe how many reports the police process. But how can we measure the real level of crime in a society? Most criminologists agree that we will never be able to say exactly how many crimes are committed (see, for example, Skogan, 1975). No single source of knowledge contains enough information. So, to draw the most reliable conclusions as possible about the level of crime, we ought to combine different sources (Brå, 2012). Aside from criminal statistics, this can mean healthcare data (Brå, 2017), statistics from insurance companies and surveys into individuals' participation in and exposure to crime.

Victims of crime surveys are generally considered a better source than report statistics if studying the extent of actual crime. In Sweden, every year since 2006, Brå has conducted a victims of crime survey into exposure to crime within the scope of the Swedish Crime Survey (SCS), or Nationella trygghetsundersökningen (NTU) in Swedish.

## **Victims of crime surveys affected by willingness to talk**

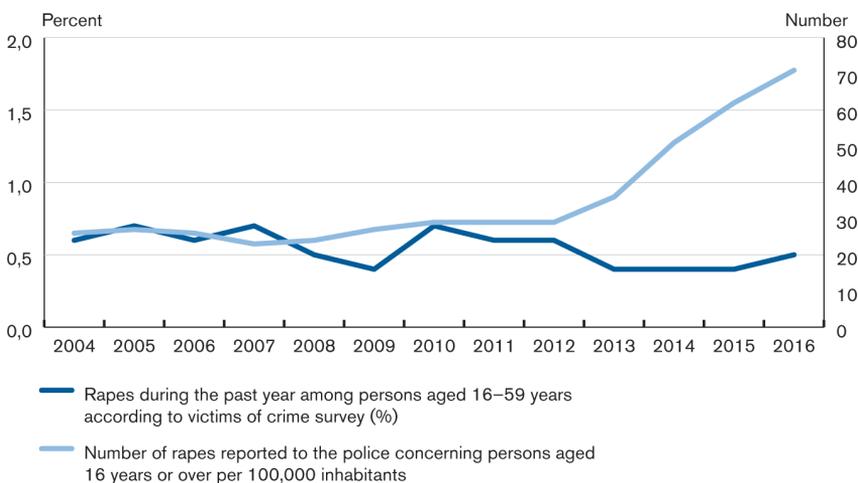
Victims of crime surveys are not affected in the same way as crime statistics by factors such as the propensity to report, legislation and statistical methods. They are, on the other hand, affected by how the respondents perceive the incidents they have experienced and their willingness to talk about them. This is usually referred to as the willingness to talk, and it can vary both in time and between countries. If the willingness to talk increases, such as through an increased focus on sexual offences in the social discourse, this can lead to changes in the reported experience that are independent of actual crime levels (see, for example, Brå, 2019a).

It is particularly difficult to measure women's exposure to sexual offences, which has been called the greatest methodological challenge in survey research (Smith, 1987). This is due in part to the fact that it concerns sensitive issues that the victim may feel uncomfortable talking about. Minor changes in the sample, the collection method or the wording of the

questions can have major consequences for the reported level of exposure (Stefansen et al., 2019; Walby & Towers, 2017).

To draw more well-founded conclusions on the extent of and trends in rape, it is advantageous to study crime statistics and victims of crime surveys together. If, for example, the report statistics show a dramatic increase without this tendency being reflected in the victims of crime survey, this indicates that the primary cause of the development is not an increased incidence of rape. This can be exemplified by the trends seen in reported rapes and the reported exposure to rape in England/Wales in recent years (see Figure 8). The diagram shows the percentage who in the annual victims of crime survey stated that they had been raped during the past year remained constant, or even fell a little after 2012, despite the number of reported rapes increasing significantly. This would suggest that it was primarily factors other than an increase in the number of rapes that caused the rise in the number of reports. Some of these factors have been mentioned in previous chapters, such as fewer filed reports being purged and a change in how offences are counted. Other possible factors are raised later in this report.<sup>24</sup>

Figure 8. Percentage stating that they have been raped during the past year, according to a victims of crime survey, and the number of rapes reported to the police and registered, persons aged 16 years or over, per 100,000 inhabitants 2004–2016. Source: Office for National Statistics and Home Office.



<sup>24</sup> In this case, the two sources complement each other in a manner that clearly contributes to an understanding of the trend. There are, however, other situations where the trends seen in both sources are difficult to interpret.

## **International victims of crime surveys are uncommon**

In several countries in Europe, regular national victims of crime surveys are conducted to study trends in, among other things, rape.

It is, however, difficult to use these national surveys to compare rape levels in different countries. This is because such comparisons require surveys using the same questions and the same collection method in all included countries, otherwise the data are not comparable. And even if the same method was used in several countries, the results would be uncertain since the tendency to identify incidents as sexual violence, as well as the willingness to talk about them, are influenced by the social context, and accordingly most likely varies between countries (see, for example, Gunnarsson, 2018).

Large-scale international victim surveys on rape are, however, uncommon. Since 1989, the International Crime Victims Survey, or ICVS, has been conducted on six occasions, most recently in 2010. Unfortunately, the number of respondents has been limited in each country, which affects the reliability of the results.<sup>25</sup> The most recent international crime victim survey specifically focused on sexual violence was conducted in 2012 by the EU Agency for Fundamental Rights (FRA). A total of 42,000 women<sup>26</sup>, spread across all EU member states, were asked about their experiences of gender-based violence (FRA, 2014a). This is a considerably larger sample than in the ICVS studies.

## **Weaknesses and strengths of the FRA study**

One of the advantages of the FRA study was that the questions described specific chains of events rather than used the word rape, which can have different associations in different countries.<sup>27</sup> However, the study has also received criticism, such as for the fact that the data collection method varied between countries (Walby & Towers, 2017). The non-response rate also

<sup>25</sup> One indication that the reliability can be questioned is the fact that the percentage of Swedish women stating that they were sexually assaulted during the previous year varies between 0.3 and 1.5 percent. Sometimes this corresponds to half of the average for the year, and other times to double that amount (Van Dijk, 2007: p. 78).

<sup>26</sup> The fact that the survey was solely focused on women's experiences means that certain offences in the report statistics, such as rapes of boys and men, were excluded. However, these offences comprise such a small percentage of all reported rapes that it does not affect the ability to generalize to any noteworthy extent.

<sup>27</sup> The respondents were asked whether, since the age of 15, they had one or more times had someone force, or attempt to force, them into sexual intercourse by holding them down or otherwise hurting them. It is worth mentioning here that the phrasing excludes certain actions that are legally considered rape in several European countries, including Sweden.

differed significantly between countries. The overall response rate averaged 48 percent, while in Sweden it was just under 20 percent (FRA, 2014b).<sup>28</sup>

In some countries, the sample could be based on existing registries. In other countries, a geographical cluster sample was used. In these areas the selected addresses were visited and the inhabitants were asked whether they wanted to participate in the study. Even in most countries where the sample was determined in advance, the respondents were asked in person whether they wanted to participate. In six countries, the initial contact was made by other means. In Slovenia, Malta and the United Kingdom<sup>29</sup> letters were sent, and in Sweden, Finland and Denmark the respondents were asked over the phone. In these countries, the stated exposure averaged higher than in countries where initial contact was made in person.

Despite these methodological shortcomings, our assessment is that the FRA study better captures the differences in exposure to rape in different European countries than Eurostat's report statistics. It is not affected in the same way as crime statistics by differences between the countries in legislation and statistical methods. The results of the FRA study must, however, be interpreted cautiously, due to both the afore-mentioned shortcomings and the possible sources of error that victims of crime surveys are generally associated with.

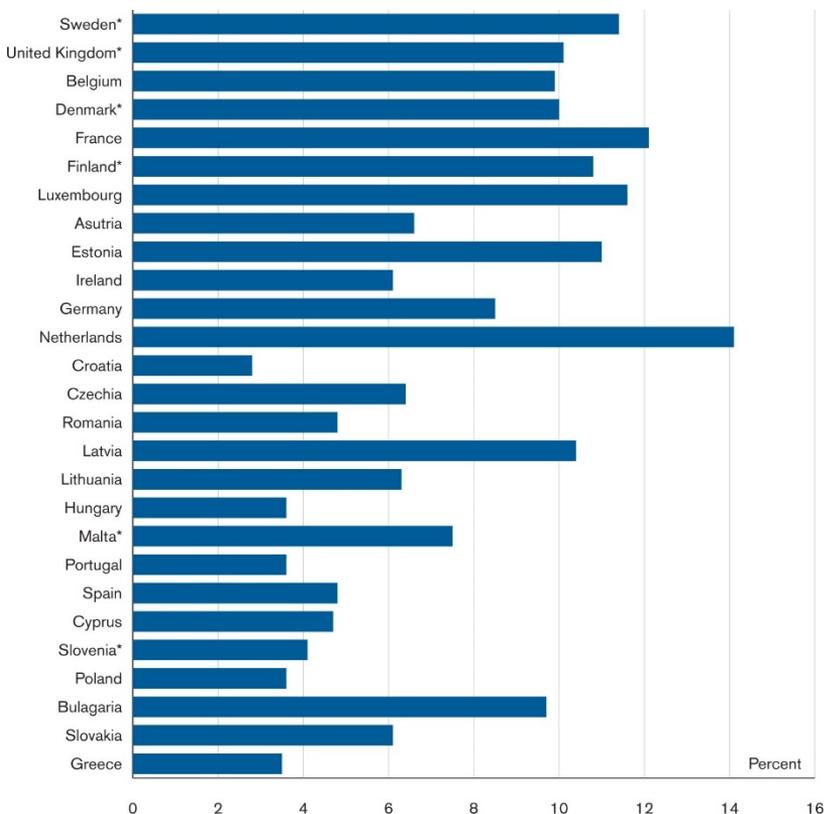
### *Highest reported exposure in the Netherlands and France*

Figure 9 presents the percentage of women who in the FRA study stated that they have been raped at some point after the age of 15 years. Countries where the respondents were asked whether they wanted to participate over the phone or by letter are marked with an asterisk.

<sup>28</sup> In an analysis conducted by Brå within the scope of this report, we noted a relatively strong correlation between the collection method, the response rate and how many respondents stated that they had been raped. The correlation coefficient for the correlation between the response rate and an affirmative response to having been raped was -0.52.

<sup>29</sup> In the FRA study, the United Kingdom was counted as a single state, which means that England/Wales, Northern Ireland and Scotland are not reported separately as they are in Eurostat's statistics. Norway was not included in the study since it is not an EU member state. For a Norwegian victim survey with similar questions, see Thoresen & Hjemdal (2014).

Figure 9. Percentage of women stating that they have been raped since the age of 15 years. Source: EIGE and FRA (2014a), n=42,023.



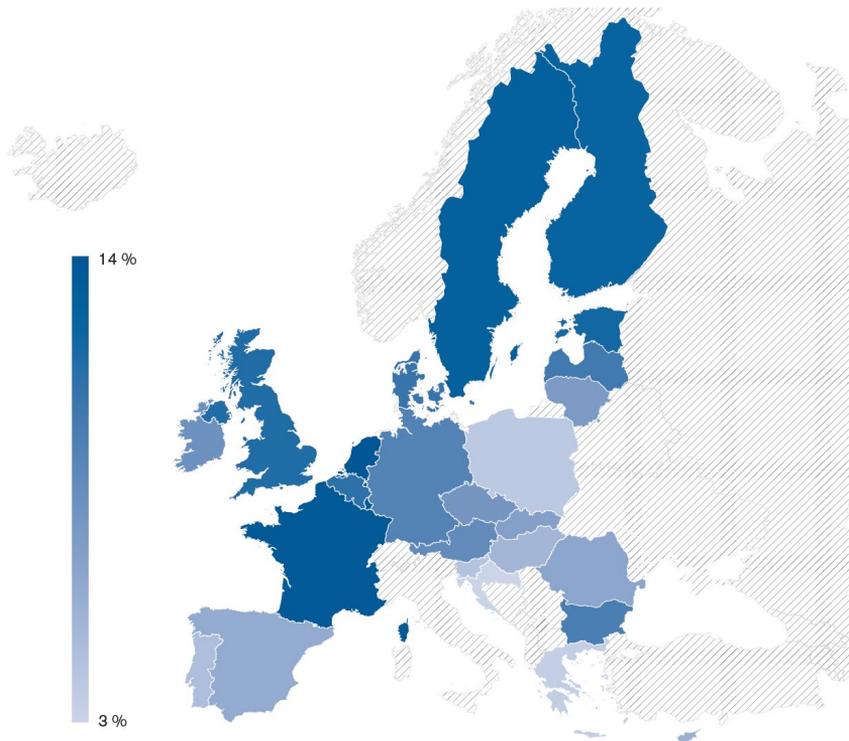
The results show that the percentage of women stating that they have been raped (see Figure 9) varies much less between the countries than the number of rapes reported to the police during one year (see Figure 4). However, it must be kept in mind that the two sources are not the same. The time frames of the sources also differ.

Exposure to rape varies between 3 percent in Croatia and 14 percent in the Netherlands. In Sweden, 11 percent stated that they have been raped, which is the fourth highest figure among the countries included in the study. In 10 of the 27 countries presented above, the reported exposure to rape was in the range 10–12 percent.

Figure 9 lists the countries in the same descending order as in Figure 4 based on the rape statistics reported by Eurostat. The northern European countries show, on average, higher levels than the southern European countries in both FRA’s victims of crime survey and Eurostat’s report statistics. The image below presents the results of the FRA study on a map to illustrate the division between north-western and south-eastern Europe.

Another point worth noting in connection with the results of the victim survey is how few seem to report their exposure to rape to the police. If we take Germany as an example, the 9 percent stating that they have been raped at least once since age 15 represents more than 3 million women. To put this in perspective, only about 7,500 rapes are reported (and registered) each year.

Figure 10. Percentage of women stating that they have been raped since the age of 15 years. Source: EIGE and FRA (2014a), n=42,023.



***Structural differences can explain the differences in reported exposure between north-western and south-eastern Europe***

The review of theories of sociological explanations for rape showed that several different factors can affect the rape level in a country. The exact significance of the described factors, and how they are distributed in the studied countries, is difficult to measure. However, general analyses indicate a correlation<sup>30</sup> between the reported exposure to rape, according to the FRA study, and several of the structural factors that are believed to increase the level of rape according to the research literature.

<sup>30</sup> The correlation has been calculated using the Pearson correlation coefficient. The correlation coefficient has a value between 1 and -1, where 0 indicates no correlation, 1 represents a perfect positive correlation and -1 represents a perfect negative correlation.

Brå has compared the self-reported exposure to rape in FRA's study against Eurostat's statistics concerning such factors as each country's proportion of the population under the age of 25 (0.44), level of urbanisation (0.63), daily internet use (0.65), proportion of single-person households (0.65) and the percentage of the population who are foreign-born (0.32). Here we should, however, point out that a strong correlation simply indicates a statistical relationship between two variables, and not necessarily causality. The noted correlation may be caused by a third factor, or may simply be coincidental. Knowing that victims of crime surveys are an uncertain measure of actual crime rates, and especially so in the case of the FRA study, these analyses should not be interpreted as compelling evidence that, in actual fact, more rapes are committed in north-western Europe. Another explanation could be that differences between the countries, in terms of views of sexuality in general and sexual violence in particular, affect the extent to which those participating in the study perceive the incidents they have experienced as sexual violence and their willingness to talk about them. Later in the report, we will address how the European countries also seem to differ in terms of another two factors: gender equality and the prevalence of rape myths (as an indicator of the level of rape culture).

## A Nordic paradox

The FRA report notes that women in countries with higher levels of gender equality tend to state more often that they have been exposed to physical and sexual violence (2014: p. 25).<sup>31</sup> That women in the Nordic countries, who are considered to enjoy the highest level of gender equality, have a greater propensity to state that they have been subjected to intimate partner violence has been referred to as the Nordic paradox<sup>32</sup> The term has also been used to describe the high levels of rape in the Nordic region (Amnesty, 2019). Amnesty does, however, question just how far the Nordic region has progressed in terms of gender equality as harmful norms and gender stereotypes are still considered to "remain deeply entrenched in the Nordic countries" (ibid., p. 11).

Opinions on the cause of the higher reported exposure to rape vary. Some claim that there is an actual difference (Gracia &

<sup>31</sup> One analysis of the correlation between the self-reported exposure to rape and the countries' gender equality index (EI<sub>GE</sub>, 2015) also indicates a relatively strong positive correlation with a correlation coefficient of 0.66.

<sup>32</sup> See, for example, <https://harvardpolitics.com/world/the-nordic-paradox-gender-equity-and-sexual-assault/>

Merlo, 2016). Theoretical bases for this claim can be found in the section on sociological explanatory models for rape, which mentions that increased gender equality could lead to more rapes due to reduced social control over women, which would mean that they spend more time outside the home and alone with other men (von Hofer, 2000). Other researchers explain the correlation as increased gender equality being able to result in a “backlash” with increased sexual violence as a result (Bailey, 1999).

However, we cannot rule out that the higher self-reported exposure to physical and sexual violence in the Nordic countries is not due to greater exposure, but rather to it being more socially acceptable to talk about such things than in many other countries (FRA, 2014a: p. 31). Increased gender equality can also contribute to a broader view of what constitutes violence in sexual contexts, meaning that women in the Nordic region would consider more diverse incidents when responding to whether they have been exposed in victims of crime surveys. How the level of gender equality and norms regarding sexuality and sexual violence can influence both the willingness to talk and the propensity to report is discussed in greater detail in the next section.

## **Propensity to report**

The propensity of victims to report rape is of considerable importance to the number of reported crimes in the statistics. We cannot with any certainty say how much the propensity to report differs, as it is impossible to know exactly how many rapes are actually committed. Since some norms and values are, according to the research, of significance to the propensity to report, we can nonetheless study how well rooted they are in different countries. Below we present how norms regarding sexual violence vary between the countries, as well as how much confidence there is in the criminal justice system in different European countries.

## **Rape myths affect how we view sexual violence**

The extent to which rape is reported to the police and registered is determined by, among other things, generally held views on what constitutes rape. In these contexts, the concept of “rape myths” is often used: harmful, stereotyped or false ideas about rape, rape victims and perpetrators, which “create a hostile environment for rape victims” (Burt, 1980: p. 217). This can

entail, for example, ideas such as that a rape must involve violence, that it is the victim's own fault for being intoxicated at the time of the assault or that women often lie and report someone for rape in acts of vengeance. According to Burt, rape myths are linked to patriarchal gender roles and power hierarchies that encourage rape: *rape is the logical and psychological extension of a dominant-submissive, competitive, sex-role stereotyped culture* (ibid., p. 229).

Rape myths also contribute to upholding a status quo in which rape is common but seldom reported to the police. This is caused by, for example, misinformed ideas as to what rape is. If the picture of rape is of a woman being attacked by a stranger, this can lead to incidents which do not match this idea being downplayed or normalised. This most likely reduces the propensity to talk about such incidents in interview situations or to report them to the police.

One common reason for not reporting a rape is the fear of being blamed (Ahrens, 2006; Adolfsson, 2018). Rape myths increase the risk of victim blaming, by both others and the victims themselves (Avrin & Löfving, 2018), and are of significance to rape victims' ideas of what a police report would cost them.

### *Clear differences in views of sexual violence in the EU*

The prevalence of rape myths and how they affect the propensity to report are, for obvious reasons, difficult to measure, but that there are differences in attitude between countries becomes apparent in Eurobarometer 449<sup>33</sup>. This survey asked questions that included how the respondent viewed different types of sexual assault.

Several questions can be used as a basis for assessing how well rooted rape myths are in the different countries. Below is a summary of four questions that Brå has chosen to highlight. Following this, Table 4 shows the responses in the different countries.

**Question 1.** In this question, the respondents were asked the extent to which they agreed or disagreed with the statement that violence against women is often provoked by the victim. The five alternatives were totally agree, tend to agree, neither agree nor disagree, tend to disagree and totally disagree as regards the statement. Table 4 presents the percentage that totally disagreed with the statement.

<sup>33</sup> The survey was conducted in the 28 EU member states in June 2016. A total of 27,818 EU citizens were interviewed, in person and in their native language, about gender-based violence.

*Question 2.* Here, the respondents were to consider the statement that domestic violence is a private matter and should be handled within the family. Table 4 presents the percentage that totally disagreed with the statement.

*Question 3.* In this question, the participants were asked the extent to which they agreed with the statement that women are more likely to be raped by a stranger than someone they know. Table 4 presents the percentage that totally disagreed with the statement.

*Question 4.* In the final question, the respondents were to consider whether having sexual intercourse without consent may be justified in certain situations. The listed situations included the other person being drunk or using drugs, having several sexual partners, not clearly saying no or physically fighting back, and voluntarily going home with someone, for example after a party or date.

Table 4 presents the percentage answering that none of these situations justified having sexual intercourse with someone without their consent.

The responses to the survey provide some indication of the extent to which the general public in each country reject ideas that contribute to excusing perpetrators, blaming victims and limiting which acts are defined as rape. Such attitudes most likely affect the extent to which victims equate incidents with rape and disclose their experiences in victims of crime surveys or report them to the police.

Table 4 shows that the respondents in Sweden stand out by clearly rejecting rape myths to the greatest extent compared to the other countries.

Table 4. Percentage rejecting rape myths. *Source: Eurobarometer 449, n=27,818).*

Country	Question 1	Question 2	Question 3	Question 4
Sweden	73	91	60	93
United Kingdom	43	57	22	72
Belgium	48	43	22	57
Denmark	51	80	27	83
France	56	52	29	64
Finland	55	60	23	88
Luxembourg	37	58	26	58
Austria	42	51	24	62
Estonia	19	48	9	67
Ireland	50	66	32	76
Germany	37	66	18	67
Netherlands	67	69	39	84
Croatia	41	48	28	54
Czechia	26	54	8	54
Romania	37	36	20	40
Latvia	8	32	6	56
Lithuania	14	40	7	66
Hungary	38	61	22	50
Malta	20	45	13	62
Portugal	52	56	21	66
Spain	64	63	30	89
Cyprus	31	45	23	64
Slovenia	37	47	35	76
Poland	32	45	17	62
Bulgaria	35	30	15	49
Slovakia	14	31	8	53
Greece	42	44	11	67

Brå has used the responses to construct an index of the extent to which inhabitants in different countries reject rape myths, which is presented in Table 5 on page 65. A closer analysis points to a very strong correlation between the level of gender equality and the extent to which rape myths are rejected.

The correlation coefficient for the correlation between the index described above and EIGES's gender equality index is 0.8.

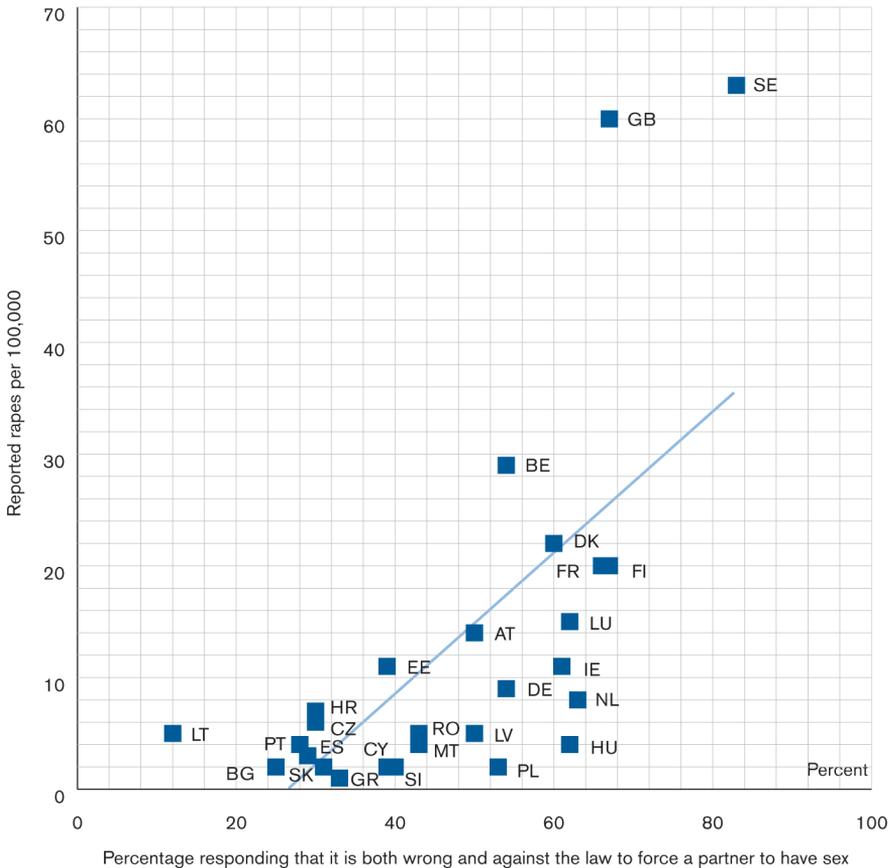
*Half responded that it is both wrong and against the law to force a partner to have sex*

The survey questions that perhaps best capture ideas related to the propensity to report sexual offences are those where the respondents are asked whether a number of situations are right or wrong and whether they are against the law. In this way, the questions encompass both moral values and knowledge about legal conditions.

One such situation that the respondents had to consider was forcing a partner to have sex. On average, 49 percent answered that it was both wrong and against the law, while the corresponding figure for Sweden was 83 percent.

Figure 11 shows that there is a strong positive correlation between how many in each country consider it both wrong and against the law to force a partner to have sex and the number of rape reports per capita. In the bottom left of the figure are the countries with both low numbers of reported rapes and low percentages considering it both wrong and against the law to force a partner to have sex. Sweden is in the top right, indicating the highest number of reported rapes per capita and the highest percentage answering that it is both wrong and against the law to force a partner to have sex.

Figure 11. Correlation between the percentage responding that it is both wrong and against the law to force a partner to have sex (source: Eurobarometer 449, n=27,818) and the average number of reported rapes per 100,000 inhabitants 2013–2017 (Source: Eurostat). Correlation coefficient: 0.66,  $R^2 = 0.44$ .



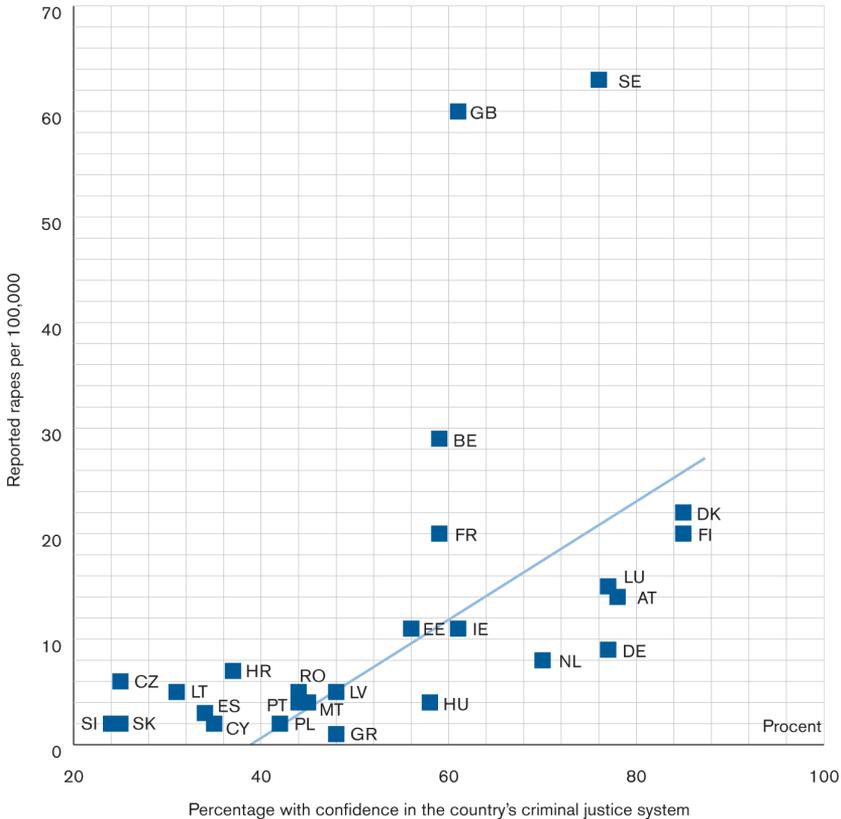
### Low confidence in the criminal justice system can prevent people from filing a police report

Public confidence in the police and the criminal justice system has also been raised as a factor of importance to the propensity to report (Harrendorf, 2018; von Hofer, 2000). The level of confidence in the criminal justice system in different countries has also been measured in a Eurobarometer<sup>34</sup>. If we compare the responses in this survey with Eurostat’s statistics on reported rapes, we can see a positive correlation between the level of confidence in the criminal justice system in each country

<sup>34</sup> In Eurobarometer 385, 26,581 EU citizens answered questions on their opinion of their country’s criminal justice system. The question Brå is referring to read: “Overall, would you say that you tend to trust or tend not to trust the justice system in [appropriate country]?”

and the number of reported rapes per capita. It would seem that a certain amount of confidence in the criminal justice system is a prerequisite for more people to report crimes to the police, although after a certain threshold level further increases in confidence do not lead to more reports.

Figure 12. Correlation between the percentage stating that they have confidence in the criminal justice system (source: Eurobarometer 385, n=26,581) and the average number of reported rapes per 100,000 inhabitants 2013–2017. (Source: Eurostat). Correlation coefficient: 0.52,  $R^2 = 0.27$ .



The discrepancy between average or high exposure to rape in the FRA study and comparatively few reported rapes according to Eurostat can be understood when confidence in the criminal justice system is taken into account. One clear example is Bulgaria, where 10 percent of the women stated that they had been raped after 15 years of age, but where the numbers of reported rapes is very low, about 2 per 100,000 inhabitants each year. One possible explanation is that two out of three responded no when asked whether they trusted the country's criminal justice system.

## **Increased exposure or increased propensity to report in Sweden?**

To illustrate issues concerning the propensity to report, the trend seen in Sweden can be used as a case study. Since the FRA study was conducted, both the number of reported rapes and the self-reported exposure to sexual offences in the Swedish Crime Survey have increased. The number of reported rapes per capita rose by 18 percent between 2012 and 2018.

When Brå in a previous report analysed the development in sexual offences, one central issue was whether the development was due to an increased propensity to report or an actual increase in the number of rapes (Brå, 2019b). An increased focus on sexual offences in the media and various appeals in social media were presented as support for the increase being due at least in part to an increased propensity to report.

Factors that could possibly support an actual increase in rape were also raised, such as altered forms of socialising through the use of dating apps. High levels of immigration during the period were also raised as a possible explanation, as according to research foreign-born populations have a heightened risk of being suspected of and prosecuted for rape (Brå, 2005).

The issue came to a head after 2015, when both the foreign-born population and the number of rapes reported to the police increased dramatically.

However, a recently published report (Adamson, 2020) provides no support for immigration being a possible explanation for the increase in the number of reported rapes during the period. The results show that the foreign-born population's heightened risk of being suspected of rape fell as the number of reported rapes increased. The percentage of all cases of reasonable suspicion of rape that concerned foreign-born persons (including undocumented migrants) also fell from 48 to 44 percent.<sup>35</sup>

## **Strong indication of variations in the propensity to report**

To summarise, there is much to indicate that the propensity to report differs between the studied countries. It is not possible to establish with certainty because we do not know how many

<sup>35</sup> See Figure 6 in Adamson (2020). The data can also be downloaded from <https://detgodasamhallet.com/rapport-om-invandring-om-brottslighet/> (Table 12 and Table 18).

rapes are actually committed, but many factors linked to the propensity to report covary with Eurostat's statistics on reported rapes.

The propensity to report is linked with ideas that can be considered desirable, such as gender equality, confidence in the criminal justice system, lower tolerance of sexual offences and greater empathy for victims of sexual offences. Table 5 presents an overall picture of the number of reported rapes per 100,000 inhabitants in all EU countries together with data on gender equality, confidence in the criminal justice system and attitudes to rape myths in these countries. In order to underline the correlations, the results are presented in different colours. A high level of reported rapes is presented in red, and a high level of gender equality, confidence in the criminal justice system, and negative attitudes to rape myths is presented in green.

Table 5. Summary of factors which can affect the propensity to report.

Country	Reported rapes per 100,000 inhabitants (average value 2013–2017)	Gender Equality Index 2015 (EIGE)	Percentage with confidence in the country's criminal justice system	Index of rejection of rape myths
Sweden	63	80	76	100
United Kingdom	60	69	61	63
Belgium	29	70	59	40
Denmark	22	76	85	83
France	20	69	59	67
Finland	20	74	85	77
Luxembourg	15	66	77	51
Austria	14	61	78	52
Estonia	11	54	56	33
Ireland	11	68	61	81
Germany	9	65	77	54
Netherlands	8	74	70	93
Croatia	7	53	37	47
Czechia	6	57	25	25
Romania	5	51	44	21
Latvia	5	56	48	8
Lithuania	5	54	31	19
Hungary	4	52	58	45
Malta	4	58	45	25
Portugal	4	54	44	60
Spain	3	67	34	88
Cyprus	2	51	35	38
Slovenia	2	66	24	61
Poland	2	57	42	30
Bulgaria	2	57	35	15
Slovakia	2	52	25	7
Greece	1	50	48	40

## Propensity to register

Finally, there may be differences between countries in terms of the tendency for the police to register a reported rape in accordance with the country's regulations, which here is referred to as the propensity to register. This is not to be confused with the legally correct differences in crime registration methods presented in the section on formal factors. Whether reported rapes are registered correctly can, however, depend on both intentional decisions and unintentional mistakes.

The quality declaration for reported crimes (Brå, 2019d) states that the single foremost source of uncertainty is shortcomings in how the police register crimes. Problems that are addressed include specifying the correct criminal offence code and the correct number of offences. Ignored or incorrectly classified reports are, for obvious reasons, difficult for Brå to identify and measure. Nonetheless, the fact that the propensity to register is of importance is seen in various public inquiries, not seldom after investigative journalists have uncovered abuses. We have found examples of this in both England/Wales and Denmark.

That is not to say, however, that such things do not happen in Sweden, Norway or Germany. The reason why we are addressing shortcomings in the propensity to register in these countries here is that we have found sources with clear examples of the existence of such shortcomings that can illustrate the consequences for the report statistics.

In 2013, reports appeared in the media<sup>36</sup> that the police in England/Wales had manipulated their crime statistics to achieve established targets.

As a result, the authority tasked with supervising the work of the police, HMIC<sup>37</sup>, conducted a major inquiry into how crimes are processed and registered in each and every police district in the country. This inspection took place between December 2013 and August 2014, and it found that a large percentage of the reports made in 2012–2013 had not been registered as crimes. In the case of sexual offences, as many as a quarter of reports was ignored (HMIC, 2014). Furthermore, it was found that registered crimes were to a considerable extent also deregistered on flawed grounds (known as “no-criming”). This resulted in extensive changes in how the police record the reports.

<sup>36</sup> See, for example, <https://www.bbc.com/news/uk-25002927>

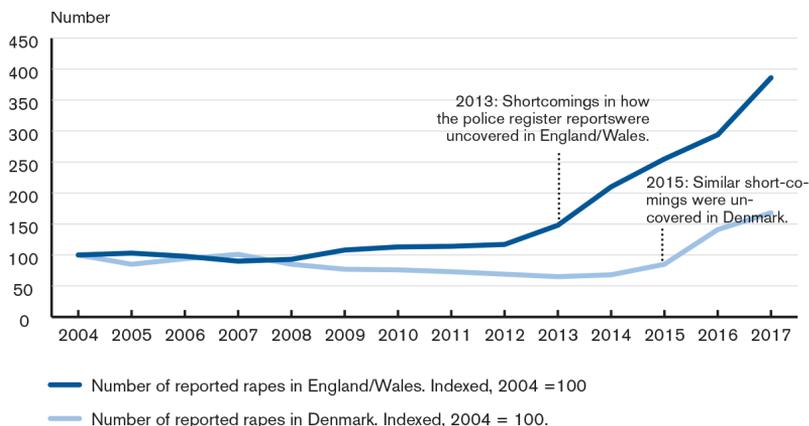
<sup>37</sup> Her Majesty's Inspectorate of Constabulary

In Denmark, similar abuses were uncovered in 2015.<sup>38</sup> In this case, the police routinely “concealed” reported rapes by using other criminal offence codes, so that they were not included in the rape statistics. This, too, was followed by a public inquiry entitled “Respekt for voldtægts ofre” (*Respect for Rape Victims*) (Justitsministeriet, 2016).

Figure 13 indicates that the attention surrounding the shortcomings resulted in more reported rapes being registered as crimes, and thereby being included in the rape statistics, in both England/Wales and Denmark. It is reasonable to assume that an increased propensity to register reported rapes is one of the reasons why England/Wales had 80 percent more registered rape reports in 2014 than 2012 and that the number of reports in Denmark doubled between the years 2014 and 2016. In a comment to the rape statistics in Eurostat, one of the representatives for the Danish statistics writes:

*The increase from year 2015 to year 2016 must be seen in connection with changes in the police registration practice.*

Figure 13. Reported rapes in England/Wales and Denmark 2004–2017. Indexed values. Source: National crime statistics.



## Substantive factors in summary

In the previous chapter, it was seen that the differences in the number of reported crimes per capita would fall considerably if all countries had the same legal conditions and applied the same statistical principles.

This chapter, on the other hand, has focused on differences

<sup>38</sup> See, for example, <https://www.thelocal.dk/20160128/hundreds-of-rapes-hidden-by-danish-police>

between the countries in terms of, on the one hand, conditions that can affect the extent to which victims of crime report the incidents to the police and, on the other hand, any shortcomings in the work of the police in correctly registering reported rapes.

Exactly how much these factors affect the comparability of Eurostat's report statistics as a basis for differences in actual rape levels is difficult to say. The major differences in attitudes regarding sexual violence and confidence in the criminal justice system, the apparently increasing propensity to report in Sweden and the increasing propensity to register in Denmark and England/Wales show, however, that the number of reported rapes is a result of many interacting factors.

# Cleared rapes

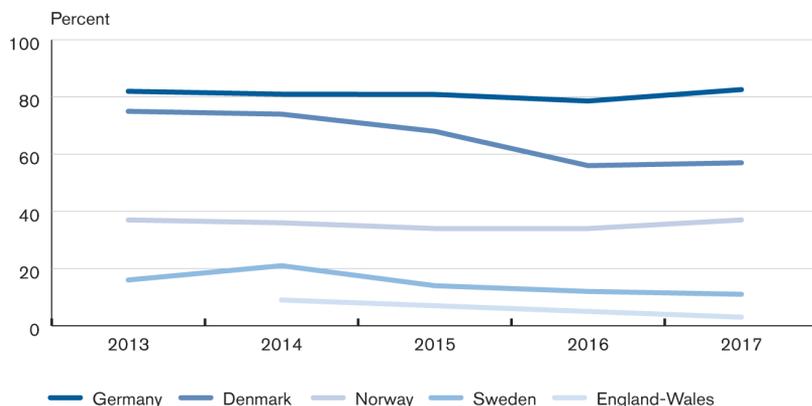
An important task for the police and prosecutors is to clear the crimes of which they are made aware, that is, to identify and prosecute the perpetrators. How well the criminal justice system handles the task of clearing offences is usually measured by dividing the number of cleared offences by the number of reported and registered offences. Exactly what is defined as a cleared offence can, however, vary, and the officially reported percentage of offences cleared, hereinafter referred to as the clearance rate, differs considerably between countries. The extent to which this depends on how the influx of crimes is calculated, how cleared crimes are defined or differences in the effectiveness of the police is analysed and discussed in this chapter. The analysis is limited to the countries also studied in greater detail in the comparison of report statistics: Sweden, Norway, Denmark, Germany and England/Wales.

## Clearance rates vary greatly

When compiling the clearance rates for rape, as they are presented in each country's national statistics, the countries end up in the opposite order compared to the presented number of reports.

Germany ends up at the top, with an average of 8 out of 10 rapes cleared according to the statistics. Next is Denmark, which after a drop in 2015 clears about 57 percent of rapes. In Norway, the statistics show that about one in three rapes is cleared. In Sweden, the clearance rate varies greatly; in 2014 it was 21 percent, while in 2017 it had fallen to 11 percent. England/Wales introduced a new method for measuring clearance, which is why the figures for 2013 are not included. There, the percentage of rapes considered cleared has fallen every year, and in 2017 was down to three percent.

Figure 14 presents the level and development of the percentage of cleared rapes, as presented in each country's official national statistics.



What, then, could possibly explain the dramatic differences in the percentage of cleared rapes presented in the various countries' national statistics? In the main, it concerns variations in:

- The manner in which cleared offences are defined
- The reports included in the influx of offences
- The time at which the statistics on cleared crimes are prepared
- The opportunity for and the capability of the police to investigate and clear reported rapes

The following section discusses the differences between the countries in terms of how they define and calculate cleared offences. Following this, we discuss a more comparable method for measuring the results of the criminal justice system's work with rape in the five countries. Finally, the last explanatory model is discussed in brief.

## The manner in which cleared offences are calculated differs

The five countries studied here differ considerably in terms of what is counted as a cleared offence. They also differ in terms of which rape reports the cleared offences are to be divided by to calculate the clearance rate, and when the statistics are prepared. Even the offences classified as rape can vary. The opportunities to clear an offence can vary greatly between different types of assault. For example, in the Swedish statistics,

child rape has a higher clearance rate than rapes committed against adults. How the clearance rate is affected by which offences are included under rape is, however, outside the scope of the following analysis.

## Sweden calculates the clearance rate from all reports

In Sweden, an offence is considered cleared once the police or the prosecutor in their final deliberations have tied a perpetrator to the offence by either deciding to prosecute, issuing a summary fine (fines that are not issued by a court) or issuing a waiver of prosecution<sup>39</sup>.

In cases of rape, essentially no summary fines or waivers of prosecution are issued, and so clearance is generally equated with prosecution. If the person suspected of the rape is 14 years of age or younger, the offence cannot be cleared since persons under the age of 15 years are not criminally responsible. Unfortunately, there are no data on the prevalence of suspects under the age of 15 years since the registration of these individuals as crime suspects is considered to be too uncertain in terms of quality as a basis for official statistics (Brå, 2019e).

When calculating the clearance rate, the denominator in the equation is comprised of all processed offences, that is, all reported offences where the police, the prosecutor or another investigating authority has made a decision during the reference year which means that the offence is fully processed. In other words, an offence is not registered as cleared or not cleared until the case has been closed. The processed offences may have been reported during the reference year, but they may also have been reported earlier.

As with the report statistics all reports are included, even those where the reported incident was not found to be criminal.

The calculation of cleared offences follows essentially the same principles as for the report statistics. If a case encompasses 10 rapes that result in prosecution, this also results in 10 cleared offences.<sup>40</sup> The fact that Sweden counts the percentage of

<sup>39</sup> A waiver of prosecution means that the prosecutor decides not to prosecute a person, despite the fact that they have committed an offence. There must not be any doubt surrounding the suspect's guilt, which is why a waiver of prosecution generally requires an admission of guilt.

<sup>40</sup> Since a rape committed by several persons is counted as a single offence but can generate several decisions, only one decision per offence is reported. Which decision is reported is determined by using the principal offence approach, wherein a decision to prosecute takes precedence, followed by a summary fine, a waiver of prosecution, a decision to refrain from a preliminary investigation and then any other decisions. In this way, a reported (gang) rape will not result in more than one cleared offence.

*offences* leading to prosecution, rather than the percentage of cases, can result in higher clearance rates. This was seen in a previous Brå report on the process from reported rape to conviction (Brå, 2019b). Individual cases encompassing a large number of cleared rapes, often in the context of an intimate relationship, can have a considerable impact on the clearance rate. The quality declaration for processed offences (Brå, 2019d) also indicated that in 2018 there were three rape cases encompassing a large number of rapes, which had a positive effect on the clearance rate. In 2017, on the other hand, there was a single case encompassing a large number of rapes that had a *negative* effect on the clearance rate that year as it was not cleared. These far-reaching effects of individual but extensive cases may cause the clearance rate to deviate dramatically from one year to the next.

### **England/Wales follows up results three months after year-end**

Until 2013, England/Wales had a system wherein the following up of the work of the police was based primarily on whether a report led to any form of sanction (prosecution, warning, fine, etc.). Under the new framework, they instead measure a number of different *outcomes* (Home Office, 2013). Even though the purpose is in part to move away from the target chasing that these types of performance statistics can lead to, the new framework also uses outcomes that are used – not least by the media – to assess the effectiveness of the police. That which is measured is how large a percentage of the reported offences results in someone facing legal proceedings (*charged/summonsed*). In the case of serious crimes, such as rape, this essentially always entails being charged and prosecuted. Unlike in Sweden, where the age of criminal responsibility is set at 15 years, children can be prosecuted from 10 years of age.

Another aspect of importance to the extent of the clearance rate is the figure used to divide the number of cleared offences. Even if two countries have the same number of cleared offences, the clearance rate will differ depending on how many reported offences have been registered.

In England/Wales, the percentage of reported offences cleared during the reference year is measured *three months after the end of the reference year*. The report statistics are based on the fiscal year, which runs from April to March. The follow-up of the reports filed between April 2017 and March 2018 were

published in July 2018. Offences that have not yet been fully processed cannot be included in the offences classified as cleared, but they are included in the denominator. This is of major significance to the statistics on cleared rapes, where 35–45 percent of the reports have not been fully processed when the measurement is made. In other words, this method of counting results in the clearance rate presented in England/Wales being much lower than in the other countries.

As described in the section on statistical factors, not all reports are included in the influx of offences to be cleared. Unconfirmed and disproved reports are purged from the statistics, which has a positive effect on the clearance rate.

### **Norway's definition of cleared offences broader than Sweden's**

The Norwegian definition of cleared offences is broader than the Swedish one as it encompasses other outcomes that are not considered legal proceedings in Sweden. For example, if someone who is not criminally responsible is tied to a crime, it is also counted as cleared, unlike in Sweden. This broader definition of cleared offences contributes to a clearance rate that is higher than Sweden's. In 2017, the official clearance rate for rape in Norway was 37 percent. It would have been 21 percent if Norway, like Sweden, only defined offences that lead to prosecution as cleared.

As in Sweden, the calculation is based on closed cases. However, unlike Sweden the clearance rate in Norway is not based on all reports but only those where an investigation was initiated.

Investigations concluding that the reported offence was not a crime are also excluded from the influx of crimes on which the clearance rate is based.

### **Denmark measures reports resulting in reasonable suspicion**

Denmark does not use the concepts of clearing and clearance rate. Instead, they report *sigtelseprocenten*, which means the percentage of all reports that result in someone being suspected on reasonable grounds of a crime. This is a much broader concept than those used in Sweden and England/Wales. As far as Brå has been able to understand, even persons who are not considered criminally responsible can be suspected on

reasonable grounds.

As in England/Wales and Norway, the size of the *denominator* is affected by the fact that some of the actual reports are not registered as offences. As described above, the number of registered reports is also affected by whether the police follow the rules governing the registration of offences.

In 2015, it was revealed that the police were misclassifying reported rapes that they did not believe they could clear, so that they were not included in the statistics.<sup>41</sup> This can be correlated with the percentage of reports resulting in someone being suspected on reasonable grounds of rape being 74 percent in 2014 but falling to 56 percent in 2016.

The statistics are based on the report statistics for the reference year and are prepared one month after the end of the year to be able to include data on whether anyone has been suspected of the offence. A study by Statistics Denmark showed that the percentage of rape reports in 2016 that resulted in a suspect being tied to the offence on reasonable grounds would have increased from 56 to 58 percent if they had waited two years before retrieving the data.

### **Germany's statistical method produces the highest clearance rate**

The guidelines for Germany's crime statistics define a cleared offence in the following manner (their English translation):

*A solved (cleared up) case refers to an offence which, based on investigative results, was committed by at least one suspect whose rightful personal details have become known.*<sup>42</sup>

Exactly how strong the suspicion needs to be is difficult to say. One way to estimate it is to calculate how large a percentage of the suspected individuals are also convicted of an offence. If we compare the statistics on those suspected and those convicted of rape in a given year, the number of suspects averages ten times the number of convictions. That only 10 percent of the "solved" cases result in someone actually being punished for the offence illustrates how dramatically the official definition differs from what is generally considered a cleared offence in Sweden.

<sup>41</sup> See, for example, <https://nyheder.tv2.dk/krimi/2015-11-11-kritik-af-politiet-et-hav-af-voldtaegter-holdes-skjult-i-statistikken>

<sup>42</sup> PCS Guidelines 2018.

Another factor that leads to a higher clearance rate in Germany than in Sweden is that when calculating the clearance rate, the scope of the denominator is more selective than in Sweden. As seen in the previous section, the police purge reports on incidents that cannot be confirmed or that following an investigation are not considered to be rapes in the legal sense.

## Another way to measure the percentage of cleared offences

Since the countries differ in terms of both what is considered a cleared offence and what is included in the registered offences, there is no meaningful way to compare countries' official statistics on the percentage of cleared offences. The fact that for 2017 Germany reports a clearance rate of 83 percent while the corresponding figure for England/Wales is 3 percent cannot be interpreted as the German police working 28 times more effectively.

To obtain a fairer picture, Brå has recalculated the countries' statistics on cleared rapes so that they are based on as equivalent principles as possible. The point of departure has been the offences in the national statistics in the category of rape. The unit of analysis used for the calculation is individuals and not offences (incidents).

To make the influx of crimes more comparable between the countries, in the Swedish statistics we have excluded the reports which were written off directly or where the investigation was closed due to no crime having been committed. The Norwegian complainant statistics have also been purged to the equivalent extent.

In the recalculation, a cleared offence is defined as a person being convicted for the reported crime in a court of law, which in Brå's opinion is the internationally most comparable measure of a cleared offence.

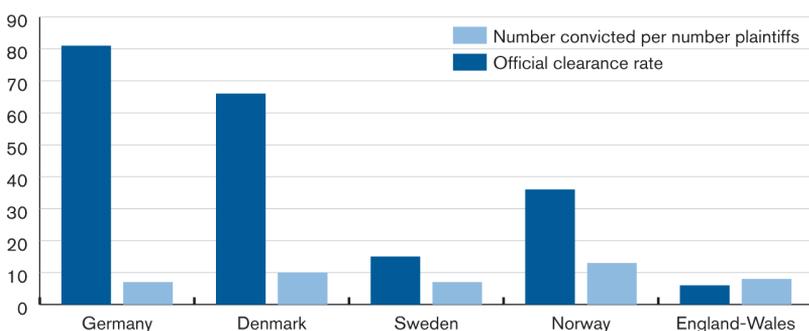
The requirement of a guilty verdict varies less between countries than the evidential requirements for someone to be suspected of or prosecuted for a crime. In other words, the standardised clearance rate measures the number of *individuals* who during a particular year are convicted of rape in relation to the number of *individuals* who filed a rape report that was investigated by the police.<sup>43</sup>

<sup>43</sup> Excluding investigations that are closed due to the reported incident not constituting a criminal offence

Here we should point out that by definition the numerator does not encompass the same population of offences as the denominator. A reported rape can of course result in no one being convicted for the crime until the following year.

Figure 15 presents the average clearance rate for rape during the period 2013–2017 using two different measurement methods. The unadjusted figures stem from each country’s national statistics on cleared rapes. The standardised figures present Brå’s recalculated clearance rate based on the principles presented above.

Figure 15. Official clearance rate for rape and number of convictions in relation to number of complainants in investigated and confirmed rapes, average 2013–2017. Source: *National crime statistics and Brå*.



With Brå’s recalculation of cleared rapes, the percentages are, unsurprisingly, much lower. This way of counting uses a narrower definition of what is considered a cleared offence. It becomes apparent that the differences between the countries are also considerably smaller when calculated in a more equivalent manner. In Sweden and Germany the standardised clearance rate is seven percent. In England/Wales it is eight percent and in Denmark ten percent. The best results are in Norway, with a clearance rate that averages 13 percent.

## Difficult to compare the effectiveness of the police

It is important to keep in mind that Brå’s comparison of cleared rapes is not an exact calculation. The recalculation entails several assumptions, and it is also dependent on the countries’ national statistics on the numbers of complainants and convicted individuals. In other words, the remaining differences shall not be overinterpreted. The aim has not been to thoroughly examine the effectiveness of the police in clearing

reported rapes in the different countries, but primarily to illustrate how the large differences in the reported clearance rates are determined by the different ways of defining and calculating the percentage of cleared rapes.

Naturally, the number of crimes that are cleared is affected not only by differences in the way they are calculated, but also by how effectively the police work when investigating rapes. We know from previous studies that the quality of police work can affect whether a rape is cleared (see, for example, Brå, 2019b). This concerns, for example, conducting the investigations quickly, conducting thorough crime scene investigations and securing evidence, documenting any injuries to the victims, interviewing complainants, suspects and relevant witnesses, and asking the “right” questions when doing the latter.

In this respect, it is also important that the police have sufficient resources to employ such work methods in rape investigations. The amount of resources required depends on the scope of the reported rapes. It ought to require considerably more police resources per capita in England/Wales than in Germany to achieve the same clearance rate as the number of reports per capita is considerably smaller in Germany.

Unfortunately, there are no recent studies which in a comparable manner have examined the quality of police work in rapes in the five countries. As for overall police resources in each of the countries, there are international comparisons. However, since we do not know how much of these resources are allocated to investigating rapes, the figures do not reveal so much in this respect.

In other words, the fact that the clearance rate for rapes differs even with Brå’s recalculated statistics shall not be overinterpreted. On the other hand, we can assert that the clearance rate ought to be able to be improved in both Sweden and other European countries.

# Concluding remarks

In this report, we have analysed Eurostat's crime statistics as a knowledge base for international comparisons of rape. We have also reviewed the differences in how the efforts of criminal justice systems to clear reported rapes are reflected in national statistics.

We have highlighted possible sources of error and examined alternative methods for compiling better material for international comparisons. The most reliable finding of the review is perhaps how difficult it is to measure the extent of rape, especially in an international perspective. However, this does not mean that one should not try.

## Measuring and comparing the incidence of rape is worthwhile

Measuring and comparing the extent of and trends in rape can be worthwhile for many reasons. Rape is a serious crime which is often picked up by the media and addressed in public debate. The issue is also strongly tied to a sense of security. Studies into the incidence of rape can provide an important data source when researchers want to test hypotheses for the sociological causes of rape. It is also an important source for decisions affecting criminal justice policies. Measuring and comparing the incidence of rape in different countries can provide knowledge which can be used to combat such crime. Berliner (1992) expressed this sentiment as follows:

*Numbers are central to developing a societal response to a social problem. Establishing the frequency of a problem has everything to do with how seriously it is taken.*

In other words, there are several reasons for measuring and comparing the incidence of rape in Europe. Highlighting and combating sexual violence is also important in terms of gender equality. Rape is a crime which primarily affects women, and which is almost exclusively perpetrated by men. Being subjected to sexual offences can have serious and long-lasting psychosocial consequences. The fear of falling victim is widespread, primarily among women, and can have a negative impact on their daily lives.

## **Problems with comparisons based on Eurostat's report statistics**

The most common source for such comparisons is Eurostat's statistics on reported crimes. According to these statistics, Sweden, together with England/Wales, has the most reported rapes per 100,000 inhabitants in Europe. One complication when using these statistics is that the data from the different countries are not comparable. This is due to formal factors, such as legislation and methods for registering and counting reported crimes, varying between the countries.

In addition, there is the problem that not all crimes are reported and the propensity to report can vary between countries. Such complications are particularly challenging when it comes to rape, as there are likely to be large differences between the countries in terms of both whether victims even identify their experience as rape and the "cost" victims envision resulting from reporting the matter.

Accordingly, one ought to avoid indiscriminate use of Eurostat's statistics on reported crimes as a measure of actual crime levels. Such indiscriminate use can result in misunderstandings and misleading research results, and, in the worst case, lead to political decisions being made on flawed grounds.

## **Well-executed victims of crime surveys provide a better picture**

Van Dijk (2015) advocates basing comparisons of crime levels on international victim surveys instead:

*The use of Eurostat's police figures of recorded crime will inevitably result in erroneous conclusions, for example that levels of crime are consistently highest in Northern Europe and lowest in Bulgaria and Romania. Without a standardized victimization survey, EU policies on crime and public safety will continue to be designed, implemented and evaluated without a proper knowledge base.*

This does not mean to say that international victim surveys, regardless of how well they are conducted, are without possible sources of error. Here, too, there are unreported crimes, which can also vary between the countries. First, those who choose not to participate in the survey are excluded. We cannot know how their participation would have affected the results. Second, the willingness of respondents to talk about their experiences may also vary. For example, it may be more difficult to identify an experience as sexual violence if you live in a country with

strongly ingrained rape myths. General attitudes to rape can also reduce the willingness of victims to talk openly about their experiences in an interview situation. Accordingly, international comparisons of victims of crime surveys should also be interpreted with caution.

European surveys on the prevalence of sexual violence are uncommon. The most recent was conducted by FRA in 2012. Despite criticism directed at methodological shortcomings, we still consider FRA's study to be a better source than Eurostat's report statistics for comparing the prevalence of rape in Europe. This is because the results are affected to a lesser extent by differences in legislation, statistical methods and factors which can affect the propensity to report, such as confidence in the criminal justice system. However, it must be used with great caution. The fact that the FRA study was conducted some time ago also means there is a risk that the results are now out-of-date.

### **No support for the claim that Sweden has an unusually high incidence of rape**

What, then, can we say about the number of rapes committed in Sweden compared with the rest of Europe? In the chapter on formal factors, we estimated that Sweden, if the legal conditions and statistical methods had been the same as in Germany, would rank somewhere in the middle of the report statistics from Eurostat. Nor does Sweden stand out in FRA's survey when it comes to the percentage of women who have stated that they have been raped at some point. Out of the total of 27 countries included in the survey, Sweden is among the 10 where the stated prevalence is between 10 and 12 percent. In other words, there is no support for the claim that Sweden deviates significantly from other countries in north-western Europe when it comes to the incidence of rape.

However, according to both the adjusted report statistics and the victim survey, more women are raped in Sweden than in countries in southern and eastern Europe, such as Spain, Portugal, Poland and Greece. It is impossible to rule out that these differences are due to more rapes actually taking place in Sweden. However, as previously mentioned, it could also be due to women who are raped in Sweden having a greater propensity to report the incident to the police and more willingness to talk about it in a victim survey (as well as being more aware that they have been subjected to sexual assault and therefore a criminal act).

In this context it is, however, important to emphasise that the incidence of rape in Sweden must be taken seriously and not discredited. From the studies which the authors of the report have been involved in, it is clear that these crimes can leave deep wounds. They are also associated with considerable costs to society in terms of time off work, healthcare and the penal system. The fear of rape can even have a negative impact on the daily lives of those who have not fallen victim. Accordingly, it is of the utmost importance that society continues the work to prevent sexual violence. In this regard, we can mention the Swedish Crime Victim Compensation and Support Authority's information campaign Free Will Only, the Swedish Police Authority's initiatives addressing men's violence against women (such as Initiative Daybreak) and the Swedish Prison and Probation Service's new treatment programme against sexual crime, Seif.

### **Brå's overall assessment**

Brå's overall assessment is that there is no infallible source of knowledge with which to compare countries when it comes to the incidence of rape. Both report statistics and victims of crime surveys have shortcomings when used as a source of knowledge about the extent of the crime. However, in a comparison between report statistics and victims of crime surveys, Brå's assessment is that a well-executed European victims of crime survey is a better source of knowledge than Eurostat's report statistics. This is because the differences in legislation and statistical methods remain so extensive between the countries that we have a long way to go before crime statistics can be made comparable in the manner to which Eurostat and the work with the ICCS aspire.

In the light of the shortage of well-executed victims of crime surveys, Brå has a positive view of the continuing development of Eurostat's collection and processing of crime statistics. The new guidelines for how the countries are to submit their data, released in 2017, were particularly welcome. They clearly stipulate, for example, how crimes ought to be registered and how the numbers ought to be counted.

The challenge now facing the member states is finding the time and resources to adapt their data submissions to the new guidelines.

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## Internet sources

### Sweden

Crime statistics:

<https://www.bra.se/statistik/kriminalstatistik.html>

Swedish Crime Survey:

<https://www.bra.se/statistik/statistiskaundersokningar/nationella-trygghetsundersokningen.html>

Statistics on nationality and suspected crimes:

<https://detgodasamhallet.com/rapport-om-invandring-om-brottslighet>

### Denmark

Official crime statistics:

<https://www.dst.dk/en/Statistik/emner/levevilkaar/kriminalitet>

Police authority's working statistics:

<https://statistik.politi.dk/>

### Norway

Official crime statistics:

<https://www.ssb.no/en/sosiale-forhold-og-kriminalitet?de=Crime+and+justice>

Strasak 2017: <https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/strasak/2017/strasak-2017.pdf>

### Germany

Police authority's statistics:

[https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics\\_node.html](https://www.bka.de/EN/CurrentInformation/PoliceCrimeStatistics/policecrimestatistics_node.html)

Court statistics:

[https://www.destatis.de/DE/Themen/Staat/JustizRechtspflege/\\_inhalt.html](https://www.destatis.de/DE/Themen/Staat/JustizRechtspflege/_inhalt.html)

### England/Wales

Home Office: <https://www.gov.uk/government/statistics/police-recorded-crime-open-data-tables>

Office for National Statistics (ONS): <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice>

Overview of sexual offences in England/Wales:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffendingvictimisationandthepaththroughthecriminaljusticesystem/2018-12-13>

## Europe

Eurostat's crime statistics:

<https://ec.europa.eu/eurostat/web/crime/overview>

Eurostat's metadata for the crime statistics: [https://ec.europa.eu/eurostat/cache/metadata/en/crim\\_off\\_cat\\_esms.htm](https://ec.europa.eu/eurostat/cache/metadata/en/crim_off_cat_esms.htm)

[https://ec.europa.eu/eurostat/cache/metadata/en/crim\\_esms.htm](https://ec.europa.eu/eurostat/cache/metadata/en/crim_esms.htm)

Eurobarometer 385, Justice in the EU:

[https://data.europa.eu/euodp/en/data/dataset/S1104\\_385/resource/4dbe0dfe-d978-4ebf-906a-c52c1ed88015](https://data.europa.eu/euodp/en/data/dataset/S1104_385/resource/4dbe0dfe-d978-4ebf-906a-c52c1ed88015)

Eurobarometer 449, Gender-based violence:

[https://data.europa.eu/euodp/en/data/dataset/S2115\\_85\\_3\\_449\\_ENG](https://data.europa.eu/euodp/en/data/dataset/S2115_85_3_449_ENG)

Eurostat's data on internet use:

<https://data.europa.eu/euodp/en/data/dataset/Ge5r8AKYkHXK701T8PrJA>

Eurostat's data on percentage foreign-born:

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_pop3ctb&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop3ctb&lang=en)

Eurostat's data on percentage living alone:

<https://data.europa.eu/euodp/en/data/dataset/yjS4n80eBew2SbNSTzvUaQ>

Eurostat's data on age demographics:

[https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=demo\\_pjan&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=demo_pjan&lang=en)

The World Bank's data on urbanisation:

<https://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS>

EIGE's overview of legislation in the EU on gender-based violence: [https://eige.europa.eu/gender-based-violence/](https://eige.europa.eu/gender-based-violence/regulatory-and-legal-framework/legal-definitions-in-the-eu)

[regulatory-and-legal-framework/legal-definitions-in-the-eu](https://eige.europa.eu/gender-based-violence/regulatory-and-legal-framework/legal-definitions-in-the-eu)

EIGE's summary of the results of the FRA study:

[https://eige.europa.eu/genderstatistics/dgs/indicator/genvio\\_sex\\_rape\\_sur\\_prev\\_phys\\_sex\\_rape](https://eige.europa.eu/genderstatistics/dgs/indicator/genvio_sex_rape_sur_prev_phys_sex_rape)

# Appendix 1

## Rape legislation in the five countries studied in detail and the legal definition of rape in the other countries included in the study.

Sweden (*Swedish Criminal Code 1962:700, Chap. 6, On sexual offences.*)

**Section 1** A person who by assault, or otherwise by violence or the threat of a criminal act, forces a person to have sexual intercourse or to engage in or be subjected to some other sexual act, which in view of the seriousness of the violation is comparable to sexual intercourse, is guilty of rape and is sentenced to imprisonment for at least two and at most six years. The same applies to a person who performs sexual intercourse, or a sexual act which in accordance with the first paragraph is comparable to sexual intercourse, by improperly exploiting the fact that a person, due to unconsciousness, sleep, grave fear, intoxication or the influence of drugs, illness, bodily injury, mental disorder or otherwise in view the circumstances, is in a particularly vulnerable situation. If an offence in accordance with the first or second paragraph is, in view of the circumstances associated with the offence, considered less serious, the perpetrator is guilty of rape and is sentenced to imprisonment for at most four years.

If an offence in accordance with the first or second paragraph is considered aggravated, the perpetrator is guilty of aggravated rape and is sentenced to imprisonment for at least four and at most ten years. When assessing whether the offence is aggravated, particular consideration is given to whether the violence or threat was of a particularly serious nature, or whether more than one person assaulted the victim or otherwise participated in the assault, or whether the perpetrator, in view of the method used or otherwise, exhibited particular ruthlessness or brutality. Act (2013:365).

**Section 2** A perpetrator who, under circumstances other than those defined in the first paragraph of Section 1, by unlawful coercion forces someone to engage in or be subjected to a sexual act is guilty of sexual coercion and is sentenced to imprisonment for at most two years.

The same applies to a perpetrator who performs a sexual act other than those referred to the first paragraph of Section 1 with a person in the circumstances otherwise presented there. If

an offence in accordance with the first or second paragraph is considered aggravated, the perpetrator is guilty of aggravated sexual coercion and is sentenced to imprisonment for at least six months and at most six years. When assessing whether the offence is aggravated, particular consideration is given to whether more than one person assaulted the victim or otherwise participated in the assault or whether the perpetrator otherwise exhibited particular ruthlessness or brutality. Act (2005:90).

**Section 4** A person who has sexual intercourse with a child under fifteen years of age, or performs some other sexual act with such a child that in view of the seriousness of the violation is comparable to sexual intercourse, is guilty of rape of a child and is sentenced to imprisonment for at least two and at most six years. This also applies to a person who commits an act referred to in the first paragraph against a child who is at least fifteen but not eighteen years of age and who is the perpetrator's descendant, or is being reared by or has a comparable relationship with the perpetrator, or for whose care or supervision the perpetrator is responsible by order of a public authority. If an offence in accordance with the first or second paragraph is considered aggravated, the person is guilty of aggravated rape of a child and is sentenced to imprisonment for at least four and at most ten years. When assessing whether the offence is aggravated, particular consideration is given to whether the perpetrator has used violence or the threat of a criminal act, or whether more than one person assaulted the child or otherwise participated in the assault, or whether the perpetrator, in view of the method used or otherwise, exhibited particular ruthlessness or brutality. Act (2013:365).

## Part two of Appendix 1

Sources: EIGE and European Women's Lobby (2013).

Country	Legal definition of rape
Belgium	Any act of sexual penetration, regardless of its nature and by whatever means, committed against a non-consenting person, represents a crime of rape. Consent is not considered to have been given, if the crime is committed by violence, coercion or deceit, or is made possible by the infirmity or physical or mental impairment of the victim.
Bulgaria	Someone who copulates with a female person: 1. who is unable to defend herself and without her consent; 2. by compelling her by force or threat; 3. by rendering her helpless;
Cyprus	Any person who has unlawful sexual intercourse of a female, without her consent, or with her consent, if the consent is obtained by force or fear of bodily harm, or, in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape
Estonia	Sexual intercourse with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation
Finland	Anyone who, through violence against another person or with the threat of such violence, compels someone to intercourse. A person engages in intercourse with a person by exploiting that as a result of unconsciousness, illness, disability, fear or any other helpless condition cannot defend him or herself or be able to express his or her will.
France	Any act of sexual penetration, whatever its nature, committed against another person or on the perpetrator, by violence, constraint, threat or surprise, is rape.
Greece	Whoever with physical violence or with threat of grave and direct danger forces another to intercourse or to tolerance or action of an indecent act.
Ireland	A man commits rape if (a) he has sexual intercourse with a woman who at the time of the intercourse does not consent to it, and (b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she does or does not consent to it.
Croatia	Whoever coerces another by force or by threat of immediate attack upon his life or limb, or the life or limb of a person close to him, to sexual intercourse or an equivalent sexual act.
Latvia	A person who commits an act of sexual intercourse by means of violence, threats or taking advantage of the state of helplessness of a victim
Lithuania	A person who has sexual intercourse with a person against his will by using physical violence or threatening the immediate use thereof, or by otherwise depriving of a possibility of resistance or by taking advantage of the helpless state of the victim

Luxembourg

Any act of sexual penetration, of whatever nature, by any means whatsoever, committed on a person who does not consent, including using violence or serious threats by ruse or artifice, or abusing a person incapable of giving consent or free to oppose resistance, constitutes rape.

## Part two of Appendix 1. *Continued*

Country	Legal definition of rape
Malta	Sexual intercourse achieved through violence.
Netherlands	He who, by force or another factuality, or by threat of violence or another factuality, compels someone to be subjected to actions consisting of or also consisting of the sexual penetration of the body, will be charged with rape.
Northern Ireland	Person A commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person B with his penis, (b) B does not consent to the penetration, and (c) A does not reasonably believe that B consents.
Poland	A person who by force, illegal threat or deceit subjects another person to sexual intercourse.
Portugal	A person who uses violence, force, or serious threat, or to make a person unconscious or unable to resist, in order to have vaginal, oral or anal sexual intercourse with the victim or enabling someone else to do so, or to insert body parts or any other objects into the vagina or anus.
Romania	The sexual act, of any kind, with a person of the opposite sex or of the same sex by forcing that person or by taking advantage of his or her impossibility to defend herself/himself or to express his/her will.
Scotland	Without any reasonable belief that B consents, penetrates to any extent, either intending to do so or reckless as to whether there is penetration, the vagina, anus or mouth of B then A commits an offence, to be known as the offence of rape.
Slovakia	Rape is committed by a person who forced a woman to engage in sexual intercourse (coitus) by using violence or threat of immediate violence, or who for such an act abuses a woman's vulnerable situation.
Slovenia	Whoever compels a person of the same or opposite sex to submit to sexual intercourse with him by force or threat of imminent attack on life or limb.
Spain	Sexual assault against the freedom of another person, using violence or intimidation. Under sexual assaults, rape includes vaginal intercourse, anal or oral sex, or the insertion of body parts or objects.
Czechia	A person who by violence, by threat of violence or by threat of other severe injury, forces sexual contact on anyone, or commits such an act on a defenseless person
Hungary	A person who by violent action or direct menace against life or limb forces a woman to have sexual intercourse, or uses the incapacity of the woman for defence or for the manifestation of her will for sexual intercourse.
Austria	A person forces another to perform or undergo coitus or a sexual act equivalent to coitus through violence, deprivation of the person's freedom or threat of body harm or death.

Measuring and comparing the incidence of rape in different countries can provide knowledge which can be used to combat such crime. However, this requires that the available statistics provide comparable data from the different countries. According to the EU's statistics, Sweden has long had the highest number of rapes per capita. According to the statistics, the percentage of rapes cleared in Sweden is also low. In this study, Brå shows that there are differences in both how rape legislation is worded and how statistics are recorded, which means that the figures from different countries are not comparable.

The way in which statistics on the percentage of reports cleared are recorded also varies between the countries in Europe. There are, for example, variations in what is considered a cleared offence. In some countries, a reported rape is counted as cleared if someone has been prosecuted for the offence, while in other countries it is sufficient to have a suspect.

Brå also recalculates certain figures to illustrate how various factors, other than the actual incidence of rape and the effectiveness of the criminal justice system, affect the statistics on reported and cleared rapes, respectively. The differences between Sweden and other countries are then greatly reduced.

Brå hopes that this report can contribute to a more balanced and fact-based discussion on the extent of rapes reported to the police in different countries, as well as how criminal justice systems handle them. The report is intended for both Swedish and foreign readerships. We hope that it will prove useful to both criminal justice systems and others with an interest in the matter.



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