

POLAND

Recommendations to improve data collection on intimate partner violence by the police and justice sectors



The recommendations were developed after an in-depth analysis of data collection from the police and justice sectors. The relevance and feasibility of the recommendations were discussed with national professionals whose work is closely related to the topic at a meeting on 8 June 2017 in Warsaw, Poland. The suggestions were revised upon participants' feedback. The recommendations aim to improve administrative data collection on intimate partner violence to better inform policies and to help the Member States meet the monitoring requirements outlined in both Directive 2012/29/EU (the Victims' Rights Directive) and the Istanbul Convention.

1. Legislative and policy recommendations

Strengthen political commitment

Political commitment is crucial to improving administrative data collection on intimate partner violence. It provides a catalyst for change and ensures the sustainability of systematic and harmonised data collection practices on intimate partner violence in the police and justice sectors.

In recent years, there have been considerable developments in statistical data collection on domestic violence, particularly with the adoption of the national programme for the prevention of domestic violence for 2014-2020 ⁽¹⁾. The programme requires detailed monitoring of the actions and practices of the police, prosecutors and common courts throughout the criminal process. Progress has been made with regard to sex disaggregation across the data gathered by the police, the prosecutor's offices and the courts. A 'family' indicator has been introduced, which details the relationship between persons involved in reported criminal offences, and offences that can qualify as domestic violence have been widened to include intimate partner violence. Poland ratified the Istanbul Convention in 2015, which is a step in the right direction. However, the main challenge to further improving the collection of administrative data on intimate partner violence is political changes that may result in weakened policy commitments to the issue. The state's active engagement in policies on preventing and combatting intimate partner violence could result in improvements to the collection of statistical data.

It is recommended to strengthen political commitment to ensure that progress on the improvement of administrative data collection is sustainable and that national programmes relating to preventing and combatting violence against women, such as the national programme for the prevention of domestic violence, are prioritised.

Recognise intimate partner violence as a specific and separate criminal offence

There is no specific offence for intimate partner violence; instead it falls within the scope of domestic violence. Domestic violence is criminalised under the Act on the Prevention of Domestic Violence (2005); the definition of domestic violence outlined within it includes intergenerational relationships but does not include former partners.

It is recommended that intimate partner violence be recognised as a distinct form of domestic violence in both the Penal Code and the Act on the Prevention of Domestic Violence in order to most accurately gather statistics on the prevalence of intimate partner violence.

Specify the distinct types of violence that constitute intimate partner violence

Cases of domestic violence and intimate partner violence are considered offences of mistreatment (Article 207 of the Penal Code). However, as other crimes that could also qualify as intimate partner violence are collected under other offences, these are not included in collated statistics on intimate partner violence. Clarifying the types of offences that qualify as intimate partner violence in domestic legislation would contribute to a better grasp of the phenomenon. The use of a common list outlining these forms of violence by the institutions that collect data would increase the consistency and comparability of the information gathered. The statistical forms already filled out by the common courts, which take into account various crimes that can be classified as domestic violence according to Article 2(2) of the Act on Counteracting Domestic Violence, are a good model. These are presented in the annual reports on the implementation of the national programme for the prevention of domestic violence.

Ways to refer to economic violence in statistics by applying existing legislation need to be developed. Although the definition of domestic violence allows for wide interpretation — including economic violence — the lack of direct references to economic violence means that judges tend not to use existing legislation for economic intimate partner violence cases ⁽²⁾. The Family and

⁽¹⁾ The Act of 29 July 2005 on Counteracting Domestic Violence obliges the Council of Ministers to develop and adopt such a programme.

⁽²⁾ Grzegorz Wrona in a document by the Senate Chancellery on economic violence, *Opracowania tematyczne OT-639*, 2015 (https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/135/plik/ot-639_do_internetu.pdf) (not available in English).

Guardianship Code contains two articles regulating economic violence with reference to evasion of household maintenance and alimony obligations (Articles 27 and 128) ⁽³⁾. These could be applied to certain economic intimate partner violence cases.

It is recommended that distinct forms of intimate partner violence — physical, psychological, sexual and economic — be clearly defined in national legislation as distinct forms of intimate partner violence. These should comprise a common list that is used across the police and justice sectors when recording data on intimate partner violence.

Amend Article 207 of the Penal Code

At present, Article 207(1) of the Penal Code refers to the physical and psychological ill-treatment of someone in the context of an ongoing, unchanging relationship of dependency. As the article covers mental and physical mistreatment together, these two forms of violence cannot be statistically distinguished. The separation of these forms of violence into two paragraphs — each referring to either form of violence — would enable more accurate data collection on physical and psychological violence as distinct forms of intimate partner violence.

It is recommended that Article 207(1) of the Penal Code be separated into two paragraphs so that one refers only to physical violence and the other only to psychological violence. This would enable information collected on either offence to give a more accurate picture of the prevalence of intimate partner violence.

Broaden the definition of ‘family member’ to include former partners not living together

According to the Act on the Prevention of Domestic Violence (2005), the definition of ‘family member’ does not include current or former partners who do not cohabit. If such persons commit acts of intimate partner violence, they are prosecuted and judged on the basis of the Criminal Code; the solutions provided in the act do not apply to them ⁽⁴⁾. This means that incidents in which violence is committed against a former partner who does not reside with the perpetrator may not be statistically accounted for in the context of domestic violence.

It is recommended that the definition of ‘family member’ outlined in the Act on the Prevention of Domestic Violence (2005) be amended to include current or former partners who do/did not share a residence. This would enable other instances of intimate partner violence currently not covered by the definition of domestic violence to be identified through data collection.

Develop and continue efforts to measure the economic costs of violence against women

A method of calculating the costs of intimate partner violence to the police and justice sectors has been developed. It was done so as a joint venture by the Council of Europe, the European Institute for Crime Prevention and Control, the Office of the Government Plenipotentiary for Equal Treatment of Poland and national research team members. It was a one-off 11-month-long assignment initiated in 2013. The main challenges in the methods used for calculating intimate partner violence were the lack of available data from the police and justice sectors on domestic and sexual violence against women in Poland.

It is recommended that comprehensive information collected on intimate partner violence offences be recorded and published by the police and justice sectors in order to accurately continue to assess the economic costs of intimate partner violence. These initiatives into cost estimation should continue to be prioritised and sufficiently funded.

2. Data collection infrastructure and cooperation between different authorities

Make all relevant information publicly available

Information published on intimate partner violence by the police is fragmented and limited. The police website only publishes a number of proceedings that relate to the articles that cover instances of intimate partner violence. For intimate partner violence reported through Blue Card procedures, only the number of women victims from forms that have been filled out is included. The Ministry of Justice does not publish the reports gathered from regional and district courts, which includes domestic violence statistics. The most comprehensive source of data available is the reports on the implementation of the national programme for the prevention of domestic violence, which are published on the website of the Ministry of Family, Labour and Social Affairs.

⁽³⁾ https://www.senat.gov.pl/gfx/senat/pl/senatopracowania/135/plik/ot-639_do_internetu.pdf (not available in English).

⁽⁴⁾ Ministry of Family, Labour and Social Policy, Notes on articles of the convention requiring analysis, 2012 (https://www.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/7598/1/1/analiza_konwencja_07.12.doc) (not available in English).

The mandate of the Central Statistical Office (CSO) in publishing data on domestic and intimate partner violence could be enlarged to improve access to raw data. This is particularly important given that more specific data to populate the indicators is only available upon prior request, e.g. to the Department for Parliamentary and Public Information of the Office of the Police Commander in Chief or the Ministry of Justice. The CSO does not currently publish any data on intimate partner violence, but by doing so it would greatly contribute to improving information accessibility and to limiting the time spent by the police and justice sectors on responding to data requests.

It is recommended that all bodies responsible for administrative data collection on intimate partner violence publish all available data relating to intimate partner violence in their official publications. This should include necessary breakdowns — the age and sex of the victim and of the perpetrator and the relationship between them — in order to identify intimate partners. The CSO should broaden its remit to publishing raw data on intimate partner violence.

Make data collection systems compatible in the police and justice sectors

Various systems of data collection are not fully compatible with each other due to differences in data quality and in the statistical programmes used. Authorities are often unaware of what type of data is collected by other bodies. Since the national programme for the prevention of domestic violence is based on the principles of cross-sectoral cooperation, synchronising statistical data systems used by the police and justice sectors should be prioritised. Data collected for reporting purposes derives from different entities with their own statistical devices and so may be misleading ⁽⁵⁾. Consequently, efforts should be made to establish and strengthen cooperation between the authorities responsible for data collection on intimate partner violence.

It is recommended that the police and justice sectors take steps to synchronise their data collection systems to enable data collation on intimate partner violence. This will require enhanced sectoral cooperation in order to standardise the quality of data collected and increase the capacity for information sharing.

3. Technical recommendations

Record the relationship between the victim and the perpetrator

At present, information on the relationship between the victim and the perpetrator is not recorded in either the police sector or the justice sector. In 2015 the police data collection system, known as KSIP, had an additional checkbox for 'domestic violence' included in the data collection procedure. However, the relationship between the victim and the perpetrator was not included as a category. Consequently, it is not possible at police level to differentiate intimate partner violence from other forms of domestic violence. Similarly, in the justice system a case can be marked under the 'family' indicator if ordered by a justice official; there is no category for recording the relationship between the victim and the perpetrator.

Recording the relationship between the victim and the perpetrator is fundamental to all data collection on intimate partner violence: this disaggregation enables the identification of offences in the context of an intimate relationship.

It is recommended that the relationship between the victim and the perpetrator be recorded across the police and justice sectors and at all stages of the criminal process in order to differentiate intimate partners from other domestic relationships. This data should be disaggregated into metadata: spouse, ex-spouse, partner, ex-partner, and with or without cohabitation.

Indicator 1 — Annual number of women (aged 18 and over) victims of intimate partner violence ⁽⁶⁾ committed by men (aged 18 and over), as recorded by police

The annual report on the implementation of the national programme for the prevention of domestic violence provides the number and the sex of victims and of sentenced persons by particular forms of crime that qualify as domestic violence according to Article 2(2) of the Act on the Prevention of Domestic Violence (2005). However, this data does not specify the relationship between the victim and the perpetrator, which is necessary to identify intimate partners.

⁽⁵⁾ Lewoc, M., Proceedings of the National Public Prosecutor's Office in the new national programme for the prevention of domestic violence for 2014-2020, National Public Prosecutor's Office and Laws 11-12, 2014.

⁽⁶⁾ Any act of physical, sexual, psychological or economic violence that occurs between former or current spouse or partner, whether or not the perpetrator shares or has shared the same residence with the victim (EIGE, *Terminology and indicators for data collection: Rape, femicide and intimate partner violence*, Publications Office of the European Union, Luxembourg, 2017).

It is recommended to record the relationship between the victim and the perpetrator in order to be able to identify intimate partners. This information should be published online on official police platforms. This recommendation additionally applies to the number of suspected women victims of intimate partner violence obtained from Blue Card procedure statistics.

Indicator 2 — Annual number of reported offences related to intimate partner violence against women committed by men (aged 18 and over)

It is not possible to populate this indicator as data collected on the number of reported intimate partner violence offences does not specify the relationship between the victim and the perpetrator. This is necessary to differentiate cases of intimate partner violence from other cases of domestic violence.

The Electronic Register of Investigative Inquiries contains information on reported cases and operates at the level of each province. However, it does not include information on intimate partner violence as only domestic violence information in relation to Article 207 is available. Work is currently underway to create a central system for gathering information on each reported case. This will provide the opportunity to add information about intimate partner violence without bearing any additional costs and will make it possible to collect data on the number of refusals to initiate investigations into domestic violence cases when there is no sufficient basis to initiate the proceedings. As victims can also report to the Prosecutor's Office, data from both institutions should be combined.

It is recommended to record the relationship between the victim and the perpetrator to identify intimate partners. This information should be published online on official police platforms. It is additionally recommended that the centralised system currently tabled for sharing information of reported cases incorporate the possibility of recording data on intimate partner violence cases.

Indicator 3 — Annual number of men (aged 18 and over) perpetrators of intimate partner violence against women (and percentage of male population that are perpetrators)

Poland is currently unable to populate this indicator as the KSIP does not record information on the perpetrator in cases where the victim is a woman, nor does it record the relationship between them. Consequently, it is not possible to differentiate cases of intimate partner violence from other domestic violence cases. While such information could be extracted from the Blue Card forms, it is not fully reliable due to limitations inherent in Blue Card procedures.

It is recommended to record information on the perpetrator when the victim is female and to record the relationship between the victim and the perpetrator in order to differentiate intimate partners from other domestic relationships.

Indicator 4 — Annual number of women (aged 18 and over) victims of physical intimate partner violence ⁽⁷⁾ committed by men (aged 18 and over), as recorded by police

Indicator 5 — Annual number of women (aged 18 and over) victims of psychological intimate partner violence ⁽⁸⁾ committed by men (aged 18 and over), as recorded by police

For indicators 4 and 5

Physical and psychological violence against a next of kin or a permanently/temporarily dependent person is covered by Article 207 of the Penal Code, which makes the statistical representation of these distinct forms of violence impossible. Additional articles could be applicable to instances of both physical and psychological intimate partner violence in order to populate this indicator. They include Articles 155, 156, 157, 158, 159, 160, 190, 190a and 217, as well as articles from Chapter XXIII of the Penal Code on offences against liberty.

Additionally, recording information on the relationship between the victim and the perpetrator is not required. This makes identifying intimate partners impossible.

It is recommended that Article 207 be separated in order to distinguish between physical violence and psychological violence for statistical representation purposes. Other articles in the Penal Code could be considered in the context of recording information on these two forms of intimate partner violence. It is additionally recommended to detail the relationship between the victim and the perpetrator in order to identify intimate partners.

⁽⁷⁾ Any act which causes physical harm to the partner or former partner as a result of unlawful physical force. Physical violence can take the form of, among others, serious and minor assault, deprivation of liberty and manslaughter (EIGE, 2017).

⁽⁸⁾ Any act or behaviour which causes psychological harm to the partner or former partner. Psychological violence can take the form of, among others, coercion, defamation, verbal insult or harassment (EIGE, 2017).

Indicator 6 — Annual number of women (aged 18 and over) victims of sexual intimate partner violence ⁽⁹⁾ committed by men (aged 18 and over), as recorded by police

Information on the relationship between the victim and the perpetrator is not currently required to collect at police level and in the context of sexual intimate partner violence. This makes differentiating intimate partners from other relationships in the domestic sphere impossible.

It is additionally recommended to detail the relationship between the victim and the perpetrator in order to differentiate intimate partners from other relationships in the domestic sphere in cases of sexual intimate partner violence.

Indicator 7 — Annual number of women (aged 18 and over) victims of economic intimate partner violence ⁽¹⁰⁾ committed by men (aged 18 and over), as recorded by police

Data collected by the police does not include information on economic intimate partner violence. The following existing articles in national legislation could be referred to in order to prosecute cases of economic violence in the context of intimate partner violence: Articles 191 and 288 of the Penal Code, offences from Chapter 35 of the Penal Code (offences against property, e.g. Articles 278-286) and Articles 27 and 128 of the Family and Guardianship Code.

It is recommended to set up a working group to discuss the possibility of recognising economic violence as a specific offence and one applicable to intimate partner violence. It is additionally recommended to record the relationship between the victim and the perpetrator in order to identify intimate partners.

Indicator 8 — Annual number of women (aged 18 and over) victims reporting rape ⁽¹¹⁾ committed by men (aged 18 and over), as recorded by police

It is currently possible for Poland to populate this indicator. The only problem identified is the lack of publicly available crime statistics on the number of victims reporting rape. The police website shows only the number of offences identified and the number of suspects. In order to obtain the annual number of women victims reporting rape it is necessary to make a request to the Department for Parliamentary and Public Information of the Office of the Police Commander in Chief.

It is recommended to make data on the annual number of women victims reporting rape available on official police platforms without having to seek permission from police authorities.

Indicator 9 — Women victims of intimate femicide ⁽¹²⁾ (aged 18 and over) committed by an intimate partner (aged 18 and over), as a share of the women victims of homicide (aged 18 and over)

The lack of information recorded on the relationship between the victim and the perpetrator makes it impossible to obtain the number of women victims of intimate femicide committed by an intimate partner.

It is additionally recommended to detail the relationship between the victim and the perpetrator in order to identify cases of femicide committed by an intimate partner.

Indicator 10 — Annual number of protection orders applied for and granted in cases of intimate partner violence against women by type of court

Data on protection orders can be found in the reports published as part of the implementation of the national programme for the prevention of domestic violence; similar data is additionally collected by the National Public Prosecutor's Office. However, neither source records information on the relationship between the victim and the perpetrator, so it is not possible to identify intimate partners.

⁽⁹⁾ Any sexual act performed on the victim without consent. Sexual violence can take the form of rape or sexual assault (EIGE, 2017).

⁽¹⁰⁾ Any act or behaviour which causes economic harm to the partner. Economic violence can take the form of, among others, property damage, restricting access to financial resources, education or the labour market, or not complying with economic responsibilities, such as alimony (EIGE, 2017).

⁽¹¹⁾ Sexual penetration, whether vaginal, anal or oral, through the use of object or body parts, without consent, using force, coercion or by taking advantage of the vulnerability of the victim (EIGE, 2017).

⁽¹²⁾ The killing of a woman by an intimate partner and death of a woman as a result of a practice that is harmful to women. Intimate partner is understood as former or current spouse or partner, whether or not the perpetrator shares or has shared the same residence with the victim (EIGE, 2017).

Indicator 11 — Annual number of men (aged 18 and over) prosecuted for intimate partner violence against women

While the annual number of persons prosecuted for domestic violence is available based on data recorded in the common courts reports, it is not known whether a person was prosecuted for acts against women in the context of an intimate relationship or not.

Indicator 12 — Annual number of men (aged 18 and over) sentenced for intimate partner violence against women

While the annual number of persons sentenced for domestic violence is available based on data recorded in the common courts reports, it is not known whether a person was sentenced for acts against women in the context of an intimate relationship or not.

Indicator 13 — Annual number of men (aged 18 and over) sentenced for intimate partner violence against women and held in prison or with a sanction involving a form of deprivation of liberty

The appropriate data is collected by the Central Board of Prison Service. However, information collected does not specify the relationship between the victim and the perpetrator.

For indicators 10-13

It is recommended that the relationship between the victim and the perpetrator be detailed in the recording of information on perpetrators of intimate partner violence in order to differentiate intimate partner violence offences from other cases of domestic violence.



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