

Rape in the Czech Republic: Definition, Figures, Offenders and Their Treatment

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BACKGROUND

- Rape is a serious sexual offence that is usually associated with forcible intercourse.

- However, the definition of rape varies from country to country and there is a trend towards expanding it to include other forms of behaviour that do not involve neither direct physical violence nor the commission of coitus.

- Thus, the treatment of perpetrators of this offence must be adapted accordingly.

Rape in the Czech Penal Code (Art. 185 of PC)

Forms of sexual intercourse (= any manner of gratification of sexual appetite on the body of another person):

- “simple” sexual intercourse
- sexual intercourse carried out in a manner comparable to coitus (*aggrav. circumstance*)
- coitus (*aggrav. circumstance*)

aggrav. circumstance - use of weapon; against minor; against person deprived of personal liberty; causing grievous bodily harm or death)

The way of achieving sexual intercourse:

- coercion by violence, threat of violence or other serious harm
- abuse of the victim's defencelessness

A criminal offence is committed by violence even if it is committed against a person whom the perpetrator has put in a state of defencelessness by deceit or other similar means (Art. 119 of PC)

 **SENTENCE:** 6 months to 18 years

- “simple” intercourse: up to 5 years
- aggrav. circumstances : 2 to 18 years



PROTECTIVE MEASURES:

- Quasi-compulsory treatment - inpatient
- Quasi-compulsory treatment - outpatient
- Security detention

IKSP RESEARCH PROJECTS

Analysis of 610 court files (cases) kept in criminal proceedings encompassing 796 violent sexual acts of 584 individual offenders (rapist) - 579 men and 5 women; 86% Czech citizens, 14% foreigners.

Basic characteristics of convicted offenders:

CRIMINAL HISTORY

- 29 % first-time convicts
- 26 % non-sexual recidivists
- 28 % non-rape sexual recidivists
- 17 % repeated rapists

PREVIOUS EXPERIENCE OF PUNISHMENT

- 45 % with prison experience
- 15 % previous quasi-compulsory treatment

SANCTIONS

- 75 % imprisonment
- 25 % suspended sentence
- 27 % quasi-compulsory treatment
- 2 % Security detention

OFFENDER (expert witness report)

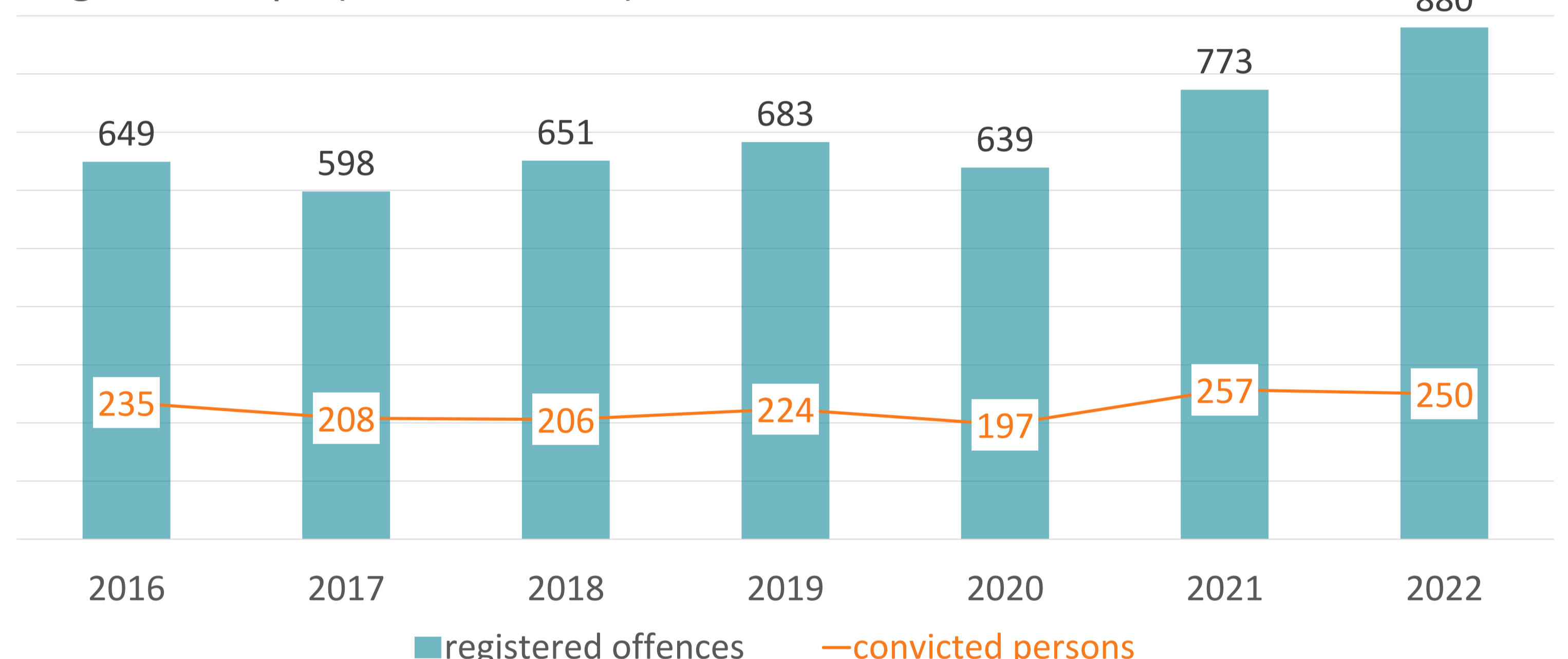
PERSONALITY: 35 % of rapist with diagnosis of personality disorder* (antisocial/psychopathy/etc.)

SEXUALITY: 20 % rapist with diagnosis of paraphilia*

Comorbidity: paraphilia + personality disorder

Only 9 % of rapist were „pure“ paraphilics (no personality disorder)

Figure 1: Rape (Art. 185 of PC)



Source: Crime Statistics (courts), Ministry of Justice of the Czech Republic; Crime Statistics (police), Police Presidium of the Czech Republic

RE-DEFINITION OF RAPE IN THE CZECH PENAL CODE

Asserted reasons - the current definition lacks the explicit requirement of the absence of the victim's consent to the sexual intercourse, so that - allegedly - cases where the victim did not consent to the sexual intercourse but was not able to express his or her disapproval cannot be prosecuted

Although this view is questionable, a bill has already been drafted which changes the definition of rape in the requested direction, refines the legislation and slightly increases some of the penalties.

MAIN CONCEPTUAL CHANGES:

- “against his/her will” as an explication of the lack of consent
- new criminal offence of “sexual assault” (Art. 185A of PC) consisting in the “simple” sexual intercourse without the consent of the victim
- any sexual intercourse with a child under 12 years of age is always a rape

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IKSP is a research organization within the Justice Department.

Its subject of activity is criminological research based on an interdisciplinary approach, specifically research, study and analytic activities in the field of criminal and security policy, efficacy of penal legislation, victimology and penology.

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*mental disorder according to ICD 10