

Gender-based Violence, Stalking and Fear of Crime

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GENDER-BASED VIOLENCE, STALKING AND FEAR OF CRIME

Country Report Poland

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1. Brief description of tertiary education sector in Poland:

Number of universities and other tertiary education institutions

Types of universities e.g. traditional campus-based, non-traditional campus-based, non campus-based, urban vs. rural universities, state vs. private.

Based on the Act of July 27th 2005 "Law on Higher Education" an institution of higher education (both public and non-public) is referred to as:

- a) a university - when it is authorised to confer the academic degrees of *doctor* (PhD) in at least 10 disciplines, including at least 2 in:
 - humanities, legal, economic or theological studies;
 - mathematical, physical, natural and technical sciences;
 - biological, medical, chemical, pharmaceutical, agricultural or veterinary studies.
- b) a technical university – when it is authorised to confer the academic degree of *doctor* (PhD) in at least 10 disciplines, including at least 6 in engineering and technological sciences;
- c) a university together with another adjective or adjectives added to define the profile of a higher education institution (for example natural science university – "uniwersytet przyrodniczy") when it is authorised to confer the academic degrees of doctor (PhD) in at least 6 disciplines, including at least 4 in the areas covered by the profile of the institution;
- d) a university of technology – when it is authorised to confer academic degree of doctor (PhD) in at least 6 disciplines, including at least 4 in engineering and technological sciences;
- e) an academy – when it is authorised to confer academic degree of doctor (PhD) in at least 2 disciplines;
- f) a non-university higher education institution – when it is not authorised to confer academic degree of doctor (PhD).

Polish institutions of higher education are accountable to:

- A competent minister for education – at the moment referred to as the Minister of Science and Higher Education – universities, universities of technology, universities of economy, pedagogical academies, universities of agriculture, physical education universities, institutions of higher education which are not universities, except for church universities);
- Minister of National Defence (military universities);
- A competent minister for Internal Affairs (civil service universities)
- A competent minister for Cultural Affairs and National Heritage (universities of fine arts);
- A competent minister for Health Affairs (medical universities);
- A competent minister for Naval Economy (naval universities).

As of today, in Poland students may undertake academic studies at **470 institutions of higher education** – 132 public (including 40 institutions with a status of a university) and 338 non-public (2 universities)¹. Below, presented are selected public higher education institutions based on their statutory categorization.

Spatial distribution of institutions of higher education in Poland.



Picture 1 The map is presenting an aggregate distribution of institutions of higher education in Poland (as of 2005): the number of public institutions of higher education subordinate to the Ministry of Science and Higher Education + the number of non-public institutions + the number of public institutions which not accountable to the Ministry of Science and Higher Education. The picture does not include branches of universities http://pl.wikipedia.org/wiki/Szko%C5%82a_wy%C5%BCsza (data obtained on December 4th 2011.)

¹ Website of the Polish Ministry of Science and Higher Education: <http://www.nauka.gov.pl/szkolnictwo-wyzsze/dane-statystyczne-o-szkolnictwie-wyzszym/> data obtained on November 29, 2011.

Size range of universities (by student enrolment)

Table 1. The number of students enrolled in the largest and smallest public universities in Poland (based on the statutory categorization as explained above).

University	City	Number of all students enrolled (thousands)	Number of female students enrolled (thousands)
Total number of all students at all universities		524,4	324,7 (61,9%)
The largest universities:			
University of Warsaw (Uniwersytet Warszawski)	Warszawa	55,4	36,6
Adam Mickiewicz University (Uniwersytet im. Adama Mickiewicza)	Poznań	45,7	31,5
Jagiellonian University (Uniwersytet Jagielloński)	Kraków	44,9	30,6
University of Lodz (Uniwersytet Łódzki)	Łódź	41,1	27,2
The smallest universities:			
Opole University (Uniwersytet Opolski)	Opole	15,8	11,5
University of Białystok (Uniwersytet w Białymstoku)	Białystok	15,1	10,8
Kazimierz Wielki University in Bydgoszcz (Uniwersytet Kazimierza Wielkiego)	Bydgoszcz	14,1	10,1

Source: Authors' research: Central Statistical Office, *Szkoły wyższe i ich finanse 2009*, Warszawa 2010.

Table 2. The largest public universities with an adjective or adjectives added to define the profile (category c) from the above presented statutory differentiation).

University	City	Number of all students enrolled (thousands)	Number of female students enrolled (thousands)
Total number of students at all medical universities:		52	40,3 (77,5%)
Medical University of Lodz (Uniwersytet Medyczny w Łodzi)	Łódź	8,5	6,1
Poznan University of Medical Sciences (Uniwersytet Medyczny im. Karola Marcinkowskiego w Poznaniu)	Poznań	8,1	6,2
Medical University of Silesia (Śląski Uniwersytet Medyczny w Katowicach)	Katowice	8,0	6,1
Total number of students at all universities of life sciences:		70,2	43,1 (61,3%)
University of Life Sciences in Lublin (Uniwersytet Przyrodniczy w Lublinie)	Lublin	17,3	13,0
Agricultural University in Kraków (Uniwersytet Rolniczy im. Hugona Kołłątaja w Krakowie)	Kraków	12,5	7,4
Wrocław University of Environmental and Life Sciences (Uniwersytet Przyrodniczy we Wrocławiu)	Wrocław	10,1	6,4
Total number of students at all universities of economics:		58,6	35,9 (61%)
Krakow University of Economics (Uniwersytet Ekonomiczny w Krakowie)	Kraków	20,0	13,0

University	City	Number of all students enrolled (thousands)	Number of female students enrolled (thousands)
University of Economics in Katowice (Uniwersytet Ekonomiczny w Katowicach)	Katowice	15,3	9,7
Poznan University of Economics (Uniwersytet Ekonomiczny w Poznaniu)	Poznań	11,7	6,9
Wrocław University of Economics (Uniwersytet Ekonomiczny we Wrocławiu)	Wrocław	11,3	6,3

Source: Authors' research; Central Statistical Office: Główny Urząd Statystyczny, *Szkoły wyższe i ich finanse 2009*, Warszawa 2010.

Table 3. Largest and smallest universities of technology in Poland.

Name of the university	City	Number of all students enrolled (thousands)	Number of female students enrolled (thousands)
Number of students at all universities of technology:		260,7	83,1 (31,8%)
Largest universities of technology:			
Wrocław University of Technology (Politechnika Wrocławska)	Wrocław	32,7	8,9
Warsaw University of Technology (Politechnika Warszawska)	Warszawa	31,9	8,6
Silesian University of Technology (Politechnika Śląska)	Gliwice	28,9	9,0
Gdansk University of Technology (Politechnika Gdańska)	Gdańsk	22,8	8,0
Smallest universities of technology:			
Lublin University of	Lublin	10,0	2,7

Name of the university	City	Number of all students enrolled (thousands)	Number of female students enrolled (thousands)
Technology (Politechnika Lubelska)			
Radom Technical University (Politechnika Radomska im. Kazimierza Pułaskiego)	Radom	8,4	3,4
Kielce University of Technology (Politechnika Świętokrzyska)	Kielce	8,4	2,2

Source: Authors' research: Central Statistical Office, *Szkoły wyższe i ich finanse 2009*, Warszawa 2010.

Campus

In Poland, institutions of higher education own rooms in student dormitories which are available, in the first place, to students living far away or in a difficult financial situation. Student dormitories, as a separate entity, have the same autonomy as the university. There are only a few institutions of higher education which have residential buildings near the buildings where the classes are held (namely, campus of the University of Science and Technology in Kraków and the university campus in Lublin). The dormitories are usually separate from other university premises. Quite often these buildings are spread around towns. In larger urban agglomerations some universities have dormitories in other cities than the city where the classes are held.

2. Sexual violence towards women. Analysis of the Polish law.

The subject of the analysis in this part of the report is the issue of legal protection of women against sexual violence as guaranteed in Poland. From the beginning it should be noted that a victim of a violent act may claim her rights to sexual freedom in two ways: the offender's criminal and civil accountability. These two systems of accountability are independent of each other in a sense that the injured person may simultaneously claim her rights by means of both a criminal and a civil procedure.

The first part of this analysis (A) focuses on the Polish criminal legislation (understood broadly, that is including the laws on contraventions)². The second part (B) presents the framework of the civil law regulations (also

² See: 1) Law of June 6 1997, Penal Code (came to force on September 1st 1998), 2) Law of June 6 1997, Code of Criminal Procedure (came to force on September 1st 1998), 3) Law of May 20 1971, Code of Contraventions (came to force on January 1 1972).

understood broadly, that is including some regulations from the area of the labour law)³.

(A) Sexual violence - a broad perspective of the criminal law.

The following division of behaviour violating the individual's sexual freedom is treated as an exit point for the analysis: rape (i) – stalking (ii) – other types of behaviour violating sexual freedom (iii). On the one hand, this division fits into the system adopted by this research project (although it seems that the category *other types of behaviour* cannot be treated as an equivalent to the category of *sexual harassment* as used in this research – problems with definitions are later explained). On the other hand, this division seems to adequately reflect a similar division of these acts in Polish criminal law.

(i) Rape.

In Poland, the term *rape* does not have a statutory definition. Nonetheless, it is commonly used in reference to offences described in article 197 of the Polish penal code.

According to Article 197 § 1 *any person who by force, illegal duress or deceit **causes another person to engage in sexual intercourse** is liable to a penalty of deprivation of freedom, ranking from 2 to 12 years, while § 2 of this Article states that if the perpetrator causes another person to submit to **another sexual act or to perform such an act** in the manner defined under § 1, he is liable to a penalty of deprivation of freedom, ranging from 6 months to 8 years.* The subject matter of Article 197 is sexual freedom understood as freedom "from" any forms of pressure leading to a violation of a right of making an uninhibited decision in the area of sexual intercourses⁴.

The doctrine⁵ indicates that *the term "sexual intercourse" whose semantic field includes acts of copulation as well as their surrogates which could be treated as equivalents of copulation. Based on Article 197§ 1 of the penal code an act of rape takes place when the activity performed by a perpetrator takes the form of a direct physical contact between the perpetrator's body and sex organs of the injured person or those parts of her body that the perpetrator treats as such and on which or by means of which he unloads his sex urge (anal and oral intercourses).* There are many more difficulties in the interpretation of the term *other sexual activity*. That is why, in reference to rape it is necessary not only to consider the biological and physiological criteria, but also some cultural aspects. Based on Article 197 § 2 of the penal code an act of rape also includes forcing an injured person to perform masturbation before the eyes of the perpetrator or a forced petting of the injured person's body (with the exception of the *coitus in the mouth*, which

³ See.: 1) Law of April 23 1964, Civil Code (majority of provisions came to force on January 1st 1965) Law of November 17, 1964, Code of civil procedure (came to force on January 1st 1965), Law of June 26 1974, Labour Code (came to force on January 1st 1975).

⁴ Rodzynkiewicz M. – commentary to Article 197 – thesis 1 [in:] *Kodeks karny. Część szczególna. Tom II. Komentarz do art. 117-277 k.k.*, Zoll A. (ed.), Barczak-Oplustil A., Bogdan G., Cwiakalski Z., Dąbrowska-Kardas M., Kardas P., Majewski J., Raglewski J., Rodzynkiewicz M., Szewczyk M., Wróbel W., Zakamycze, 2006 [LEX version].

⁵ Rodzynkiewicz M. – commentary to Article 197 – teza 6 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

falls into the definition of crime as described in Article 197 § 1 of the penal code). According to the judicature (see the Supreme Court's resolution of May 19th 1999), *other sexual activities are the behaviour which does not fit the concept of a "sexual intercourse" related to a broadly understood human sexual life in the form of a physical contact between the perpetrator and the victim and which involves sexual engagement of the injured person*. Hence, not every form of harassment, be it sexual, verbal or gestural, is related to a crime classified in Article 197 § 2 of the penal code⁶. To qualify an act as a rape (of a basic type) requires ascertaining that the way of uploading the sexual urge was of a criminal nature, meaning by means of force, a lawless threat or a trick⁷.

As graded offence types of rape among others regarded are rapes performed in concert with another person (Art. 197 § 3 of the penal code⁸ – the perpetrator is liable to a penalty of the deprivation of freedom for a time no shorter than 3 years) or acts with particular cruelty (Article 197 § 4 of the penal code.⁹ – the perpetrator is liable to a penalty of deprivation of freedom for a time no sorter than 5 years).

In this context, it is important to point to Articles 198 and 199 § 1 of the penal code. According to Article 198 *any person who, **taking advantage of the helplessness of another person or his incapacity arising from his mental retardation or mental disease, either to understand the meaning of the act or to control his conduct**, causes this person to engage in sexual intercourse, or to submit it another sexual act, or to perform such an act is liable to a penalty of deprivation of freedom, ranging from 6 months to 8 years*. It can be then said that the perpetrator of a crime described in Article 198 of the penal code uses the fact that the injured person cannot make a free and unimpeded assent in the area of sexual consent¹⁰. However, according to Article 199 § 1 of the same penal code, *any person who **by abuse of dependency or of a critical situation**, causes another person to engage in sexual intercourse, or to submit to another sexual act, or to perform such an act is liable to a penalty of deprivation of freedom of up to 3 years*. Similarly like in the case of the act described in Article 197 § 1, the matter of protection is in this case the freedom of decision in sexual activity. The difference is in the performance of sexual urge: the perpetrator abuses the relation of dependency of the injured person towards him or uses her critical situation¹¹.

What should also be stressed in relation to the regulation of Article 205 of the penal code, which states that *the prosecution of offences defined under*

⁶ Cf. forcing an injured person to listen to indecent proposal or watching indecent gestures – in this case the suggested classification is that provided in Article. 191 § 1 in the penal code – coercion (Rodzynkiewicz M. – commentary to Article. 197 – theses 9-10 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version]).

⁷ Rodzynkiewicz M. – commentary to Article 197 – theses 8-11 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

⁸ Provision of Article 197 § 3 was novelized on June 8 2010.

⁹ Provision of Article 197 § 4 was added on June 26 2005.

¹⁰ Rodzynkiewicz M. – commentary to Article 198 – thesis 2 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

¹¹ Rodzynkiewicz M. – commenatry to Article 199 – theses 1-2 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

197 or 199 § 1 as well as Article 198, if the condition of the victim described in this provision is not the result of permanent mental disorder, takes place **at the request of the injured person**. This means, that although the distinguished offences belong to the category of offences publically prosecuted, if the victim does not request a prosecution the criminal procedure will not be initiated (or possibly the already started procedure will be redeemed). What is important, is that in case of rape Article 197 excludes a possibility to withdraw a request to prosecute (cf. Article 12 § 2 of the code of criminal procedure).

Table 4. The crime of rape based on Article 197 of the penal code – statistical data.

	Convicted crimes	Filed claims	Closed cases due to inability to find the perpetrator	Convicted persons (including for crime stipulated in Article 197§ 4 of the penal code)
2008	1611	1197	303	905 (171)
2009	1530	1104	269	944 (163)

Source: Authors' research, based on data obtained from the Department of Statistics of the Polish Ministry of Justice.

(ii) Stalking.

On June 6th 2011 a new provision, Article 190a, was added to the penal code to penalize acts, which in literature are referred to as stalking. Based on Article 190a § 1 *who by means of **stalking** another person or persons who are close to her causes in this person a justified by the circumstance sense of threat or significantly violates her privacy, is liable to a penalty of the deprivation of freedom for up to three years* (basic type of stalking¹²).

M. Budyn-Kulik¹³ points out that *stalking* is usually demonstrated in the following types of the perpetrator's behaviour: making phone calls (especially at night and in the form of silent phones), spending time near the injured person's place of residence and/or work, inquiring about the injured person's life in the surroundings, sending letters, e-mails, text messages, presents, etc., following or controlling the injured person, spreading gossip about the injured person, stealing things belonging to the injured person, threatening the injured person's family and friends, etc. Within the framework of the analyzed phenomenon one could distinguish between acts of harassment directed at the perpetrator's closest persons and acts of domestic or partnership-based

¹² See also: Article 190a § 3 – qualified type of stalking: *If the consequences of an act determined in § 1 or 2 is the injured person's attempt to commit suicide, the perpetrator is liable to a penalty of the restriction of freedom from one year to ten years.*

¹³ Budyn-Kulik M. – commentary to Article 190a of the penal code – theses 3,7 [in:] *Kodeks karny. Komentarz do zmian wprowadzonych ustawą z dnia 25 lutego 2011 r. o zmianie ustawy - Kodeks karny*, LEX/el., 2011.

violence¹⁴. According to M. Budyn-Kulik the Polish lawmaker had already made attempts to protect the injured person, namely by means of the law on counteracting family violence¹⁵ and some changes which were introduced to criminal law (see: prohibition to come close to the injured person or a writ to leave the place of residence). M. Budyn-Kulik is correct in stating that *before the implementation of Art. 190a of the penal code there had been quite effective methods in the Polish legal system of – on the one hand – punishing the perpetrator, and – on the other hand – protecting the injured person [however] a completely different story was (...) the issue of enforcing the law*. The view on the inadequate enforcement of law in this context is shared by the author of this report who believes that particularly worrisome in this aspect are: a lengthy period of criminal and civil procedures, secondary victimization related to the noticeable domination of the accused who acts together with the defence (contrary to the injured persons who usually act on their own), lack of adequate reflection on the part of the investigators and the judiciary on why the injured person have withdrawn from making claims that would lead to an accusation of the perpetrator and a low level of legal awareness of the Polish society.

Before the novelization of the criminal law some forms of stalkers' behaviour could be qualified as the following offences:

- a) threat (Article 190 § 1 of the penal code),
 - b) coercion (Article 191 § 1 of the penal code),
 - c) trespassing (Article 193 of the penal code),
 - d) persecution (Article 207 § 1 of the penal code),
 - e) violation of body violability (Article 217 § 1 of the penal code);
- or a noise violation and peace disturbance (Article 51 § 1 of the code of contraventions), emotional disturbance (Article 107 of the code of contraventions), indecent act (Article 140 of the code of contraventions)¹⁶.

In case of the main type of stalking as described in Article 190a § 1 of the penal code, it should be pointed out that the subject of the protection is freedom, understood widely as freedom *from* (bearing the unwanted presence of another person, freedom from fear) as well as freedom *to* (respecting privacy). Additionally this provision protects the individual's *psychological well-*

¹⁴Budyn-Kulik M. – commentary to Article 190a of the penal code – thesis 10 [in:] *Kodeks...*, LEX/el., 2011.

¹⁵The June 29th 2005 Law on Counteracting Domestic Violence was novelized a few times, yet the most important were the modifications which came into force on August 1st 2010. The Law determines the tasks of the agencies of state public administration and local government in the area of counteracting domestic violence, including a mandate to establish interdisciplinary teams at the commune level or application of national and local programmes of counteracting domestic violence. It includes special regulation for eviction and taking away children.

¹⁶ Cf. Budyn-Kulik M. – commentary to Article 190a of the penal code – theses 10-14 [in:] *Kodeks...*, LEX/el., 2011.

See also Article 202 § 3 of the penal code (for example sending the injured person pornographic content via email), Article 216 of the penal code (for example immoral proposals that are insulting), Article 278 of the penal code and Article 119 of the code of contraventions (theft) article 268 (infringing secrecy of correspondence), Article 288 of the penal code and Article 124 of the code of contraventions (destroying possessions) (Mozgawa M. [after:] Budyn-Kulik M. – commentary to Article 190a of the penal code – thesis 14 [in:] *Kodeks...*, LEX/el., 2011).

being and the right to privacy. Referring to the concept of *stalking*, which has been used by the lawmaker, it is worth pointing out that is close to the concept of *bullying*. Taking into account the dictionary meaning of the term *stalking* one should accept that the perpetrator committing this type of crime causes the victim grief and harm¹⁷.

Stalking and cyberstalking (Articles 190a § 1 and 2 of the penal code), just like rape (Article 197 of the penal code) are investigated upon the victim's request (Article 190a § 4 of the penal code) with the difference that in the case of stalking and cyberstalking the request to start the investigation can be withdrawn (in preliminary procedure with the consent of the prosecutor and in the court procedure with the consent of the court, however only prior to the proceeding to trial at the first main hearing (Article 12 § 3 1st sentence code of the criminal procedure), while in the case of rape, the law excludes an opportunity to withdraw a request.

In Article 190a § 2 of the penal code another basic type of stalking has been introduced: *spoofing as somebody else, using this person's image or other personal data to do her property or personal harm* (punishable by a penalty of deprivation of liberty for up to 3 years). Budyn-Kulik also believes that by means of this article the Polish lawmaker wanted to introduce penalisation of cyberstalking¹⁸. It is worth pointing out that while in the case of stalking the protection of victims has been narrowed by introducing such terms as *persistent* (in Polish equivalent of the term *stalking*) and *significant* (in the context of violating privacy), the statutory regulation of the cyberstalking does not include behaviour which is not directed at harming the victim physically or financially. Nonetheless, it remains problematic to decide on the concurrence of the provisions of Article 190a (§ 1 or 2) with other provisions, as for example what is the relation of the provisions of Article 190a § 1 and 207 § 1 of the penal code¹⁹.

Considering the fact that the penalization of stalking (cyberstalking) was introduced in Poland in 2011, there still is lack of statistical data on the number of criminal cases filed in these areas and convictions that result from them.

(iii) Types of behaviour which violate individual's sexual freedom other than *rape and stalking*.

Prior to the introduction of Article 190a of the penal code, some representatives of the doctrine²⁰ recommended a distinction between: *sexual*

¹⁷ Budyn-Kulik M. – commentary to Article 190a of the penal code – theses 19-22 [in:] *Kodeks...*, LEX/el., 2011.

¹⁸ Prior to the introduction of Article 190a § 2 to the penal code, some forms of behaviour of cyberstalkers could be qualified as a crime based on Article 267 § 1 and § 2 of the penal code (illegal obtaining of information), Art. 268 (destroying information, hindering other person's access to this information), Article 268a (harming databases), as well as Article 287 § 1 of the penal code. The protection of image could also be sought in provisions of intellectual property law or civil law – by means of the construction of personal rights (Budyn-Kulik M. – commentary to Article 190a of the penal code – thesis 51 [in:] *Kodeks...*, LEX/el., 2011).

¹⁹ Budyn-Kulik M. – commentary to Article 190a penal code. – theses 22, 48, 50, 79, 80 [in:] *Kodeks...*, LEX/el., 2011.

²⁰ Cf. Kurzępa B., „*Inna czynność seksualna*” jako *znanie przestępstw*, Prokuratura i Prawo 5/2005, p. 69 and subsequent.

assault – first degree rape, *other sexual activity* – second degree rape, *sexual harassment* – third degree rape. The term *sexual harassment* was considered to have been of little precision and usually associated with the behaviour encountered at the workplace. Hence, Polish criminal law does not use the term *sexual harassment*. What is more, there is no separate penalization for this type of behaviour. Hence, protection against *unwanted and unreciprocated behaviour of a sexual nature* should be sought in the provisions, which, although directly do not penalize unwanted sexual behaviour yet could cause an adequate penalization of the perpetrator in the case of sexual harassment.

In the context of this analysis particular attention should be paid to the following provisions of the Polish penal code: Article 216 (insult), Article 217 (violation of body inviolability), and article 207 (persecution).

According to Article 216 § 1 of the penal code: *any person who insults another person in his presence or even without his being present but publically and in the intention for the insult to reach the injured person is liable to a fine or a penalty of restriction of freedom*. In the opinion of J. Raglewski²¹, the concept of *insult* should be understood as *different types of behaviour whose common characteristic is that they express disdain towards the dignity of another human being*. An insult can be expressed verbally or in a form of a picture, gesture, etc. Behaviour exceeding words and gestures can, in turn, lead to violation of body inviolability (see the earlier quoted Article 217 § 1 of the penal code). According to the doctrine, the case in point are *all types of activities which affect the body of another person, which are not accepted by this person*²². In terms of acts violating the inviolability of the human body, in addition to *hitting* the literature points to such acts (as understood in Article 217) as spitting, slapping, pushing, pulling somebody's hair, tugging, clapping, throwing objects at another person, kissing another person without his/her consent, hugging the injured, patting the injured²³. Both in the case of insult as in the case of the violation of body inviolability the process of investigation starts upon the private accusation, that is the injured person's filing of a claim in court to punish the perpetrator (Article 216 § 5 and 217 § 3 of the penal code).

The earlier quoted Article 207 § 1 of the penal code penalizes the main type of persecution²⁴. A physical insult indicates physical suffering (ex. beating, starving), while psychological insult – tormenting somebody mentally (ex. slander, threat). Both stalking and insult incline a certain degree of

²¹ Raglewski J. – commentary to Article 216 of penal code – thesis 8 [in:] *Kodeks karny. Część szczególna. Tom II. Komentarz do art. 117-277 k.k.*, Zoll A. (ed.), Barczak-Oplustil A., Bogdan G., Ćwiakalski Z., Dąbrowska-Kardas M., Kardas P., Majewski J., Raglewski J., Rodzynkiewicz M., Szewczyk M., Wróbel W., Zakamycze, 2006 [LEX version].

²² Por.: Raglewski J. – commentary to Article 217 of the penal code – thesis 7 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

²³ Raglewski J. – commentary to Article 217 of the penal code – theses 7-9 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

²⁴ See also Article 207 § 2 (*If the act defined under § 1 is linked with the use of particular cruelty, the perpetrator is liable to a penalty of deprivation of freedom ranging from one year to 10 years*) and § 3 (*If the consequences of the act defined under § 1 or 2 is the suicide of the injured person, the perpetrator is liable to a penalty of deprivation of freedom ranging from 2 to 12 years*) penalizing the qualified types.

repetitiveness of the perpetrator's behaviour. Nonetheless, while the term *insult* can be exceptionally used for one-time behaviour (in a situation when the intensity in inflicting pain in reference to one event compacted by time and place was so big that it should be qualified as an insult) the same cannot be said about the term *stalking*²⁵. It is clear, based both on the doctrine and the judicature, that although a decision to regard the perpetrator's behaviour as *stalking* should be a result of an objective assessment (in the doctrine understood as a social assessment as opposed to a subjective assessment of the injured person) as such cannot be regarded behaviour which does not cause any serious physical pain or moral suffering of the victim or a situation during which a *mutual stalking* takes place between two persons²⁶.

It is also worth pointing out to Article 191a of the Polish penal code, which is binding since June 8th 2010 and which states: *who preserves the image of a naked person or a person during a sexual intercourse and uses for this purpose against this person violence or a lawless threat, is liable to a restriction of freedom from 3 months to 5 years (§ 1); an investigation starts upon the victim's request (§ 2)*. Prior to the novelization of the criminal law, such behaviour was not criminalized. A *sexual activity* means a *sexual intercourse or other sexual activity*²⁷.

The analysis of the legal protection against sexual violence should be complemented by a reference to provisions of a general part of the penal code and preventive measures (that is a measures used as an alternative or a complement to a penalty) in a form of *a duty to refrain from staying in specific environment or places, a ban on getting in touch with specific persons or a ban on leaving a specific place of stay without the court's consent* (Article 39, point 2b of the penal code completed by *a ban of getting close to specific persons*). It is decided (obligatory or discretionary) for the period of 1 year to 15 years (Article 43 § 1 of the penal code) for example in the case of an intentional offence with a use of force.

On the other hand, while conditionally suspending the execution of a penalty (such a possibility may take place in cases of a penalty of imprisonment²⁸ not exceeding 2 years, a penalty of imprisonment or the fine imposed as an independent penalty – see Article 69 § 1 of the penal code), the court may oblige the sentenced person to apologize to the injured person (Article 72 § 1 of the penal code): refrain the perpetrator from getting in touch with the injured person or any other person in a defined manner (point 7a) leave

²⁵ Cf. Budyn-Kulik M. – commentary to Article 190a of the penal code – theses 19-22 [in:] *Kodeks...*, LEX/el., 2011; Szewczyk M. – commentary to Article 207 of the penal code – theses 11-14 [in:] *Kodeks karny. Część szczególna. Tom II. Komentarz do art. 117-277 k.k.*, Zoll A. (ed.), Barczak-Oplustil A., Bogdan G., Ćwiakalski Z., Dąbrowska-Kardas M., Kardas P., Majewski J., Raglewski J., Rodzynkiewicz M., Szewczyk M., Wróbel W., Zakamycze, 2006 [LEX version].

²⁶ Szewczyk M. – commentary to Article 207 of the penal code – thesis 17 [in:] *Kodeks...*, Zakamycze, 2006 [LEX version].

²⁷ Budyn-Kulik M. – commentary to Article 191a of the penal code – theses 1, 4 [in:] *Kodeks karny. Praktyczny komentarz*, Mozgawa M. (ed.), Budyn-Kulik M., Kozłowska-Kalisz P., Kulik M., Oficyna, 2010 [LEX version]

²⁸ The English term “imprisonment” is an equivalent of the Polish term “deprivation of liberty”, used in Poland since 1969 – translator's note.

the accommodation in which he resided together with the injured person (point 7b) while in the case of penalizing the perpetrator for a crime in which violence or a lawless threat was used towards the a person close to the perpetrator, the court determines the way in which the perpetrator may contact the injured person (Article 72 § 1a of the penal code).

In 2010, the Polish lawmakers decided to expand the protection of the injured persons within the framework of the criminal procedure. Hence, based on Article 275 § 2 of the code of criminal procedure, a court may order a person who is subject to surveillance²⁹ to stay away from specific places. In addition, according to Article 275a § 1 of the code of criminal procedure *the accused of a crime committed with the use of force against a person with whom he shares accommodation may be ordered to leave the place of residence which he shares with the injured person if there is a justified fear that the accused will commit a crime with a use of force against this person, especially when he has made threats to commit such a crime.*

(B) Sexual violence - a broad perspective of the civil law.

Within the narrowly understood civil law, the problem of women's protection against different acts of sexual violence is limited to the issue of protection of an individual against violation of his/her personal rights and the problem of claims related to potential or real threats to these rights. In a broader perspective of the civil law, the protection can be also sought in the labour law where protection of personal rights is independent of the civil protection of these rights. In Poland, the labour code does not exclude the civil protection of these rights but in a specific way reinforces them.

The exit point for the analysis of the legal protection of personal rights is an assumption that a common protection of the personal rights is realized by a duty imposed on everybody to refrain from any activity that could lead to a violation of other person's personal rights. In the case of threatening or violating these rights, the protection is realized by the individual's rights to demand specific behaviour from the violator and a duty of a specific behaviour or an abandonment of such behaviour by this violator. Based on Article 23 of the civil code *personal rights, especially health, freedom, reverence, freedom of religion, name or pseudonym, image, privacy of correspondence, inviolability of the place of residence, scientific artistic, and inventory work remain under the protection of the civil law regardless of the protection they receive in other provisions.* Article 23 enumerates personal rights which are subject to protection. The catalogue of personal rights is open³⁰. An evaluation whether

²⁹ The rationale of surveillance is to allow the courts or the prosecutor to control the movements of the accused – these agencies determine the obligations of the accused, most often in reference to leaving the current place of residence and an obligation to report to the Police in specified periods of time.

³⁰ Among the rights not directly mentioned in the provision most important here are the following rights: body inviolability, sexual integrity, family life, privacy, domestic peace, secrecy of correspondence.

there has been a violation of a personal right should not be based on the individual sensitivity of the interested party but on an objective social reaction. Not every nuisance or harm inclines a violation of a legally protected personal right³¹.

A realisation of legal protection of personal rights takes place when an individual is provided with an opportunity to file claims (Article 24 § 1 of the civil code).

Protection measures of personal rights can be divided into proprietary and non-proprietary. In case of the non-proprietary protection measures the most important is the claim to reduce the effects of the violation (for example a claim to make an apology, a statement of will in a specific form, time and place, express a regret, make a public explanation). The choice of measure for removing the effects of the violation of the personal rights is open, yet it refers only to deliberate measures, which constitute an equivalent of a performed harm (meaning in a way levelling off its effects). The injured person may select a measure which could humiliate the perpetrator who has violated his/her personal rights³².

In the case of proprietary protection measures, on the other hand, the most important are the claims for financial damages or making a payment towards a cause pointed by the injured person. What is important, they can be awarded only in the cases enumerated by the statute. These cases are specified by Article 445 of the civil code (which foresees a compensation in such cases as harming the injured person's body, causing mental imbalance, violating her freedom or forcing her by means of a conceit, rape or abuse of power to become involved in an indecent act) and Article 448 of the civil code which states that in cases of a violation of a personal right, the court may order that a person whose good has been violated is paid a specific amount of money as a form of compensation for the experienced damage or upon her request a specific amount of money is paid by the perpetrator towards a social cause³³. A proprietary measure is also a compensation for a proprietary damage which could be assigned based on general rules (Article 415 and subsequent articles of the civil code – responsibility for illegal acts).

It should be stressed that while making a claim for the protection of personal rights and demanding action to eliminate the effects of the violation of personal rights, the injured person should prove that a specific personal right, whose protection is being demanded, exists and has been violated. The perpetrator, on the other hand, should prove that he did not act illegally

³¹ Księżak P. – commentary to Article 23 of the civil code – thesis 6 [in:] *Kodeks cywilny. Część ogólna. Komentarz*, w: Pyziak-Szafnicka M. (ed.), LEX, 2009 [LEX version]. From the perspective of Article 11¹ of the labour code, based on which the employer is obliged to respect the dignity and other personal rights of the employee, is the *superfluum* expressing an obvious thought: an employer infringing a specific personal right of the employee breaches the rule stipulated in Article 11¹ of the labour code as well as a common obligation to respect the personal rights of an individual (cf.: Szewczyk H., *Ochrona dóbr osobistych w zatrudnieniu*, Oficyna, 2007).

³² Księżak P. – commentary to Article 24 of the civil code – thesis 77 [in:] *Kodeks...*, LEX, 2009 [LEX version].

³³ Księżak P. – commentary to Article 24 of the penal code – thesis 87 [in:] *Kodeks...*, LEX, 2009 [wersja LEX].

(meaning that his behaviour was not against the currently binding law or principles of social conduct). The injured person does not need to prove that the perpetrator was acting deliberately or negligently. The situation changes when the injured person, in addition to the mentioned claim, demands damages and awarding a specific amount of money for a specific social cause. In such case, the culpable violation of a personal right must be proved³⁴.

In labour law, except for the earlier mentioned Article 11¹ of the labour code³⁵, the injured person may seek protection by referring to a provision of equal employment (Article 18^{3a} and subsequent articles of the labour code³⁶) and a ban on mobbing (Article 94³ of the labour code.³⁷).

Based on Article 18^{3a} § 1 of the labour code, employees have a right to equal treatment in employment. As stipulated in § 2 of this provision equal treatment means lack of discrimination in any form, directly or indirectly, especially in regards to gender. In § 2 the legislature recognizes as a sign of discrimination *an undesired behaviour, whose aim or effect is violation of the employee's dignity and creating a threatening, hostile, humiliating, degrading atmosphere (harassment § 5 point 2)*. In addition, the law stipulates that *discrimination based on gender is any undesired behaviour of a sexual nature or referring to the employee's gender whose aim or effect is violation of the employee's dignity, especially creating a threatening, hostile, humiliating, degrading atmosphere; [while – author's note] such behaviour can be comprised of physical, verbal and non-verbal elements (sexual harassment; § 6)*.

Based on Article 18^{3d} of the labour code, *a person whose employer has violated the rule of equal treatment of employment has a right to damages in the amount not lower than the minimum compensation for work as established based on other provisions*. What also needs to be pointed out is that the employee while making a claim for damages due to a violation of the rule of equal treatment in employment first has to prove experiencing discrimination in employment while the employer has the burden to prove that any distinctions made between employees was based on objective measures (see: Article 18^{3b} § 1 of the labour code). As it seems awarded compensation is to level off the employee's damage in proprietary and non-proprietary rights³⁸.

Based on Article 94³ of the labour code, on the other hand, *the employer is obliged counteract mobbing (§ 1), meaning, actions or behaviour referring to the employee or directed against the employee, which take the form of persistent and long-term harassing or threatening the employee which may result in the employee's lower opinion of his professional value, which cause or aim to cause the employees' humiliation or ridiculing, isolating or eliminating from the team of employee (§2)*. Should mobbing has caused a mental imbalance, the employee may demand from the employer an adequate amount

³⁴ Książak P. – commentary to Article 24 of the penal code – theses 1,2 [in:] *Kodeks...*, LEX, 2009 [LEX version].

³⁵ Provision added on June 2nd 1996.

³⁶ Provisions added on January 1st 2002, later novelized.

³⁷ Provision added on January 1st 2004.

³⁸ Maniewska E. – commentary to Article 18^{3a} - Article 18^{3c} – theses 3.2, 3.5.1 [in:] *Komentarz aktualizowany do ustawy z dnia 26 czerwca 1974 r. Kodeks pracy*, Jaśkowski K., Maniewska E., LEX/el., 2011 [LEX version].

of money as a financial compensation for the experienced harm (§ 3). What is more, *an employee, who as a result of mobbing, has had his work contract dissolved, may demand from the employer a compensation in an amount not lower than the minimum compensation for work, as stipulated based on other provisions* (§ 4).

Subject literature highlights some difficulties in differentiating between the terms *mobbing* and *discrimination* (in the understanding of the provisions of the code), a phenomenon which creates serious practical problems (cf. differences in claims). In the case of mobbing, the perpetrators may be the injured person's employers, other employees or even third persons. In the labour code mobbing implies a perpetual and long-term activity (or inactivity) of the perpetrator in a similar manner to the regulations of the penal code made in reference to stalking and coercion. In a court procedure the proof of burden lies on the employee while the employer, in order to free himself from the responsibility, should prove that the facts that indicate mobbing do not exist or that they do not constitute mobbing, or potentially are a result of a *force majeure* or are caused only by the employee³⁹.

Table 5. Claims filed by men and women in district courts (courts of the first instance) in years 2008-2009 in cases of mobbing and harassment⁴⁰.

Legal basis	2008	2009
Article 18 ^{3a} in relation to art. 18 ^{3d} of the labour code [compensation for harassment as one of the forms of discrimination at workplace]	13	5
Article 94 ³ of the labour code [compensation and damages for mobbing]	536	529

Source: Author's research based on the statistical data of the Ministry of Justice, *Prawo pracy – dyskryminacja, mobbing, molestowanie*. Wydział Statystyki MS 2010 r.⁴¹

Concluding the reflections on the issue of the protection of women against different forms of sexual violence, one cannot refrain from pointing out the need of a separate analysis (and assessment) of two phenomena: *law in books* and *law in action*. While, in the opinion of the author of this report, in Poland legal regulations in this area can be assessed quite positively, the platform of their application still requires many reforms. Particularly worrisome in the area of legislation is the constant creation of new regulations which takes place without much deeper analysis of the actual need for their introduction (cf. remarks in reference to penalising stalking). In a similar way one should assess the creation of legal institutions, which are not applied at all due to the regulation of the premises. Even more negative assessment should

³⁹Maniewska E. – commentary to Article 94³ [in:] *Komentarz...*, LEX/el., 2011 [LEX version].

⁴⁰In 2008 Poland population size equaled 38 135 876. Data from *Ludność wg płci i województw na 31.12.2008 r.*: Report of the Central Statistical Office, available on: <http://demografia.stat.gov.pl/bazademografia/>, accessed on December 2nd 2011.

⁴¹Statistical data available on: <http://bip.ms.gov.pl/pl/dzialalnosc/statystyki/statystyki-2010/>, accessed on December 4th 2011.

be given to a thoughtless, typical for penal populism, strengthening of penal repressions also in regards to acts violating sexual freedom.

Regarding the existing in Poland problem of the application of law, the report has already presented the problem of lengthy (lasting for months, or even years) procedures and court cases, *an inequality of weapon* between the injured person and the perpetrator, inadequate knowledge observed among the investigators and the judiciary about the mechanisms of a sexual violence and the low level of legal awareness of the Polish society. In addition, a few other problems should be pointed out, namely the passivity of the Polish society and existing beliefs in the myths on violence, the high financial costs of civil cases, lack of appreciation of consensual modes of procedure or a need to an interdisciplinary approach to the problem.

The author expresses great hope that the outlined problems will gradually disappear as the Polish society continue to develop its legal awareness, the investigators deepen their knowledge of the problem and in the legislative process a greater importance is given to expert opinion.

3. Summary of research and policy (if any) on gender-based sexual violence against female university student in Poland

Research

In Poland no research is available on the issue of gender-based sexual violence against female students. Available data usually refers to domestic violence in which women are victims.

Data on sexual harassment (in regards to women and men) can be found in the 2007 research report of the Public Opinion Research Centre (CBOS). It states that 22% of Polish women admit facing inappropriate, sexual comments at workplace. Physical harassment has been reported by 7% of the surveyed (women and men). Among the perpetrators the most often mentioned are a stranger (30%), a colleagues from work (at a workplace, at the university) – 20,6%⁴².

Until recently the problem of stalking has not been researched in Poland. The first research on this issue was undertaken in 2006 by J. Skarżyńska-Sernegalia (Associazione Italiana di Psicologia e Criminologia, Osservatorio Nazionale Stalking) on a representative sample of randomly selected 2000 persons (1016 women and 984 men) at the age of 16-69. Research results indicate that 12% of the surveyed have been victims to stalking with 72% of the victims being women. In 88% of the cases, the stalker was not a stranger to the victim (in 58% it was a current partner or a previous partner⁴³). The most recent research (2010) was conducted by CBOS in late

⁴² CBOS, *Molestowanie seksualne BS/35/2007*, Warszawa 2007. Questions were asked in a framework of cyclical research “Current Problems and Events” (“Aktualne problemy i wydarzenia”) and conducted in the period of February 2nd-5th 2 007 on the randomly selected sample of 931 persons.

⁴³ <http://www.stalking.it/?p=220> (accessed on 9.12.2011).

December 2009 on a representative sample of the adult population. The research consisted of 1,200 telephone interviews. Its results indicate that 10% of the respondents had (77%) or still have (19.9%) experiences related to stalking. The most frequent cases of stalking were slander (70%), threats (50%) and silent phone calls (46%). As many as 68% of the respondents admitted to having experienced stalking in more than one form⁴⁴.

The most thorough analysis of the phenomenon of sexual violence towards Polish women is the study by B. Gruszczyńska⁴⁵. This publication includes results of research which was conducted in 2004 on a national sample of 2,009 randomly selected women at the age of 18 to 69. The research was based on direct interviews. It turned out that 1/3 of Polish women have experienced some form of physical violence after the age of 16, while every sixth have experienced sexual violence. 18% of women have experienced physical or sexual violence in childhood. Every sixth of the respondents has been victim to violence by her partner (husband, domestic partner, boyfriend). The most frequent forms of physical violence were: beating, tugging, kicking, pulling hair, but reported were cases of a forced sexual intercourse, also with the involvement of third parties). The second most frequent form of violence is psychological violence achieved through terrorizing, humiliating, limiting personal freedom in contacts with others. 60% of women admitted that mobbing (bullying) was taking place at their workplace, while 8% declared to have been direct addressees of such behaviour. Only one in four victims informed the Police about the crime.

In Poland no research has been conducted on the issue of sexual violence towards women, and gender-based crimes. Before the research conducted by B. Gruszczyńska the only available data had been the CBOS report on domestic violence. Data published in the 2003 CBOS research report indicates that 38% of Poles (N=1105) knows at least one woman who has been victim to domestic violence⁴⁶, 13 % of the respondents (both women and men) have been hit at least once by their spouse during a domestic dispute⁴⁷. According to the data published in the next CBOS research report (2009) 26% (N=1048) of the surveyed knows at least one woman who has been victim to domestic violence coming from their partner. As many as 17% know at least a few of such women⁴⁸. 9% of the researched claim that they have been hit at least once by their partner during a domestic dispute. Similar results were

⁴⁴ B. Gruszczyńska, M. Marczewski, P. Ostaszewski, A. Siemaszko, D. Woźniakowska- Fajst, *Stalking w Polsce. Rozmiary – formy – skutki*, Instytut Wymiaru Sprawiedliwości, Warszawa 2010.

⁴⁵ B. Gruszczyńska, *Przemoc wobec kobiet w Polsce. Aspekty prawnokryminologiczne*, Wolters Kluwer, Warszawa 2007.

⁴⁶ The respondents were first asked a question regarding conflicts in their nearest surroundings because the researchers had assumed that it would be easier for the respondents to provide examples of the injured persons than talk about their own experiences.

⁴⁷ CBOS, *Przemoc i konflikty w domu (Violence and conflicts at home) BS/156/2003*, Warszawa 2003.

⁴⁸ CBOS, *Przemoc i konfliktu w domu BS/35/2009*, Warszawa 2009.

obtained by Eurobarometr in 2010⁴⁹; 26% of the respondents knew the woman who was victim to domestic violence⁵⁰.

One of the few sources of information of violence among students is a research project titled "Students 2000" which was ordered by the State Agency for Prevention of Alcohol Related Problems (PARPA). In 2000 the research was conducted on the sample of 9372 students in their first, second and third year of studies in 40 institutions of higher education in 8 largest academic cities in Poland. The research was focused on the consumption of alcohol and other psychoactive substances. Among the research results that could be of interest in this project is the information that 31% of the respondents reported having experienced physical violence (such as beating, tugging, pushing) while 42% of the students were the addressees of psychological violence (swearing, threatening, blackmailing)⁵¹.

In regards to the problem of a sense of safety among students available research includes the work of M. Żoźna. The research was based on a random survey of 300 students (including 175 women) of the Nicolaus Copernicus University in Toruń. The questionnaire focused on the crimes that the students encountered (in an active or passive way), the sense of being threatened by crime and the sense of security in the city⁵².

Policy

In the chapter focusing on legal issues presented are the measures used by the Polish state to counteract violence by punishing the perpetrators. The state has also equipped Polish institutions of higher education with measures to counteract such behaviour. Based on the decision of a disciplinary commission and/or arbitration by fellow members, Polish institutions of higher education are authorised to penalize students whose behaviour is violating the student's dignity of others⁵³. Another policy element worth mentioning are the special programmes for victims. At the national level, the organisation responsible for providing help services to victims is the Polish Nationwide Emergency Service for Victims of Domestic Violence, the so-called "Blue Line" which is run by the Health Psychology Institute of Polish Psychological Association⁵⁴. This hotline helps victims to domestic violence find support through its network of organizations which offer help services. It is reported

⁴⁹ This is an international project of a systematic research of public opinion conducted on demand of the European Commission http://ec.europa.eu/public_opinion/description_en.htm (accessed on: December 10, 2011.).

⁵⁰ Eurobarometr, *Przemoc domowa wobec kobiet*, Eurobarometr 73.2. Research was conducted in the period of February 27 to March 14 2010 on the sample of 1,000 persons.

⁵¹ Detailed results available on: http://www.parpa.pl/index.php?option=com_content&task=view&id=127&Itemid=179 (accessed on December 8th, 2011)

⁵² Detailed description of research in electronic version – M. Żoźna, *Studenci prawa- poczucie zagrożenia, przestępczość i wiktyfikacja w świetle badań ankietowych*, dostępna pod adresem - http://www.iureetfacto.amu.edu.pl/pdf/pub_dok_04.pdf (only Polish version).

⁵³ Article 211 and Article 212 of the Law on Higher Education of July 27th 2005.

⁵⁴ <http://www.niebieskalinia.pl/index.php> (accessed on December 10th 2011)

that in 2009, 3,900 persons used the “Blue Line” (the Warsaw phone number). Out of them 80% sought information, 22% sought legal advice, 23% psychological support. The topic of 85% of conversations was domestic violence. In majority of cases, the caller was the victim or a witness to a crime. Women made 80% of the calls. In 2010, 3,910 phone calls were registered; the topic of 88% was domestic violence, just like in 2009, majority of the calls were made by women⁵⁵.

In 2009, the Polish Ministry of Justice launched a website called pokrzywdzeni.gov.pl. The website provides information for persons who have been victim to a crime (for example contact information for help centres, examples of different forms and letters to be sent to institutions). The Ministry has been supporting the building of a Network of Help to Victims to Crime (Sieć Pomocy Ofiarom Przestępstw) within which have been created 16 Centres for Crime Victims. Nonetheless, because the Polish law only demands an application of the previously mentioned disciplinary measures, Polish institutions of higher education lack a uniform policy for crime victims. Hence, there are differences between the universities and other institutions of higher education in the forms and range of undertaken help service. Some universities have established a position of a consultant/ombudsman for security services. In Kraków some universities have been involved in the programme of integrated safety policy titled *University promoting safety* (see page 29 of the report). However, due to lack of institutional support, many grassroots activities focused on providing help even if undertaken, often end after a very short period of time, as was the case in the Institute of Pedagogy at the Jagiellonian University.

4. Description of the conduct of the Polish research

The first stage of the project included quantitative research conducted by means of an on-line questionnaire sent to female students of the Jagiellonian University. The questionnaire was distributed in the period of 29.10-31.11.2009. The students were invited to take part in the research project by an email which had been sent through the university's electronic system USOS⁵⁶ to all students (to ensure adequate protection of personal data, it was impossible to divide the addressees into two categories: men and women). In the mid of the research project among students distributed were special postcards (with four different designs presenting the stereotypes of sexual gender violence – see the attachment 1) which were used as an advertisement to take part in the research project. Altogether 4,021 people logged into the survey website and 2,226 filled in the questionnaire, which constitutes 7,2% of

⁵⁵ Ogólnopolskie Pogotowie dla Ofiar Przemocy w Rodzinie „Niebieska Linia”, *Zestawienie danych z rozmów w poradni „warszawska niebieska linia” za okres 11.06.2007-31.12.2010 r.*

⁵⁶ The name USOS stands for Uniwersytecki System Obsługi Studentów and is an Internet platform used by university staff and students for communication (announcements, publishing of exam grades, exam dates, evaluation surveys, electronic mail).

all university female students. In the final part of the questionnaire the students could express their opinions about the research. A great majority of the respondents expressed their content towards the fact that research on this topic had been undertaken (for example: *"I am happy that the Jagiellonian University has decided to take care of the problem of academic violence towards women since I believe that this is a serious problem which for too long has been ignored by the academic community possibly in order to protect some University staff"*). A positive response was also given to the links to internet websites of institutions which offer help services and which were provided in the final part of the questionnaire. The respondents underlined that both the links and the questionnaire were of educational value (*"I think that it is a very good idea to provide in the questionnaire information on where to go. I am also happy that there is interest in the problem of women security at the university, which is why this research project has been undertaken."*). On the other hand, negative assessments were given to the length of the questionnaire and the fact that the research was directed only to women. Excluding men from the research project was not only disapproved by female respondents. Throughout the project, the research team received many emails from male students who also were not happy with their exclusion from the research project.

The second stage of the research project included an organisation of focus groups participated by female students. Discussed were focused on the following topics: safety in the city and at the university, understanding of the concept of violence and especially sexual violence, establishing a characteristic of a potential perpetrator and a victim, effects of a violent act, and ways to obtain help. Participants in this part of the research were female students who, in the on-line questionnaire, had expressed their interest in participating in the focus group meeting and provided their email addresses. Over 150 persons registered as interested to participate in the focus group meetings. To participate in the discussions students were invited by email which also included information on the research objective. Invited students were given three different dates of meetings to choose from. The first round of meetings took place in December 2009 and January 2010. The first four meetings were attended by 33 female students. The remaining students did not respond to the invitations or did not come to the meetings. The second round of focus groups was organized in the late January and February of 2010. In addition to the re-sending of invitations to students who had agreed to participate in the project in an on-line questionnaire, announcements were made during lectures and classes to encourage students to participate. To encourage higher participation students were assured, both in the letter sent to students and the oral invitations, that they would receive a small gift for participating in the project. Altogether, 7 meetings were organized which were participated by 41 students. The meetings, on average, lasted from 1,5 to 2 hours.⁵⁷

⁵⁷ The gift was a pen-drive in a shape of a women's bag (see attachment 2). Responsibility for the implementation of the second stage of the research was given to Ms. Irmina Kuszydarowska, the secretary of the grant project from June 1st 2009 to January 31, 2010.

The next stage was interviews with stakeholders⁵⁸. This stage of research included in-depth individual or collective interviews which were organized between May and June 2010. Altogether 21 interviews with 25 stakeholders were conducted. The interviews lasted from 30 minutes to 1,5 hour. Purposive sampling was used as a selection method for the population. The selection criterion was the stakeholder's engagement (a real one or resulting from the profession/function performed) in the area of providing security to female students (in this context broadly understood sexual harassment and sexual violence). Consequently, four categories of respondents were selected:

- representatives of institutions and organizations which are structurally or functionally related to the Jagiellonian University (students representatives, administrators of students dorms, supervisor of the University Legal Counsel⁵⁹);

- representatives of other Kraków-based institutions of higher education (ex. safety coordinators);

- representatives of the state's institutions of the justice system in the city – the judges, prosecutor, the Policemen;

- representatives of city institutions and NGOs offering help services to those who are seeking help and whose work is directly related to the research topic (e.x. representative of the "Autonomia" foundation⁶⁰).

Stakeholders were invited to participate in the research in direct telephone conversations, in emails, but also by formal letters sent to their institutions. Many of the stakeholders would ask for more information on the topic of the discussion and an explanation why they had been chosen for this interview as majority of them did not feel competent enough to participate in the research (many would respond negatively to being called "an expert" and would consider terms such as "professional", "specialist" as more adequate). The respondents were more willing to agree to a "conversation" and not an "interview". Two institutions rejected an invitation to an interview: a specialist from a mental health clinic – Scanmed Psyche⁶¹ and a representative from the academic ministry at St. Anna's Church in Kraków⁶². One of the respondents did not agree for the interview to be recorded. At times, already after the

⁵⁸ Due to lack of a Polish equivalent, the interviews were given a working name of "interviews with experts"

⁵⁹ The Counsel operates as an optional class that students of law can choose in the course of their studies. Students provide legal advice, under the supervision of academic staff, to persons in difficult financial situation.

⁶⁰ Information about the foundation can be found on: <http://www.autonomia.org.pl/index.php?id=angielski> (accessed on November 25th 2011)

⁶¹ In the past, Scanmed Psyche had an agreement with the Jagiellonian University to provide medical services, including periodical check-ups of university students. In addition, its building is located near the dorms. That is why the researchers sought an interview with a psychologist who provides services to students. In telephone conversations, the staff of the clinic did not express interest in participating in the interview. There was also no answer to the official letter sent to neither the Board nor a justification why the representative of the clinic would not participate in the research project.

⁶² St. Anna Church is a parish church of the Jagiellonian University and provides help services to student. The priest on duty refused to participate in the interview explaining that he does not deal with such issues.

official interview, stakeholders wanted to add some informal remarks (stressing that these statements were off-record) and present some cases which they were familiar with or find out more about the research project. Majority of the experts offered further help and expressed interest in cooperating with the researchers as well as interest in the final results both of the stage they had participated in and the project as a whole.

The subsequent stage of the project included again the on-line questionnaire. Following the analysis of data gathered in the first stage, the European research team decided to make some changes in the structure of the questionnaire and remove the parts which referred to the self-assessment of the respondent (first three questions) as well as reformulate some answers. Changes were meant to obtain more detailed data and simplify the process of filling up the questionnaire. In the first stage of the research, students would often choose an answer "other" with an opportunity to provide a detailed explanation. After the analysis of the questionnaire, semi-open questions were changed into closed questions (for more on the research procedure see chapter 3.1. of the final report).

Fifteen institutions of higher education from different parts of Poland were invited to participate in the second stage of the research project. The institutions differed in areas of specialties and sizes. Six institutions were first contacted by means of an informal invitation sent to one of the academic staff and once this person agreed to participate in the research team together with this staff member would send a formal invitation to the rector for the institution to participate in the research. The remaining nine institutions received formal invitations, sent by post, which were addressed to the rector. From the institutions which had been approached this way, only one agreed to participate in the research project. The table below presents more detailed information on institutions participating in this stage of the project.

Table 6. Characteristics of institutions of higher education participating in the second stage of the research (wave B).

Category:			
Type of institution of higher education	University	Academy	A non-university higher education institution –
Number of schools	4	2	1
Profile	General	Medical	Physical education
Number of schools	5	1	1
Type	Public	Private	
Number of schools	6	1	
Geographical location in Poland	North /South	East/West	Central Poland
Number of schools	1/3	0/2	1
Size of the city where the school is located (number of inhabitants)	more than a million/ urban agglomeration ⁶³	up to a million	up to 500 thousand.
Number of schools	1/2	2	2

The research was conducted from October 2010 to January 2011. In each researched university (higher education institution) 2 persons were responsible for the project – an academic staff member who was responsible for the performance of research tasks and a student or a PhD student who was in charge of collecting data and promoting the research project. The research was conducted by means of: an official email sent to female students (2 universities/institutions of higher education), an email sent from a mailing list of student organizations, posters, brochures, in-class announcements, internet websites, school TVs, Facebook (an add on the school's page, creating an "event", sending invitations), and on students' forums. The highest attendance was noted in universities/institutions of higher education which sent invitations by email (30, 2% female students participated in the first one and 18,1% in the second one). In the remaining institutions 3 to 6% of the students responded to

⁶³ University departments are in different cities.

the invitation. Altogether, 7,891 persons logged in on the questionnaires website and 4,999 students filled in the questionnaire.

The stage of data collection of the first three stages of the research was followed by the work on preparing *good practices* for the Jagiellonian University. In December 2010 the model was presented to the Rector for Students Affairs along with the preliminary research findings and an argumentation supporting the postulates included in the model. In January 2011 two meetings took place with the Rector during which further details were discussed as well as the practical application at the Jagiellonian University. On March 31, 2011 following Order number 37 of the Rector of the Jagiellonian University, according to a presented recommendation, an institution of a spokesman for students' security was established (see attachment 3).

The last phase of the project included an assessment of the model of *good practices* created by the Polish team. The team asked the Rector's spokesman for students' security for his assessment of the proposed solutions. During the meeting the team also discussed other subjects related to the general problem of students' security as well as the plans for future actions and long-term policy with particular emphasis on the gender based sexual violence.

5. Key data findings from the project on gender-based sexual violence at universities in Poland (from wave A and B):

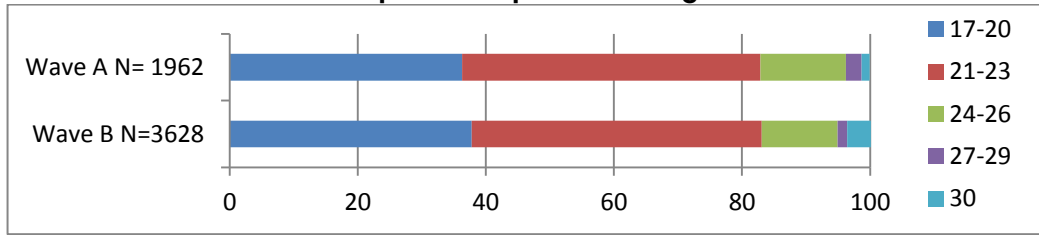
Presented below are key findings of the research at the Jagiellonian University (wave A) as compared to the second stage of the research which took place in selected institutions of higher education in Poland (wave B). In greater detail presented are differences between results of both stages and more detailed data, which was obtained after the modification of the original questionnaire.

Presentation of results follows the structure of the questionnaire. That is why; the presentation of results follows the sequence: harassment, stalking, sexual violence.

As earlier explained, in the first stage of the research (wave A) respondents comprised of female students from the Jagiellonian University; 96% (N=1961) of them were of Polish origin. 72% (N=1959) of the respondents were Roman Catholic while 15% atheist.

The second stage of the research (wave B) included students of 7 different universities/institutions of higher education. 99,2% (N=3721) of respondents at this stage were of Polish origin. 81,5% (N=3737) declared Roman Catholicism as their religious denomination, while 11% stated to have been atheists.

Graph 1. Respondents' age.



Graph 2. Respondents' place of residence at the time of stud

