Attachment No. 3

Of the number of all persons convicted of such crimes, judicial statistical forms distinguish persons convicted of acts constituting domestic violence.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Types of offences in the Criminal Code** | **Total judged persons** | **Convicted**  **in total** | **Deprivation of liberty** | | **Self-imposed**  **fine** | **Restriction of liberty** | **Conditionally discontinued proceedings** | **Discontinued proceedings** | **Acquitted** | **Mixed penalty** |
| **in total** | **including with**  **conditional suspension** |
| In total, including Article: | **14914** | **12340** | **8700** | **6149** | **1,011** | **2408** | **1419** | **771** | **362** | **216** |
| 156 | 40 | 38 | 36 | 20 | 0 | 0 | 1 | 0 | 0 | 2 |
| 157 § 1 | 256 | 194 | 102 | 66 | 36 | 53 | 42 | 11 | 8 | 3 |
| 157 § 2 in conjunction with § 4 | 200 | 133 | 38 | 28 | 53 | 42 | 46 | 14 | 5 | 0 |
| 189 | 4 | 4 | 2 | 1 | 0 | 1 | 0 | 0 | 0 | 0 |
| 190 | 920 | 736 | 245 | 131 | 251 | 236 | 68 | 75 | 39 | 3 |
| 190a § 1 | 201 | 164 | 87 | 53 | 42 | 34 | 12 | 19 | 6 | 1 |
| 190a § 2 | 11 | 10 | 4 | 1 | 2 | 4 | 0 | 0 | 1 | 0 |
| 190a § 3 | 2 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| 191 | 47 | 38 | 22 | 17 | 13 | 3 | 6 | 2 | 1 | 1 |
| 191a | 12 | 6 | 3 | 1 | 1 | 2 | 3 | 2 | 1 | 0 |
| 193 | 14 | 11 | 3 | 1 | 4 | 4 | 3 | 0 | 0 | 0 |
| 197 § 1 | 111 | 103 | 95 | 37 | 0 | 1 | 0 | 4 | 4 | 7 |
| 197 § 2 | 18 | 16 | 16 | 11 | 0 | 0 | 0 | 1 | 1 | 0 |
| 198 | 8 | 7 | 7 | 4 | 0 | 0 | 0 | 0 | 1 | 0 |
| 199 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 § 1 | 91 | 74 | 68 | 25 | 1 | 1 | 0 | 3 | 14 | 4 |
| 200 § 2 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 200 § 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 § 4 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 200 § 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 201 | 5 | 1 | 1 | 0 | 0 | 0 | 2 | 2 | 0 | 0 |
| 202 § 1 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 202 § 2 | 3 | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 0 |
| 202 § 3 | 3 | 3 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 1 |
| 202 § 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 202 § 4a | 3 | 2 | 2 | 2 | 0 | 0 | 0 | 1 | 0 | 0 |
| 202 § 4b | 22 | 22 | 22 | 19 | 0 | 0 | 0 | 0 | 0 | 0 |
| 202 § 4c | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 203 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 207 § 1 | 10972 | 9133 | 7170 | 5243 | 283 | 1,505 | 1041 | 546 | 245 | 171 |
| 207 § 2 | 16 | 14 | 14 | 6 | 0 | 0 | 0 | 1 | 1 | 0 |
| 207 § 3 | 27 | 26 | 23 | 12 | 0 | 0 | 0 | 0 | 1 | 3 |
| 208 | 3 | 3 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 |
| 267 § 1 | 5 | 2 | 0 | 0 | 2 | 0 | 2 | 1 | 0 | 0 |
| 278 § 1 | 123 | 123 | 100 | 29 | 21 | 49 | 6 | 13 | 4 | 1 |
| 279 § 1 | 69 | 63 | 48 | 28 | 1 | 10 | 2 | 4 | 1 | 4 |
| 280 § 1 | 17 | 15 | 11 | 3 | 0 | 1 | 0 | 0 | 2 | 3 |
| 282 | 11 | 11 | 10 | 4 | 0 | 0 | 0 | 0 | 1 | 1 |
| 284 § 1 | 44 | 35 | 14 | 9 | 17 | 4 | 5 | 2 | 1 | 0 |
| 286 § 1 | 51 | 40 | 26 | 20 | 6 | 7 | 3 | 7 | 1 | 1 |
| 288 § 1 | 39 | 29 | 13 | 9 | 5 | 11 | 5 | 4 | 0 | 0 |
| Others | 1562 | 1299 | 581 | 379 | 269 | 438 | 168 | 63 | 25 | 11 |
|  | | | | | | | | | | |

Statistical data obtained within the scope of jurisdiction of district courts in such a system for 2016 are as follows[[1]](#footnote-1):

The data presented above show that, of the crimes which qualified as domestic violence, the most common crime in 2016 was, as in previous years, the crime of abuse and criminal threats.

Statistical data concerning jurisdiction of district courts in such a system for 2016 are as follows:[[2]](#footnote-2)

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Types of offences in the Criminal Code** | **Total judged persons** | **Convicted**  **in total** | **Deprivation of liberty** | | **Self-imposed**  **fine** | **Restriction of liberty** | **Conditionally discontinued proceedings** | **Discontinued proceedings** | **Acquitted** | **Mixed penalty** |
| **in total** | **including with**  **conditional suspension** |
| In total, including Article: | **157** | **146** | **139** | **9** | **0** | **0** | **1** | **8** | **2** | **0** |
| 148 § 1 | 63 | 58 | 57 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 148 § 2 | 9 | 8 | 4 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| 148 § 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 148 § 4 | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 156 § 1 and 3 | 12 | 12 | 12 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| 197 § 3 | 32 | 31 | 31 | 2 | 0 | 0 | 0 | 0 | 1 | 0 |
| 197 § 4 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Others | 38 | 34 | 32 | 5 | 0 | 0 | 1 | 2 | 1 | 0 |

In cases under Art. 148 § 1 and 2 of the Criminal Code there were also 5 sentences of life imprisonment.

Data presented below concern the number and gender of convicted persons and victims of particular types of crimes qualifying as domestic violence according to Article 2(2) of the Act *on Counteracting Domestic Violence.*

It should be noted that in accordance with the requirements of the National Programme, since 2014 the gender of convicted persons has been tested. According to the collected data, women, as perpetrators of acts classified as domestic violence according to Article 2 (2) of the Act *on Counteracting Domestic Violence*, constitute only a small percentage.

In the case of the above mentioned crimes qualified as domestic violence, women were most often the victims.

The indicators adopted in the National Programme are presented in the following summary table.[[3]](#footnote-3)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of measure** | **Indicator** | | | **Value of the indicator denoted by common courts** |
| Case-law of common courts, in the field of criminal law, with regard to penalties, criminal measures, probationary measures and other effects on persons using domestic violence | number of persons accused of domestic violence | judged persons | in total | IQGV9140X0K0UPBL8OGU3I44JZTMFMXCIQSECDX38ALEFHUB0015 071 |
| including Article 207 of the Criminal Code | 11,015 |
| convicted | in total | 12,486 |
| including women | 542 |
| including men | 11,944 |
| including Article 207 of the Criminal Code | 9173 |
| including women | 292 |
| including men | 8,881 |
| acquitted | in total | 364 |
| including Article 207 of the Criminal Code | 247 |
| conditionally discontinued proceedings | in total | 1,420 |
| including Article 207 of the Criminal Code | 1,041 |
| discontinued proceedings | in total | 779 |
| including Article 207 of the Criminal Code | 547 |
| number of perpetrators of family violence for whom the following penalties have been imposed | fine | in total | 1,011 |
| including Article 207 of the Criminal Code | 283 |
| restriction of liberty | in total | 2,408 |
| including Article 207 of the Criminal Code | 1,505 |
| deprivation of liberty | in total | 8,839 |
| including Article 207 of the Criminal Code | 7,207 |
| including deprivation of liberty with conditional suspension | in total | 6,158 |
| including Article 207 of the Criminal Code | 5,261 |

With reference to the data presented above, I kindly point out that the Department of Family and Minors Affairs does not collect data on the ethnic origin of victims or their nationality.

* **Statutory attributes of the act under Article 207 § 1 of the Criminal Code**

The offence of domestic violence is described in the Criminal Code in Article 207 in three editorial units, as one basic type (Article 207 § 1 of the Penal Code) and two aggravated types (Article 207 § 2 and 3 of the Criminal Code). However, it should be pointed out that this provision may also apply to crimes which will not be classified as domestic violence, given that it may also include such behaviour, e.g. consisting in abuse against strangers (not being closest relatives). They may also include strangers, however, depending remaining dependent on the perpetrator, minors, or vulnerable persons due to their mental or physical condition.

The basic type of the offence of abuse under Article 207 § 1 of the Penal Code has the following statutory characteristics (criteria):

* physical or mental abuse;
* concerning an immediate family member or another person who is in a permanent or temporary relationship of dependency with the perpetrator;
* concerning a minor or a person vulnerable due to their mental or physical condition.

The legislator provided for a penalty of imprisonment for a term between 3 months and 5 years for such behaviour.

Another type of offence is aggravated abuse under Article 207 § 2 of the Criminal Code, which is characterised by an additional attribute, namely the use of particular cruelty. The sanction is a penalty of imprisonment for a term of one to ten years.

The last aggravated type, under Article 207 § 3 of the Penal Code, is the offence of abuse, which resulted in the victim attempting suicide. The sanction is a penalty of imprisonment for a term of 2 to 12 years. The following table shows the data concerning the number of convicted persons under Article 207 § 1 of the Criminal Code by district courts. [[4]](#footnote-4)

Persons convicted in district courts for the offence under Article 207 § 1 of the Criminal Code from 1999 to 2016

**Courts' case law on the offence of abuse under Article 207 of the Penal Code, classified exclusively as domestic violence ("rodz")**



As a preliminary remark, it should be noted that the following data relate to the basic act referred to in Article 207 § 1 of the Criminal Code qualified only as domestic violence.

No reference was made to both aggravated types of this offence under Article 207 § 2 and § 3 of the Criminal Code, due to the fact that the number of convictions in this respect is minimal (40 convictions in 2016).

In 2016, in district courts in Poland a total of 10,972 persons were non-finally tried under Article 207 § 1 of the Criminal Code[[5]](#footnote-5).

Of which:

* 9,133 – convicted;
* 245 – acquitted;
* 1,041 – proceedings were conditionally discontinued;
* 546 – proceedings were discontinued;

Percentage ratio of the types of district court judgements in Poland in 2016 within the scope of Article 207 § 1 of the Criminal Code



In 2016, in district courts in Poland a total of 9,133 persons received non-final sentences under Article 207 § 1 of the Criminal Code[[6]](#footnote-6) (2015 - 10,186).

Of which the following were imposed:

* 171 – mixed penalty (2015 - 37);
* 283 – fines (self-imposed) (2015 - 187);
* 1505 – restriction of liberty (2015 - 674);
* 7,170 – deprivation of liberty (2015 - 9,284)
  + including:
    - 1,927 **–** immediate (2015 – 1,438),
    - 5,243 (2015 - 7,846)– with conditional suspension of execution.

These figures show that imprisonment with conditional suspension constitutes the largest proportion of all penalties for domestic violence. Although there is a noticeable increase in the number of imprisonment sentences imposed without conditional suspension.

The increase in the number of immediate penalties imposed may be affected by an amendment of Article 69 § 1 of the Criminal Code dated 20.02.2015 ([Journal of Laws of 2015, item 396](http://sip.legalis.pl/document-view.seam?documentId=mfrxilrtgeydqmjrg44daltqmfyc4mzqgyzdqmbtgy)), which came into force on 1.07.2015. The amendment provides that the Court may conditionally suspend the execution of a prison sentence for a term of up to one year if the perpetrator was not sentenced to imprisonment at the time of committing the offence.

Percentage ratio of types of penalties imposed in district courts in Poland in 2016 under Article 207 § 1 of the Criminal Code



When imposing the penalty of deprivation of liberty for an act under Article 207 § 1 of the Criminal Code, courts applied it within the lower limits of the statutory threat.

Percentage ratio of levels of penalties imposed in district courts in Poland in 2016 under Article 207 § 1 of the Criminal Code



In 2016, 13 sentences of 1 month's imprisonment were given, 6 sentences of more than 5 to 8 years' imprisonment and 2 sentences of more than 8 years' imprisonment.

From 2014 onwards, information on the gender of perpetrators of crimes sentenced by common courts is collected, including under Article 207 § 1 of the Criminal Code. Thus, in 2016 there were 9,133 convicted persons[[7]](#footnote-7)

* 289 women - 8844 men.

Among the victims of the crime referred to in Article 207 § 1 of the Criminal Code in 2016 there were[[8]](#footnote-8):

* 11,743 women,
* 2,565 men.
* 3,135 minors, including:

- 1458 girls; - 1677boys;

Victims of the offence under Article 207 § 1 of the Criminal Code

As already pointed out above, in view of the fact that the offence of abuse may also include acts which transcend the limits of violence against immediate family members ones (e.g. abuse against person in a permanent or temporary state of dependence to the perpetrator, a minor or a person who is vulnerable because or their mental or physical condition), it should be borne in mind that a minor part of the data presented above will concern victims who are not immediate family members or co-residents of the perpetrator but have been identified as victims of domestic violence.



* **Penal measures taken by common courts**

Effective 1 August 2010, i.e. from the date of entry into force of the Act *amending the Act*  *on the prevention of domestic violence*  *and certain other acts*, provisions are in force which introduce new or amended penal measures applicable to perpetrators within the family, i.e. an order to leave the premises occupied together with the victim(Article 39 (2e) of the Criminal Code in conjunction with Article 41a of the Criminal Code) and the prohibition to approach the victim(Article 39 (2b) of the Criminal Code in conjunction with Article 41a of the Criminal Code).

As of 1 January 2014, the above mentioned data were collected exclusively for domestic violence perpetrators. Given that these data are collected for the third time, they should be treated with caution and considered rather underestimated compared to actual data. The new statistics therefore show that the following measures are applied only to persons convicted of acts classified as domestic violence[[9]](#footnote-9):

* obligation to refrain from staying in particular environments or places (Article 39 (2b) of the Criminal Code) – 22 persons, against women – 0, against men – 22, (2015 - 33, against women - 0, against men - 33),
* ban on contacting certain persons (Article 39 (2b) of the Criminal Code) – 423, against women – 11, against men – 412, (2015 - 329**,** against women - 18, against men - 311),
* ban on approaching certain persons (Article 39 (2b) of the Criminal Code) – 655, against women - 16, against men - 639, (2015 - 423 against women - 11, against men 423, 297 (against women - 18, against men - 279),
* order to leave the premises occupied together with the victim (Article 39 (2e) of the Criminal Code) - 398, against women - 9, against men - 389, (2015 - 269 against women - 11, against men - 258),

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of measure** | **Indicator** | | | **Value of the indicator denoted by common courts** |
| Case-law of common courts, in the field of criminal law, with regard to penalties, criminal measures, probationary measures and other effects on persons using domestic violence | number of criminal measures imposed | an obligation to refrain from staying in particular environments or places | in total | 22 |
| including against women | 0 |
| including against men | 22 |
| ban on contacting certain persons | in total | 423 |
| including against women | 11 |
| including against men | 412 |
| ban on approaching certain persons | in total | 655 |
| including against women | 16 |
| including against men | 639 |
| order to leave the premises occupied together with the victim | in total | 398 |
| including against women | 9 |
| including against men | 389 |

* **Probationary obligations taken by common courts**

Since 1 January 2014, data have been collected on probationary obligations imposed on persons convicted for acts classified as domestic violence. For the third time data on all probationary obligations imposed solely against persons convicted of domestic violence are presented below.

In 2016 the following were imposed as probationary obligations by common courts[[10]](#footnote-10):

* obligation to refrain from staying in particular environments or places(Article 72 § 1(7) of the Criminal Code) 53, against women - 4, against men - 49, 2015 - 73, against women - 4, against men - 69),
* participation in remedial and educational activities(Article 72 § 1(6b) of the Criminal Code) – 819 against women - 42, against men - 777, (2015 – 821, against women - 37, against men - 784),
* refraining from contacting victims or other persons in a specific manner(Article 72 § 1(7a) of the Criminal Code) - 514 against women - 19, against men - 495, (2015 - 506 against women - 20, against men - 486),
* refraining from approaching the victim or other persons(Article 72 § 1(7a) of Criminal Code) - 324 against women - 7, against men - 317, (2015 - 304 against women - 12, against men - 292),
* order to leave the dwelling occupied together with the victim(Article 72 § 1(7b) of the Criminal Code) - 338 against women - 6, against men - 332, (2015 - 455 against women - 8, against men - 447),

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of measure** | **Indicator** | | | **Value of the indicator denoted by common courts** |
| Case-law of common courts, in the field of criminal law, with regard to penalties, criminal measures, probationary measures and other effects on persons using domestic violence | number of probationary measures imposed | obligation to refrain from staying in particular environments or places | in total | 53 |
| including against women | 4 |
| including against men | 49 |
| ban on contacting certain persons | in total | 514 |
| including against women | 19 |
| including against men | 495 |
| ban on approaching certain persons | in total | 324 |
| including against women | 7 |
| including against men | 317 |
| order to leave the premises occupied together with the victim | in total | 338 |
| including against women | 6 |
| including against men | 332 |
| participation in remedial and educational programmes | in total | 819 |
| including against women | 42 |
| including against men | 777 |

* **Execution of custodial sentences for domestic violence perpetrators in prisons - General data on the population of persons deprived of their liberty under Article 207 of the Criminal Code**

The Executive Criminal Code[[11]](#footnote-11) does not distinguish perpetrators of domestic violence as a separate category of convicted persons, requiring the use of specific measures of influence, except for those referred to in Article 67 § 3 of the Executive Criminal Code. However, the penitentiary sector as an important subject of state social policy performs a number of tasks resulting from other laws, including national programmes.

In order to describe the area of work related to the implementation of the abovementioned regulations, figures will be presented showing the population of persons convicted under Article 207 of the Criminal Code.

According to data as of 31 December 2016, a total of 4,256 persons suspected of having committed an offence under Article 207 § 1 of the Criminal Code or convicted of committing it were detained in all prisons and detention centres[[12]](#footnote-12)

Among these 4,256:

* 3,710 final convictions, 37 persons with non-final convictions and 509 provisionally detained,
* 86 women,
* 30 juveniles (43 men i 2 women).

1. Data from the MS District Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2016 [↑](#footnote-ref-1)
2. Data from MS Regional Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2016 [↑](#footnote-ref-2)
3. Monitoring of the jurisprudence of common courts 3.2.3 [↑](#footnote-ref-3)
4. Data from the MS District Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2016 [↑](#footnote-ref-4)
5. Data from the MS District Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2015 and Data from the MS District Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2016 [↑](#footnote-ref-5)
6. Ibidem*.* [↑](#footnote-ref-6)
7. Monitoring of the jurisprudence of common courts table 3.2.3 [↑](#footnote-ref-7)
8. Data from the MS District Courts - Poland MS-S6 Report on persons judged in first instance by material jurisdiction for 2016 [↑](#footnote-ref-8)
9. Monitoring of the jurisprudence of common courts table 3.2.3 [↑](#footnote-ref-9)
10. Ibidem. [↑](#footnote-ref-10)
11. Act of 6 June 1997 - *Executive Criminal Code* (Journal of Laws No. 90, item 557, as amended), hereinafter referred to as "the Executive Criminal Code". [↑](#footnote-ref-11)
12. Data come from the Central Board of the Prison Service – the number of persons refers to persons convicted solely on the basis of Article 207 of the Criminal Code and to persons in the case of whom Article 207 of the Criminal Code served as a basis for the conviction together with other prohibited acts. [↑](#footnote-ref-12)