

Effects of the increase in the
minimum sentence for
violation of integrity offences

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Summary of Brå memorandum

The Swedish National Council for Crime Prevention (Brå) – centre for knowledge about crime and crime prevention measures

The Swedish National Council for Crime Prevention (Brå) works to reduce crime and improve levels of safety in society. We do this by providing factual information and disseminating knowledge on crime, crime prevention work, and the justice system's reactions to crime.

This summary is included in the document *Effects of the increase in the minimum sentence for violation of integrity offences*, which is available in Swedish at www.bra.se/publikationer.

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Summary¹

The offences of gross violation of integrity and gross violation of a woman's integrity were introduced into the Penal Code in 1998 in order to combat violence in domestic relationships. The provision regarding gross violation of a woman's integrity applies to repeated violent offences, threat offences, or sexual offences which are perpetrated by a man against a woman with whom he is, or has been, married or with whom he cohabits or has cohabited. Gross violation of integrity refers to the same type of criminal offences, but when directed against another type of closely-related person, such as a parent, child, sibling, or male partner.

An amendment to the provision which entered into force on 1 July 2013 entailed an increase in the minimum penalty for these offences from six months' imprisonment to nine months' imprisonment. The Government's justification for the increase was that the nine-month minimum prison sentence would constitute a better reflection of the penal value of these offences. It was also argued that an increase in the minimum penalty would lead to a general increase in the penalty level for the offences, which was regarded as desirable.²

The provision was also amended in a way that meant that violation of integrity offences could include damage to a closely-related person's property or the violation of a restraining order in addition to the types of crime that could already constitute violation of integrity offences: offences against life and health (Penal Code, Chapter 3), offences against liberty and integrity (Penal Code, Chapter 4); and sexual offences (Penal Code, Chapter 6). According to the Government Bill that introduced the changes to the provision, property damage offences (Penal Code, Chapter 12) may constitute a violation of the crime victim's integrity. In the same way, the

¹ This is a translation of the Swedish summary of the memorandum *Effects of the increase in the minimum sentence for violation of integrity offences* (Effekter av straffskärpningen för fridkränkingsbrott). The full report in Swedish is available on Brå's website, www.bra.se.

² Government Bill 2012/13:108, *Förstärkt straffrättsligt skydd vid grov fridskränkning och grov kvinnofridskränkning* (Increased penal protection for aggravated violation of integrity and aggravated violation of a woman's integrity).

violation of a restraining order was also regarded as constituting a violation of integrity.³

In summary, the amendment of the provision resulted in more stringent minimum penalties and an expansion of the types of acts that can together constitute a gross violation of integrity.

In the Penal Code's description of the gross violation of integrity offences, the sanctioning scale for the offence (known as the abstract penal value) extends from a minimum penalty of imprisonment for at least nine months, to a maximum term of six years. Because of a series of other provisions in the Penal Code that govern the choice of sanction and sentencing severity, not all individuals who are convicted of such offences receive a prison term, and some of those who are imprisoned receive a sentence that is shorter than the minimum term.⁴ There is a presumption against the use of imprisonment in the Swedish Penal Code, which means that the court should select a non-custodial sanction over imprisonment to the extent that this is possible (see e.g. Ågren 2018, p. 104 ff.). One question is whether the increase in the minimum penalty and the expansion of the acts which can constitute gross violations of integrity have influenced the selection of sanction such that a larger percentage of the persons convicted of these offences have been sentenced to prison following the amendment of the provision. Another question concerns developments in the length of the prison sentences imposed.

The National Council's mandate

The Swedish Government has instructed the National Council for Crime Prevention (Brå) to analyse how the length of prison sentences for gross violations of a woman's integrity and gross violations of integrity have developed in light of the amendments made to the provision. In order to study whether the amendment of the provision has had any significant effect on the sanctions imposed in convictions in which the principal offence is gross violation of a woman's integrity or gross violation of integrity, this study analyses data from the convictions register.

The study's objective is to compare the sanctions imposed on persons convicted of offences that were committed at some point during a period prior to the amendment of the provision with the sanctions imposed on persons convicted of comparable offences that were committed during a period following the amendment of the provision.

The following questions are addressed:

- Following the amendment of the provision, has there been an increase in the proportion of those convicted of gross violation of integrity or gross violation of a woman's integrity who have received a prison sentence?

³ Government Bill 2012/13:108, see also Swedish Government Official Report SOU 2011:85.

⁴ Swedish Penal Code, Chapters 29 – 32.

- Has the increase in the minimum sentence led to any change in the length of the sentences imposed on persons who are sentenced to prison for these offences?

The study is intended to illuminate whether any changes have taken place in the sanctions imposed for these offences when the periods immediately prior to and after the amendment of the provision are compared. The analysis includes controls for the age and gender distribution of those convicted of the offences in question, as well as for their prior criminal records and whether the convictions include other offences in addition to the principal violation of integrity offence.

Methodology

All convictions that included gross violation of a woman's integrity or gross violation of integrity as the principal offence from the years 2009-2017 have been compiled in a data file. The convictions for each type of offence have been divided into two groups, depending on whether the offence occurred before or after the amendment of the provision entered into force (1 July 2013). The analysis has then examined whether there are any differences between the two groups with regard to the sanctions imposed upon conviction.

The analysis includes controls for the age and gender of the perpetrators, the number of offences in the convictions and the number of previous convictions during the five years immediately preceding the current conviction. By applying a weighting procedure, the two groups have been standardised with regard to the age and gender distribution of the convicted individuals, the number of offences in the conviction, and the number of previous convictions. This has been necessary in order to eliminate the impact of potential changes in these factors on any differences in sanctions between the groups examined. The report also presents results for each type of offence based on the original (unweighted) data. The results based on the weighted data are generally very similar to those found using the unweighted data. The results presented below are based on the weighted data.

Prison sanctions somewhat more common

Certain differences in the principal sanctions awarded by the courts can be observed following the amendment of the provision. There is an increase in the number of perpetrators sentenced to prison⁵ as the principal sanction for both gross violation of a woman's integrity and gross violation of integrity, but the differences are relatively small.

- Of those who were convicted of a gross violation of a woman's integrity offence that had been committed prior to the amendment of the provision, 75 percent were sentenced to

⁵ Excluding probation with a maximum of three months' imprisonment.

prison, compared with 79 percent of the persons found guilty of the same offence committed subsequent to the amendment of the provision.

- With regard to persons convicted of gross violation of integrity, the proportion sentenced to prison increased from 61 percent to 66 percent.

The structure of the sanctions imposed prior to and after the amendment of the provision is essentially the same, with imprisonment constituting the dominant sanction followed by probation.

Significant differences in the length of prison sentences

As regards the sentences imposed on those perpetrators whose principal sanction consisted in a term of imprisonment⁶, the amendment of the provision has had a clear effect. Between the two periods studied, there has been a clear shift towards more individuals being sentenced to at least nine months' imprisonment (the new minimum penalty). The proportion sentenced to at least nine months' imprisonment instead of six months' imprisonment has increased dramatically:

- The proportion of those sentenced to imprisonment for gross violation of a woman's integrity who have been sentenced to at least nine months' imprisonment has increased from approximately 54 percent to 94 percent.
- The proportion of those sentenced to imprisonment for gross violation of integrity who have been sentenced to at least nine months' imprisonment has increased from approximately 58 percent to 94 percent.

This has also contributed to an increase in the average length of the prison sentences imposed for these offence types. On average, the length of these sentences has increased by approximately two-month for both offence types.

- The average sentence for gross violation of a woman's integrity has increased from 10.2 months (median 10 months) to 12.1 months (median 12 months).
- The average sentence for gross violation of integrity has increased 11.9 months (median 10 months) to 13.8 months (median 12 months).

The trend is clear. Following the amendment of the provision, longer prison sentences have become more common for both gross violation of a woman's integrity and gross violation of integrity.

⁶ Excluding probation with a maximum of three months' imprisonment.

The study also included regression analyses focused on the prison sentences imposed for each type of offence. In addition to the control variables stated above (age, gender, number of offences in the conviction and previous convictions) the analyses also included a regional control variable in order to take account of possible regional differences in the nature of the offences and the sentences imposed. This regional variable is based on the geographical jurisdictions of the courts of appeal to which district court judgements may be appealed. The regression analyses also included an independent variable identifying whether the offence occurred prior to or after the amendment to the Penal Code provision. The analysis confirmed the conclusions described above, namely that the increase in the minimum sentence has led to an increase in the average length of the prison sentences imposed by the courts. These results apply irrespective of region.

The National Council's assessment

A first conclusion of the study is that the amendment of the provision does not appear to have had any major impact on the distribution of the various types of principal sanction imposed in convictions for violation of integrity offences. However, a certain increase can be observed in the proportion of persons found guilty of the offence who are sentenced to prison, a proportion that was already relatively high prior to the amendment. The second conclusion is that, as anticipated, the proportion of those sentenced to prison who have been sentenced to at least nine months' imprisonment has increased significantly following the increase in the minimum sentence. The third conclusion is that the sentences for the majority of those sentenced to prison for violation of integrity offences have as a rule become longer following the increase in the minimum sentence. These results may be regarded as being consistent with the intentions behind the amendment.