

FOCUS

Femicide

The final report of the first Italian Joint Committee of Inquiry: prosecution of gender-based violence

March 2018

How long does a trial for rape last in Italy? What is the percentage of convictions for the perpetrators of domestic abuse? Does the fast-track system really work for trials concerning violence on women? It is not easy to depict the situation of judicial proceedings for gender violence: databanks are not coordinated, data are sometimes incomplete, judicial offices seldom communicate with each other.

The parliamentary femicide investigation Committee, together with the Ministry of Justice, conducted a systematic investigation in 2017, enquiring at the Public Prosecutor's Offices, ordinary tribunals, courts of appeals and the Court of Cassation. Things are speeding up – most investigations into gender violence are completed within one year and 89% of rulings become final within three years – but the response is not uniform: about one quarter of the reports filed against known persons are archived and the acquittal percentages range from 12.6% in the Trento district to 43.8% in Caltanissetta.

The starting point

Article 132-ii of the Criminal Law, repeatedly amended over the past years (the latest modification was introduced with law no. 161 of 2017) has converted the crimes of abuse, stalking, sexual violence and group violence into priority crimes.

1. The investigation

The questionnaire drafted by the Committee of Inquiry gave an accurate picture of the national judicial situation concerning

gender violence.

The questionnaire was answered by 261 judicial offices out of 304, equal to 86% of the total.

Tipo Ufficio	N. totale Uffici	N. Uffici rispondenti	% rispondenti sul totale
Procure della Repubblica	140	123	88%
Tribunali Ordinari	140	114	81%
Corte di Appello	26	24	92%
Totale complessivo	306	261	85%

Office type

Overall number of offices

Number of offices that answered

Percentage

T-B: Public Prosecutor's Offices, Ordinary Tribunals, Courts of Appeals, Total

The investigation highlighted a number of critical aspects in the available statistical tools. The issue is understandably paramount, because the acquisition of statistical data is the only way to check whether the applicable rules are efficient and properly enforced.

For this reason, once the inquiry was completed, the need to improve records, so as to enable data control, was highlighted (for example, when dealing with precautionary measures, such as the "prohibition of approaching and communicating with the victim" or preventive measures such as an urgent departure from the family home ordered by the police – measures which are currently not included in court records).

2. Specialisation

The investigation verified the specialisation level of the judiciary and the police, based on the assumption that the support of an adequately trained personnel is crucial to attain acceptable results, not only in terms of enforcement, but also and above all when it comes to protecting victims and their relational aspects too.

The questionnaire yielded some very interesting data. Indeed, it was acknowledged that **62% of Public Prosecutor's Offices adopted organisational modules based on specialisation** (which means that these crimes are dealt with by 'specialised' judges). The figure was considerably lower for courts (13% for Tribunals, 21% for Courts of Appeal). **Even law enforcement agencies have set up, more and more often, specialised units**, especially the State Police, but the Carabinieri too are resorting more and more to such units.

3. Criticalities

The striking thing about the questionnaire's outcome is the **clear difference in the situations of the several regions**. There are districts where the presence of specialised law enforcement units is rather widespread (for example in the Bologna area), whereas others are totally lacking them (for example, in the Ancona district the specialised units are present in the State Police, but are not in place with the Carabinieri, which actually cover a vast territory. The same situation was observed in the districts of Bari, Lecce, L'Aquila and Trieste).

Protocols and anti-violence centres

Protocols are a precious tool that helps create a “protection network”, thus achieving cooperation between all the operators working on the field. 36% of the judicial offices reported that they signed network protocols; 44.8% of the total declared they did not sign them; 19.2% did not reply.

In this regard, more interesting data comes from the presence of anti-violence centres, which exist in 110 judicial districts. The figure is undoubtedly positive, but it is surprising that some judicial offices declared they were not aware of the existence of such centres.

4. Crimes

The data clearly provide evidence that **the most dangerous context for women is the household:** abuse “by a family member or cohabitant” accounts for over 48% of all crimes under the “gender violence” heading. It is not by chance that the majority of people under investigation for this crimes are known persons while a very high

percentage of proceedings for sexual violence and murder is still against unknown defendants.

The tables sum up the recorded crimes, subdivided into the four possible combinations: consummated crime, attempted crime, reports filed against persons known or unknown.

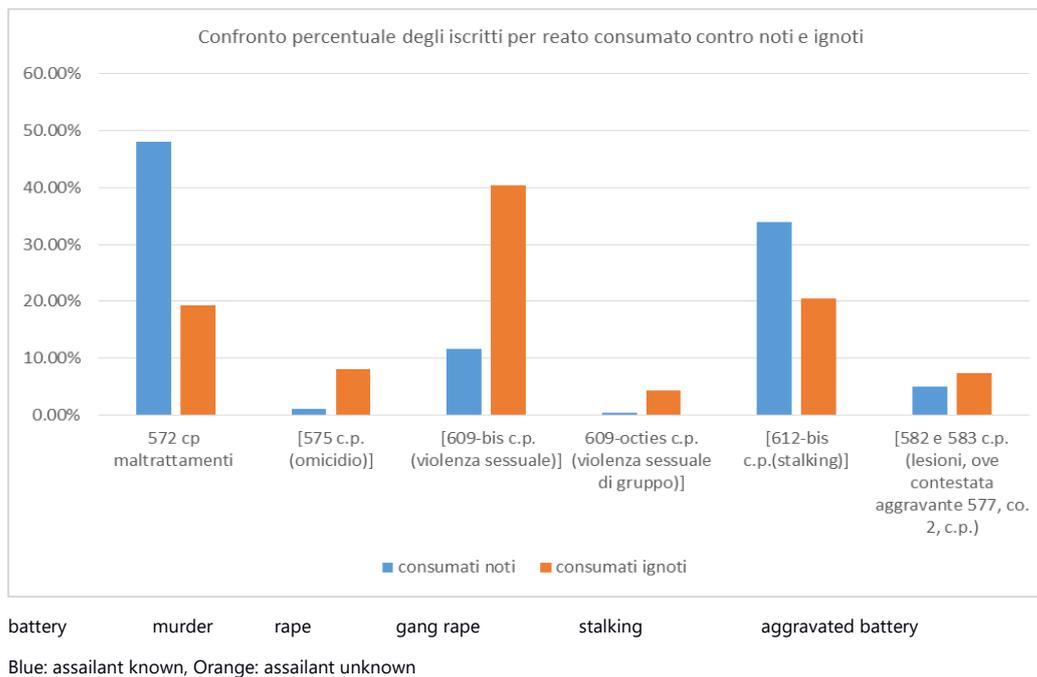
Table 2. Gender-based recorded crimes

Tipo reato	consumati noti	consumati ignoti	tentati noti	tentati ignoti
572 cp maltrattamenti	30158	624		
[575 c.p. (omicidio)]	658	261	758	83
[609-bis c.p. (violenza sessuale)]	7363	1305	781	152
609-octies c.p. (violenza sessuale di gruppo)]	217	137	21	10
[612-bis c.p.(stalking)]	21309	664		
[582 e 583 c.p. (lesioni, ove contestata aggravante 577, co. 2, c.p.)	3113	237	16	0
totale reati	62818	3228	1576	245

Committed, known persons Committed, persons unknown Attempted, known persons Attempted, persons unknown

T-B: battery, murder, rape, gang rape, stalking, aggravated battery

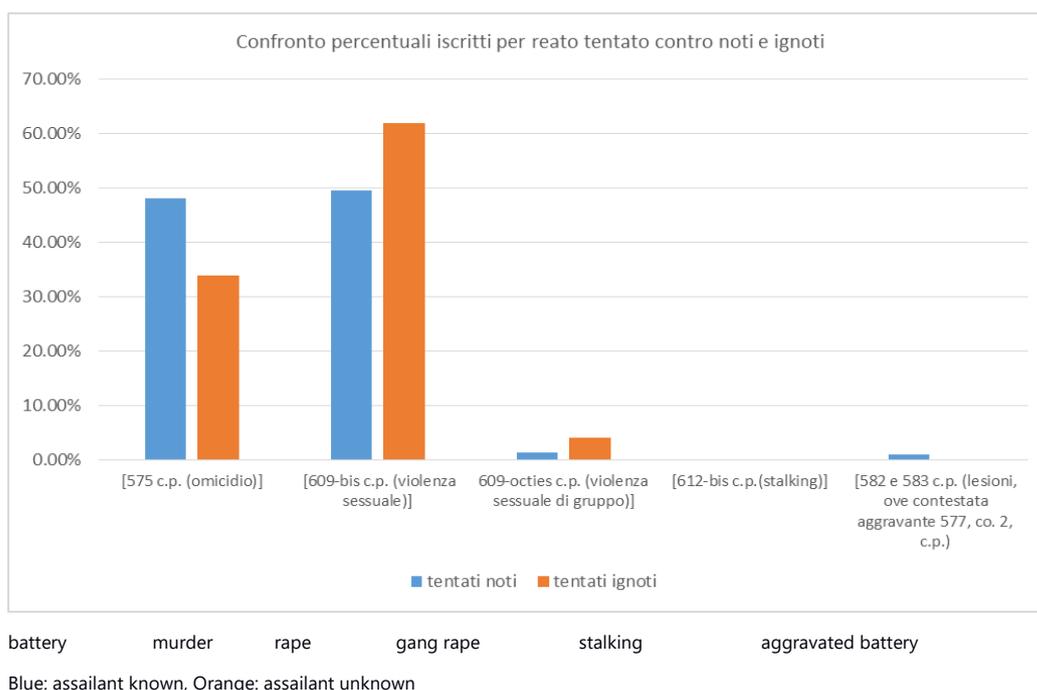
Figure 1. Percentage comparison of reports filed against known and unknown persons for consummated crimes



The reports filed for **battery** under Art. 572 of the criminal code are by far the most common among crimes listed in the questionnaire: **30,158 cases** exist in judicial districts considered by the questionnaire.

Even the reports filed for **stalking** are rather frequent, especially against known people: at **almost 22,000 cases** it is the most common crime after abuse.

Figure 2. Percentage comparison of reports filed against known and unknown persons for attempted crimes



5. Geographical variance

Concerning the occurrence of reported crimes, the situation on a national level shows the same, significant differences mentioned above.

The judicial districts where the highest number of reports were filed were those of Bologna, Florence and Turin, especially with reference to domestic battery, rape and stalking.

However, one should not feel reassured by data coming from geographical areas with smaller figures. These crimes cut across social backgrounds – they are to be equally found in marginalised and affluent environments – and the detection of small statistical figures may be merely due to the fact that it is **difficult to uncover** such phenomena where local institutions **lack a capacity to protect the victims**.

The same comments may be repeated for other 'indicators': in particular, there are areas where **precautionary measures** (which are meant to act as a fundamental safeguard for the victim) are enforced consistently (for example, in the districts of Florence, Bologna, Turin, Venice) while in others they are much less enforced (Cagliari, Caltanissetta, Campobasso, Perugia, Trieste).

The same goes for **arrests in flagrante delicto**, which the anti-femicide decree of 2013 made compulsory in case of domestic violence and stalking. Some districts show remarkable statistics (for example, Bologna, Catania, Florence) while others show truly low figures (Ancona, Caltanissetta, Campobasso, Perugia, Trento, Trieste).

Table 3. Timing of investigations and criminal proceedings

DISTRETTI	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [572 c.p. (maltrattamenti)] [Dal 2013 al 2016]	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [575 c.p. (omicidio)] [Dal 2013 al 2016]	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [609-bis c.p. (violenza sessuale)] [Dal 2013 al 2016]	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [609-octies c.p. (violenza sessuale di gruppo)] [Dal 2013 al 2016]	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [612-bis c.p. (stalking)] [Dal 2013 al 2016]	Quale è la durata media dei procedimenti per i reati di cui ai quesiti nn.1, 3, 5 e 7? [581, 582 e 583 c.p. (percosse e lesioni, ove contestata aggravante 577, co. 2, c.p.)] [Dal 2013 al 2016]	Media complessiva per sede
Ancona	270.17	284.83	266.67	115.20	264.17	215.00	236.01
Bologna	286.67	176.89	276.00	309.89	302.67	176.00	254.69
Brescia	289.33	254.67	314.00	231.67	330.67	284.67	284.17
Caltanissetta	343.67	94.67	410.00	238.00	371.67	447.67	317.61
Firenze	318.31	259.14	312.98	287.81	313.14	318.08	301.58
Genova	241.50	215.75	238.75	116.33	236.25	244.50	215.51
Lecce (compresa sezione distaccata Taranto)	229.35	228.24	288.14	69.00	250.34	204.83	211.65
Palermo	243.20	267.60	280.60	348.60	278.40	114.00	255.40
Perugia	198.50	224.50	254.50	92.00	219.00	222.00	201.75
Reggio Calabria	303.67	321.58	327.67	241.50	303.67	273.57	295.28
Trento (inclusa sezione distaccata Bolzano)	215.33	267.00	233.33	44.00	199.00	437.00	232.61
Venezia	251.57	279.83	381.86	211.40	304.43	303.17	288.71
Totale complessivo	272.80	240.37	301.06	223.25	287.71	261.40	264.43

Districts Average duration of proceedings for: battery - murder - rape - gang rape - stalking - aggravated battery - overall average per district from 2013 to 2016

6. Investigations and trials

As regards the timing of investigations and trials, the data collected are somewhat encouraging, especially when comparing them with the permanent lengthiness of Italian justice.

The questionnaire revealed that **most investigations into gender violence are completed within one year** from the start of prosecution. As far as trials are concerned, **89% of judgements become 'final' (meaning they cannot be challenged) within a further two years.**

The so-called "alternative procedures" to the hearing, mostly shortened and simplified proceedings and plea bargaining, are chosen by the defendants in 26.75% of the cases; such solutions obviously speed up the trial.

The Committee is well aware that such time frames, which generally speaking may seem 'reasonable', can actually be terribly long for the people involved in the criminal proceedings. The goal is to act as swiftly as possible.

Nevertheless, it must be pointed out that, compared with the usual duration of trials, the data acquired by the questionnaire should be deemed positive and are most likely the result of Parliament's decision to set a fast track system for the prosecution of gender-based crimes.

7. The outcomes

The real criticality, in terms of 'effectiveness', emerges when analysing the results of the judicial action.

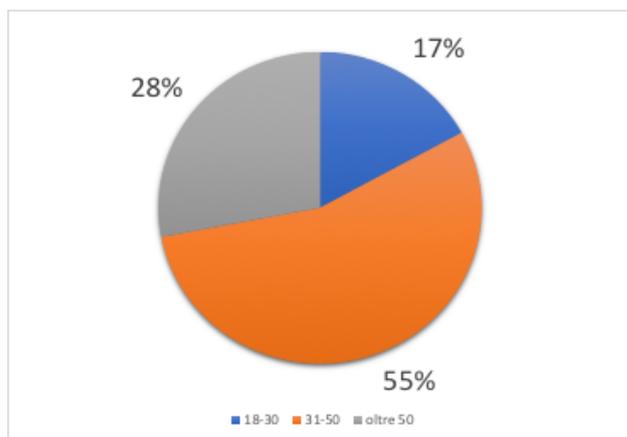
About a quarter of reports filed against known assailants are dismissed. When the case reaches the trial stage, **the percentage of acquittals varies considerably**, depending on where the case is tried, from a minimum of 12.6% in the Northern

Trento district to 43.8% in the Sicily district of Caltanissetta.

8. Perpetrators and victims

With reference to the perpetrators of the crimes, the acquired data confirm that such crimes are absolutely transversal: **55% of people under investigation are aged 31-50; 17% between 18 and 30; the remaining 28% are aged over 50.**

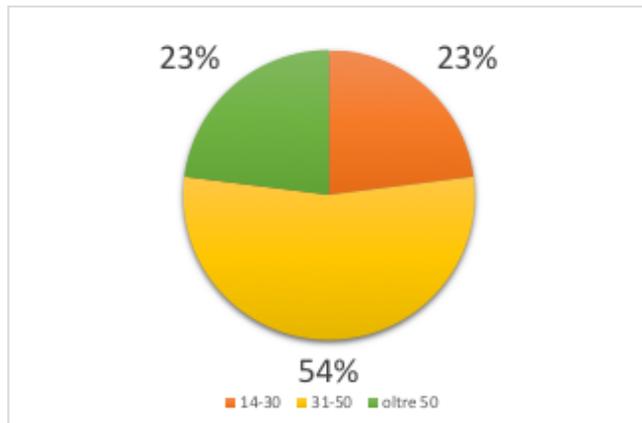
Figure 3. Age of investigated people in the proceedings



As regards the nations of birth of the perpetrators, **over 70% of them were born in Italy**. Yet the figures concerning foreigners cannot be considered minor or statistically neglectable, since they must be compared with the foreign population (which, according to ISTAT figures, accounts for just over 8% of the people living in Italy).

For victims too the age group between 31 and 50 shows the highest percentage (54%); the remaining 46% is equally distributed between the 14-30 and the over 50 age group.

Figure 4. Age of offended people in the proceedings



9. Milan and Rome

Particular attention was given to the metropolitan cities of Rome and Milan.

In these areas, a positive figure was surely the one concerning timing, which was evidently swift: investigations take, on average, no more than seven months. The figures concerning dismissals were rather

high (43% in Milan, 35% in Rome). Among trials where a ruling was reached, convictions were registered in 53% of trials in Milan compared with 66% in Rome.

In Milan, 36% of defendants were born abroad, compared with 23% in Rome.

A problem with data collection

Article 11 of the Istanbul Convention gives paramount importance to the collection of data: only through a complete and correct statistical knowledge will it be possible to assess the real extent of the phenomenon and the adequacy of the measures taken by the State. In Italy, as the Committee acknowledged, data collection systems pose significant problems.

In the **criminal sphere**, the REGE operative system was used extensively. This system did not allow the operators to conduct detailed researches. The operative system adopted subsequently, the S.I.C.P., improved data collecting but still cannot be deemed satisfactory, due to:

- a delayed and irregular migration of data from REGE to S.I.C.P.
- an incomplete implementation: it is not possible to extract relevant information, such as the data concerning some widely used precautionary measures
- an incorrect use of the system: for example, only 30% of the operators type in the gender of the victim.

Outside the criminal sphere, the situation is a lot worse. The registrars at the national juvenile prosecutor's offices are run by the SIGMA system, which – like the REGE system – does not allow to extract enough data.

To make matters worse, the judicial offices that must assess the adoption of measures safeguarding minors cannot verify whether the parents of that child are getting separated or whether a parent is abusing.

Conclusions

Timing of investigations and trials: the results seem to be encouraging, especially when compared to the chronic lengthiness of the Italian justice system. A high percentage of gender violence proceedings ends within three years of the case being reported. The figure, however, varies greatly among the several districts and there is still a good 11% of trials that take more than four years.

Specialisation areas: their mere existence does not necessarily ensure adequacy and promptness of judicial intervention and police operations: still today, many women lawyers and/or women operators working at anti-violence centres report a totally inadequate response of the law enforcement agencies.

Yet the trend is evolving somewhat positively: just a few years back, a woman reporting gender violence to the police would often suffer further oppressions during the investigation phase and the trial, often treated in a way that undermined their reputation or persuaded them to withdraw the report submitted to police or to waive prosecution.

The real **criticality**, in terms of 'effectiveness', emerges when analysing the **results of the judicial action**:

- **a very high percentage of gender violence and murder proceedings are still against persons unknown**
- **about one quarter of the reports filed against known persons are archived.**

When it comes to the criminal trial, **acquittal percentages** vary considerably throughout the national territory, from a minimum of

12.6% in the Trento district to 43.8% in Caltanissetta.

When percentages are excessively high, we should think about the criticalities of the investigation, not only to ensure efficient responses to the victims, but also to prevent the defendants from bearing useless personal and asset-related costs.

With reference to the so-called **fast-track system**, article 132-ii of the criminal law has included abuse, sexual violence, group sexual violence and stalking (articles 572, 609-ii, 609-viii, 612-ii of the criminal law) in the priority crimes. While this is a praiseworthy provision, it risks being irrelevant: the hearings registrars are determined exclusively by the judge and their decision cannot be challenged.

The future parliament should therefore review it in order to set forth a binding, straightforward provision, entrusting the figures in charge of judicial offices.

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