

Shadow Report

**Group of Experts on Action against Violence against Women and Domestic
Violence (GREVIO)**

Spain, 2024

**Institutional Violence against Mothers and Children: Application of False
Parental Alienation Syndrome in Spain**



1. Introduction

In the context of the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Spain, in keeping with the 1st thematic evaluation round: Building trust by delivering support, protection and justice, we submit this shadow report, focused on Article 31 of the Istanbul Convention, and specifically the use of false parental alienation syndrome (PAS) in Spain.

This report is respectfully submitted by Universidad Complutense de Madrid professors and researchers Débora Ávila, Adela Franzé, María Carmen Peñaranda, and Marta Pérez, who collaborated with experts from the Universidad Autónoma de Barcelona and the Universidad de Valencia to carry out the investigation [Violencia institucional contra las madres y la infancia. Aplicación del falso síndrome de alienación parental en España” \(2023\)](#), in which we made alarming findings that we feel show that the Spanish State is failing to effectively implement the Istanbul Convention. Attorney Tania Sordo Ruz also assisted in the preparation of this report, and we received further support from the Red de Madres Protectoras del Estado Español, an association of women victims of the application of false PAS and women’s and children’s rights advocacy organizations.

Our report is based on the results of our prior investigation, the focus of which was to identify the characteristics and scope of the application of PAS and institutional violence against mothers and children in Spain in the context of judicial procedures related to sexual violence within the family when the victims are minors. For this investigation, we studied and documented 47 cases of parental sexual or gender violence. The study included an analysis of a sampling of 100 decisions by both civil and criminal courts. Our investigation found the existence of a structural pattern of application of PAS.

2. Context: Use of PAS in Spain

Spain’s General Council of the Judiciary rejected the validity of parental alienation syndrome in the practical guide for Organic Law 1/2004, of December 28, on Comprehensive Protective Measures against Gender Violence. The Supreme Court of Spain, too, has expressed “serious scientific doubts regarding the existence of this

syndrome and its causes, consequences, and solutions” (Decision 162/2016, of March 16, 2016). Organic Law 8/2021, of June 4, for Comprehensive Protection of Children and Adolescents against Violence, expressly forbids its use in Article 11, which reads that “public institutions will take the necessary measures to prevent theoretical notions or criteria lacking scientific foundation and that presume adult interference or manipulation, such as so-called parental alienation syndrome, from being considered.”

International bodies and proceedings have consistently criticized the use of PAS in Spain. In 2014, the UN Working Group on discrimination against women and girls questioned court decisions to grant custody to fathers and not issue protection orders for mothers, children, and adolescents in cases in which the fathers were accused of gender violence, including sexual violence, against the children in the home. In 2015, the CEDAW echoed this concern over the use of false PAS in court decisions. And in 2023, the CEDAW wrote in its Concluding observations that it noted with concern:

“The ongoing application of parental alienation, despite its prohibition by Organic Law No. 8/2021, when considering the custody of children in cases of domestic violence, which may place the mother and children at risk of domestic violence” (paragraph 42.d).

In 2020 and 2022, GREVIO criticized the minimization or denial of sexual violence within the family through the use of false PAS. Between October 2019 and November 2021, UN special rapporteurs have inquired with Spain about four cases specifically related to failure to protect children and adolescents despite the presence of signs of sexual assault and gender violence. In a fifth communication to Spain, signed by eight experts, rapporteurs denounced what they termed a “structural pattern” of discrimination in the Spanish justice system that leaves mothers and their children unprotected.¹

Despite its lack of scientific basis and the concerns expressed by international bodies, this ideology persists in practice in the Spanish justice system, revealing the insufficient scope of the laws that have been enacted. In addition, there is a lack of institutional measures to permit victims to access mechanisms for effective reparations (besides some isolated cases of pardons) and protection for minor victims, despite the Spanish

¹ See: ESP 9/2019, ESP 11/2019, ESP 3/2020, and ESP 6/2021, available at: <https://spcommreports.ohchr.org/TmSearch/Results>

State's direct knowledge of the cases documented in our study.

3. Results of the investigation

- Our analysis of decisions and case records from criminal and civil courts produced data that show the presence of the use of false PAS, as follows:
 - In the criminal court system, application of PAS was identified in 23.6% of decisions in cases of sexual assault by the father that were analyzed.
 - Of the case records analyzed and interviews performed, all of which involved children younger than 10 (77% of them younger than 5), 86% of cases were dismissed. PAS was applied in all these cases, which may explain the difficulty in proving sexual violence committed against small children (age 1 to 5) when false PAS is used, as well as the higher rate of dismissals.
 - In the civil system, the application of PAS was seen in 50% of decisions in cases in which signs of sexual assault committed by the father against a child or children were identified.
- There is a clear structural pattern of discrimination through the application of false PAS, suggesting the existence of a set of practices and behaviors within the Spanish justice system and institutions involved in the identification and assessment of sexual violence against children and adolescents, which may be considered institutional gender violence against women:
 - **Presence of gender bias and components of the PAS construct, which appear in 94.4% of cases analyzed.** Through our work, we found that false PAS does not appear only in the original terms used by its creator (“alienating parent” and “alienated child”), but that it is introduced through a wide range of images rooted in stereotypes around gender, motherhood, fatherhood, childhood, and family bonds.²
 - **Failure to grant credibility to the stories of children and adolescents in**

² These include the stereotypes of the “jealous woman,” “overprotective, manipulative, obstructive, mentally ill mother,” “mother encouraging the father-child relationship,” “manipulated child,” and “exaggerated notion of sexual violence.”

judicial decisions (86.5% of cases analyzed). In 72% of case records, a failure to listen appropriately was seen, while revictimization of children was identified in 96% of cases.

- **Construction of best interests contrary to the rights of children and adolescents.** There is a certain reluctance on the part of judges to suspend or restrict visitation, custody, and other parental rights, both in the pretrial phase and in resulting judicial decisions. When children and adolescents have participated in criminal prosecutions and expressed their wish to remain in their mother's custody and not to go with the father, the best interests of the child are construed as the maintenance, or establishment, of the father-child relationship, and ultimately, custody for the father. In 92% of the cases analyzed, measures were set in place for mandatory enforcement of resolutions contrary to the child's wishes. In 65% of the cases analyzed, the mother lost custody to the father, and the father received sole custody. In addition, the mother's parental rights were terminated in 20% of cases. We have also documented cases in which parenting measures have been set in place to limit, or in some cases prohibit entirely, mother-child contact.
- **Inadequate investigation of cases of sexual or gender violence against children and adolescents: failure to investigate or superficial investigations.** We have documented cases in which we have found 1) failure to properly identify the evidence on which the judicial decision is based; 2) failure to articulate the reasons why the court gave greater or lesser weight to a piece of evidence; 3) unequal weight given to expert reports and unequal treatment of opposing parties; and 4) reproduction of conclusions reached by the court of first instance, in both criminal and civil matters, without ordering additional investigations. Similarly, we have observed an uncritical and broad acceptance by judges of the content of expert reports that apply PAS, in what we refer to as judgment with a false PAS perspective. Once the PAS construct appears at any point of a proceeding, its effects cannot be reversed.
- **Citing false PAS in expert reports, psychosocial reports, children's services reports, and visitation center reports.** In 78.5% of the cases analyzed, we found at least one psychological or forensic psychology report that cited false PAS. This reveals a lack of specialized legal training with a

gender, children's, intersectional, and trauma perspective; lack of a human rights approach in judicial decisions analyzed and reports prepared in the context of these proceedings; and, in particular, an absence of specialized legal training on intervention in situations of sexual and gender violence.

- **Shifting the focus of criminal cases of sexual and gender violence against children within the family to one of “family conflict.”** The conduct, demeanor, or intentions of the mother become the object and subject of the criminal prosecution, placing allegations of sexual violence, and the father who is alleged to have committed it, in the background. Any inquiry into the child or adolescent's experience is set aside to focus on a supposed domestic or couple conflict. This shift is crucial if the judgment with a false PAS perspective is to be maintained in the civil system, where visitation and custody matters are heard. This interpretative framework includes the use of a parenting coordinator, another tool of false PAS.
- **Arbitrary practices that violate the right to effective judicial protection and criminalize mothers who report or speak out about sexual violence committed against children and adolescents.** We observed a tendency to sanction protective or responsible actions by the mother, reinterpreted in the context of the application of false PAS as actions intended to harm the father and interfere with the natural father-child relationship that must therefore be punished. In 72% of the cases analyzed, women have faced criminal consequences after reporting sexual violence committed against their children. This is a clear pattern of revictimization that is prejudicial to women's dignity, parental responsibilities to their children, and rights to effective judicial protection and comprehensive reparations, all of which requires access to justice without discrimination.
- **Violations of the right to health of mothers, children, and adolescents.** Children exhibit a range of conditions resulting from the forms of violence suffered, including anxiety, post-traumatic stress disorder, behavioral disorders, dissociative symptoms, depression, insomnia, seizures, cognitive speech delays, incontinence, eating disorders, social difficulties, difficulties at school, and repeated self-harm. Mothers, too, may exhibit conditions such as memory loss, depression, dystrophy, migraines, hormonal changes,

immune system changes, stroke, extreme weight loss, constant fear and state of alertness, sleep disturbances, asthma, joint pain, dissociative symptoms, and self-harm.

4. Recommendations to the Spanish State³

1. Create an investigative commission at the national level to determine the extent of violations of Article 31 of the Istanbul Convention by the Spanish State, including institutional gender violence against women in cases of sexual violence or gender violence within the family committed against children and adolescents and violations of women's rights.
2. Review all cases in which false PAS or similar theories have been applied and take appropriate actions to provide comprehensive reparations to victims, in accordance with international human rights standards and domestic law, particularly Organic Law 8/2021, of June 4, for Comprehensive Protection of Children and Adolescents against Violence.
3. Develop specific statistics on revisions to custody or visitation and suspension of visitation in cases in which false PAS has been applied after the entry into force of the amended Article 94 of the Civil Code. Including in these statistics the cases in which there were changes of custody in favor of the parent with an open criminal case, in violation of criminal prejudiciality (*prejudicialidad penal*).
4. Ensure the right of victims to restoration, especially victims who were minors when the institutional violence took place, including access to treatment and creation of necessary measures to restore severed bonds between mothers and children due to the application of false PAS or similar theories.



³ To view these recommendations in their entirety, see our original investigation, pages 251 to 264: https://violenciagenero.igualdad.gob.es/violenciaEnCifras/estudios/investigaciones/2022/pdf/Violencia_institucional_madres_infancia_SAP.pdf