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HUMAN RIGHTS CENTRE

Submission by the Human Rights Centre (NHRI) on the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

Finland

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1. INTRODUCTION

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Istanbul Convention, hereinafter the Convention, entered into force in Finland on 1 August 2015.

This is a report by the Finnish Human Rights Centre (HRC, Finnish NHRI[1]) to the baseline report, submitted by the Government in April 2018.

This report concentrates on five points, namely

- **Money and resources**- financing of the work connected to the implementation of the Convention,
- **Actors and Structures** - national structures for monitoring the implementation of the Convention.
- **Minorities and minorities within minorities**– women and girls, who are part of a minority or minority within a minority and their standing equally with regard legislation, services, political programs, and well-being.
- **Legislation** – rape, forced sterilisation, sexual harassment and implementation of the legislation in practise.
- **Attitudes and public discourse** – sexual violence as a phenomenon, handling of violence against women and domestic violence in media, hate speech against women, public discourse and education.

In addition, each section includes a recommendation or recommendations that the HRC considers appropriate/useful/necessary for the Government in its implementation work.

The HRC also draws attention to the comprehensive parallel reports submitted to GREVIO[2] in May 2018, the relevant recommendations given to Finland in its review under CEDAW Convention in 2014, CAT Convention in 2016 and the UPR process in 2017 as well as the first ever individual complaint against Finland, that was examined by the CEDAW Committee[3] (Communication 103/2016, decided upon on 5 March 2018).

[1] The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 38-member Human Rights Delegation and the Parliamentary Ombudsman. The HRC represents the Finnish NHRI in international NHRI cooperation and other international and European cooperation in human rights.

[2] https://www.coe.int/fr/web/istanbul-convention/finland?p_p_id=56_INSTANCE_hXkoY75OGWcN&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2

[3] http://formin.finland.fi/public/download.aspx?ID=175278&GUID={17E339A3-21D3-4420-AB23-C861C16C6894}

2. RESOURCES

The HRC notes that the creation of National Action Plan in 2017 is a good step towards the implementation of the Istanbul Convention. However, the resources allocated to the implementation of the Action Plan are by far not sufficient.

As the Government points out in their report, most of the actions towards the implementation of the Istanbul Convention are financed with existing financial resources. The coordination, financing and decisions in that regard fall for the individual ministries.

This has been criticised by the civil society and service providers. Although many actions in the Action Plan have proceeded, their implementation is often dependent on the priorities within the ministries and administration. Also the lack of multiannual funding affects the planning and implementation of the actions.

The HRC recommends that the Government:

- **earmarks funding for specific projects and programs included in the NAP and other implementation activities of the Convention. This would make those activities financially independent from other work done by the ministries.**
- **secures multiannual funding and other resources to ensure continuation of the work.**

3. STRUCTURES (relates to II D – designated bodies)

The national structure created in accordance with Article 10 of the Convention, Committee for Combating Violence against Women and Domestic Violence (NAPE), is in charge of the coordination and the implementation plan of the Convention. It does not have financial powers.

The civil society does not have an official standing nor representation in the national structure. According to Article 9 of the Convention, there is an obligation for States to ensure civil society's participation in the form of effective co-operation. This extends to participation by civil society in political processes. The NGOs have a long hands-on experience in providing services aimed at victims of violence. They also participate in many ways for the preventive measures. Yet their possibilities to influence the action plan and any significant policies therein is rather limited. This needs improvement.

CEDAW Committee examined in 2018 first individual complaint (103/2016, 3.4.2018) against Finland. The committee recommended that Finland should develop and implement an effective institutional mechanism to coordinate, monitor and assess measures to prevent and address violence against women and implement monitoring mechanisms to ensure that evidentiary rules, investigations and other legal and quasi-judicial procedures are impartial and not influenced by gender stereotypes or prejudice. This was recommended also by CEDAW-

committee in 2014.

The Istanbul Convention does not require independent mechanism on national level that would fulfil the requirements of Paris Principles and would promote, protect and monitor the implementation of the Convention (Cf. UNCRPD Article 33.3). According to the Istanbul Convention gender based violence, hate speech and violence against women and domestic violence must be recognised and effectively considered in administrative, legislative and legal proceedings as well as in the provision of health and social services. The victims and potential victims need to be sufficiently protected and the rights in the Convention have to be appropriately promoted and implemented on national level. This requires much wider mandate, resources and level of independence than what the current national structure under the Convention has.

Domestic monitoring structures for fundamental and human rights are fragmented and often under resourced. The Parliamentary Ombudsman, Chancellor of Justice and specialised ombudsmen have several specialised monitoring tasks (with regard to trafficking in human beings, torture and inhuman treatment, and rights of persons with disabilities) but only in exceptional cases does violence against women or domestic violence come up in their work. The Human Rights Centre has placed violence against women as one of its priority themes for this reason. However, it does not have investigative powers nor does it examine individual cases.

Designating an independent monitoring authority or mechanism, as recommended also by the CEDAW Committee, should be examined without delay by the Government. At the same time a mechanism for regular reporting to the parliament needs to be considered. This would fulfil the participatory duty of the national parliament in the monitoring of the implementation.

Additionally, there are many uncertainties in the upcoming regional health and social services reform with regard the implementation of the Convention. Proper care needs to be taken in order to ensure that the implementation, responsibilities, planning, care and assistance that takes place on various administrative levels meets the Convention standards even after the reforms.

The HRC recommends that the Government :

- **secures sufficient funding and other resources for the existing Committee for Combating Violence against Women and Domestic Violence and any other subsequent structures.**
- **examines the existing human rights structures and designates an independent authority or mechanism to monitor and follow up the implementation of the Convention.**
- **allocates an appropriate standing for the civil society organisations in any structure created for the implementation of the Convention.**
- **finds a way to effectively involve national parliament in the monitoring of the Convention, as required by the Convention.**

4. MINORITIES

Not all victims have equal access to necessary services and assistance in practice. Various factors can make victims especially vulnerable. Minorities such as roma or linguistic minorities, indigenous people, foreigners, asylum seekers, persons with disabilities, LGBTI persons, paperless persons and even members of religious or cultural communities can face additional risks. In addition, minorities within a minority can face multiple and intersecting violence.

The HRC notes that the Convention applies to all victims of domestic violence. This includes men, as specified in the explanatory memorandum to the Convention. Finnish Action Plan for Istanbul Convention 2018-2021 specifically mentions that in Finland the Convention is also applicable to men and boys experiencing domestic violence.

Although all victims of domestic violence are per default protected by the Convention, by specifically mentioning the LGBT persons, in addition to men and boys, and by considering necessary actions to protect them in situations of domestic violence would make it clear that truly all victims of domestic violence are equally protected, also in practice.

Any legislation, political program, service or action aimed at preventing and combatting violence against women or domestic violence should equally consider and cover also special needs or be general enough to include all victims, as required by the Convention.

The HRC recommends that the Government:

- **studies the prevalence of violence against women and domestic violence among different segments of society.**
- **examines the need for information about the Convention and related services in various languages, including sign languages.**
- **considers how to implement services and treatment in accordance with individual needs for all victims of domestic violence, as well as geographically evenly distributed services.**
- **pays special attention to especially vulnerable persons and persons who are unable to request the implementation of the rights they are entitled to.**
- **considers extending expressly the implementation of the Convention also to the LGBT persons who are victims of domestic violence.**

5. LEGISLATION (relates to V – E, F and G)

The Action Plan, as well as the Government report recognise many legislative changes that are needed in order to fulfil the requirements of the Convention. These include, among others, the inclusion of the lack of consent in the legal definition of rape and the abolition of the sterilisation requirement in gender recognition procedure.

In addition to legislative changes, better implementation of the current legislation, enhanced understanding of the nature and types of violence against women and domestic violence and improved access to support and assistance measures are needed.

The HRC recommends that the Government:

- **includes the absence of consent in the legal definition of rape in Chapter 20 of the Penal Code.**
- **removes the requirement of sterilisation from the process of recognising one's legal gender (part of a long needed reform of the trans-legislation).**
- **ensures that gender-based violence is taken into account in the determination of custody and visitation rights of children under the pending new legislation.**
- **takes appropriate measures to improve the implementation of existing legislation and ensures necessary assistance for the victims.**

6. ATTITUDES, PUBLIC DISCOURSE and LANGUAGE (Relates to III –G, H and I)

The prevalence of sexual violence, hatred towards women, including on-line, and the use of gender-neutral vocabulary for incidents of violence against women and domestic violence in media and public discourse are all counterproductive realities for the aims of the Istanbul Convention. Most of these stem from attitudes and ignorance, which can be influenced by breaking stereotypes and by education and training.

The language and vocabulary used often together with stereotypical image of women in the traditional and new media, enhances the acceptance of violence against women. There are campaigns to combat degradation of women by various private sector actors mainly, but their visibility or effects have remained marginal and the problems persists.

The role of media, public figures, politicians and other opinion leaders in changing attitudes is considerable and it should be emphasized. Improving women's status and equality, eradicating violence against women and domestic violence as well as hate speech against women and promoting equal opportunities for different members of society should be a task taken on by all in the society. There are

examples of voluntary code of conducts for private sector, media and schools in other countries that could be taken as inspiration.

Human rights-based training for professionals to identify instances and different forms of violence against women is necessary in Finnish society. General education on the violence against women, rights of the victims and existence of services needs to be available to all persons, and already during basic education. Targeted education, awareness raising and provision of information must be also aimed specifically at men and boys in all age groups and segments of society to change stereotypes and improve equality and security in general.

The HRC recommends that the Government

- **initiates a voluntary commitment resulting in a code of conduct against hate speech and violence against women, domestic violence and gender based discrimination for**
    - **political parties, parliamentarians and other public authorities, and**
    - **entire educational system, including universities.**
- **invites the media to pay special attention to gender based violence, hate speech against women, representation of women in the reporting and gender equality in order to positively influence the gender balance and security of women in the society**

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