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NHRI reply to Government mid-term report on Istanbul Convention 2023

This document contains observations by the Finnish Human Rights Centre (HRC¹, NHRI) to the interim report on the implementation of some recommendations by the Committee of the Parties, submitted by the Government of Finland in February 2023. It also has some proposals for recommendations to be used, if needed, by the Committee.

Should you have any further questions or need for additional information, do not hesitate to contact us at nitin.sood@humanrightscentre.fi or at info@humanrightscentre.fi.

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¹ The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 39-member Human Rights Delegation and the Parliamentary Ombudsman. The HRC represents the NHRI in international NHRI cooperation and other international and European cooperation in human rights.

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 – reply to Government report of 2/2023

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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 submission by the Finnish Human Rights Centre (HRC) to the interim report by the Government of Finland on the implementations of certain recommendations, submitted on 28 February 2023. The submission follows the same structure as the Government's mid-term report:

- I. Fundamental rights, equality, and non-discrimination
- II. Comprehensive, and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body
- III. Financial resources
- IV. Non-governmental organisations and civil society
- V. Data collection and research
- VI. Custody, visitation rights and safety
- VII. Immediate response, prevention and protection
- VIII. Emergency barring, restraining or protection orders
- IX. Specific recommendations (mediation and deportation)

Each section includes observations of the HRC on the theme and provides information that is not available in the Government's interim report. Furthermore, each section, except for section VIII, includes one or more recommendations for the Government in its implementation work.

The submission also contains additional section X where the HRC has addressed other notable issues that did not fit in the previous parts.

The HRC also draws attention to the relevant recommendations given to Finland in its review under CEDAW Convention in 2022, the UPR process in 2022, the CCPR Convention in 2021, CAT Convention in 2016 and CRC Convention in 2011 and recommendations given in 2022 by the Independent Expert on the enjoyment of all human rights by older persons.

I. Fundamental rights, equality, and non-discrimination

The HRC highlights the importance of taking an intersectional approach to combatting violence against women. While the Government's interim report outlines several measures that aim to address the experiences of women from different minority groups, there are serious gaps that still need to be addressed.

The HRC notes with concern that the report has not outlined any specific actions regarding **LBTI (lesbian, bisexual, transgender and intersex) women and girls** who experience violence. The results from School Health Survey show that experience of violence is significantly prevalent among youth who identify themselves as LGBTI.² Young people who identify as gender or sexual minorities were more than twice as likely to experience sexual violence compared to their peers. These results alone demonstrate a clear need to have more specific measures to combat violence against LBTI women.

Women and girls from ethnic and religious minorities may experience forms of violence that are not encountered by others. However, the report does not provide sufficient information on various measures to address violence against ethnic or religious minority women, except for mentioning helpline services provided in nine languages and initiatives targeting Roma women. While the report acknowledges efforts to combat honour-based violence, it is important to note that women from these groups may experience violence beyond honour-based violence, and their needs should not be limited to this category of violence. Therefore, it is crucial to focus on addressing the diverse forms of violence that these women may face and provide appropriate support and resources accordingly.

The National Police Board has published a **guidebook to combat domestic violence**.³ The guidebook has a chapter on vulnerable groups, namely children, older people and people with disabilities. However, it does not have a separate chapter on immigrants or women or girls from ethnic and religious minorities. Instead, they are only discussed under subsection of honour violence. The HRC underlines that women and girls from ethnic and religious minorities do not experience only honour violence. By portraying them in such a manner, the guidebook reinforces negative stereotypes and prevents the police from recognising other types of violence that women and girls from these communities may face.

The HRC regrets that the working group on **female genital mutilation (FGM)** published its report in February 2023 without proposing any amendments to the provisions of the Criminal Code.⁴ The Working Group has concluded that criminalising the practice of FGM presents challenges, one of which is the potential for discrimination, as such legislation would only apply to girls and would still allow the continuation of circumcision of boys. The conclusion of the working group was not unanimous.

² <https://thl.fi/fi/web/vakivalta/eri-ryhmat-ja-vakivalta/sukupuoli-ja-seksuaalivahemmistot-ja-vakivalta>

³ <https://vm.fi/-/25235045/poliisi-pyrkii-parantamaan-lahisuhdevakivallan-tunnistamista>

⁴ <https://julkaisut.valtioneuvosto.fi/handle/10024/164633>

The HRC recommends that Finland explicitly criminalises FGM.

The Parliament adopted in February 2023 an amendment to the Marriage Act that allows for the dissolution of a **forced marriage** by annulment. The legal effects of an annulled marriage are similar to those of a divorce, but the marital status returns to that which it was before the annulment took place.

While the HRC commends the amendment, it expresses regret that the Government has not taken steps to evaluate the feasibility of criminalizing forced marriages, despite this being a stated objective of the Government Programme. According to the Committee Report of the Legal Affairs Committee on amending the Marriage Act, the Ministry of Justice was supposed to establish a working group regarding penal regulation of the forced marriages in autumn 2022, but it has been delayed for reasons that have not been elaborated in the report.⁵ The Parliament, in adopting the amendment, also approved a resolution that calls for the Government to urgently review the provisions of the Criminal Code regarding the forced marriages and take necessary steps to clarify the provisions.⁶

The HRC recommends that Finland immediately begins to evaluate the feasibility of criminalizing forced marriages.

The HRC notes also with concern that the report lacks any specific information on **Sámi women and girls**. The report only makes a reference to the fact that Nollalinja helpline for the victims of domestic violence is looking into the possibility of providing Sámi-language interpretation.

GREVIO noted that higher degrees of awareness of the different forms of violence against women, and cultural sensitivity towards the specific situation of women from national minorities such as the Sámi as well as other distinct groups of women in Finland, are also needed. Neither Action Plan for the Istanbul Convention for 2022–2025 or Action Plan for Combating Violence against Women have specific measures to address needs of Sámi women experiencing violence.

Regarding **older women**, the report outlines that one training was organised for the shelter network on the topic of violence against the older people and special issues concerning the older people at shelters. The HRC regrets that the government report does not address violence against older women more in-depth. Many older women are unable to speak about their experiences of violence and often are unaware of the fact that they are entitled to use the services provided by the shelters. The latest research on the prevalence of violence against older women dates to 2011, indicating a need for more current information to better understand the situation.⁷

The interim report makes some references to the situation of **women and girls with disabilities** and outlines measures particularly aimed at improving accessibility of the shelters and providing training to shelter employees on the characteristics of violence against women with disabilities. The HRC underlines that the violence against women with disabilities is a structural phenomenon that requires comprehensive policy measures.

A recent study **on frequency of domestic violence experienced by persons with disabilities and availability of services** provides important insights to the issue at hand.⁸ It concludes that people with disabilities experience more domestic violence

⁵ https://www.eduskunta.fi/FI/vaski/Mietinto/Sivut/LaVM_26+2022.aspx

⁶ https://www.eduskunta.fi/FI/vaski/EduskunnanVastaus/Sivut/EV_285+2022.aspx

⁷ https://thl.fi/documents/189940/2291729/AVOW_TAITTO_suomi.pdf/548c6325-6e3a-4a18-beef-7a8294cb72cf

⁸ <https://julkaisut.valtioneuvosto.fi/handle/10024/163918>

than the rest of the population. There are differences between genders in the frequency of experiencing different forms of violence. Women and girls with disabilities experience more sexual violence than men with disabilities. Violence experienced by persons with disabilities may start in childhood, and it is more common among them up to adulthood. The study suggests that when violence is normalised, it is difficult for victims to recognise acts as violence against them.

Regarding **access to services and help**, the abovementioned study finds that people with disabilities often felt that they received insufficient help. The individuals who are seeking help do not feel their experiences of violence are taken seriously by those they approach for assistance. Obtaining assistance can be challenging for people with disabilities due to factors such as inadequate services, barriers in the environment and ongoing perpetrator control as they might be dependent on their perpetrator. Also, people with disabilities might not have the knowledge about where to seek assistance in the event of experiencing violence.

The HRC recommends more training to relevant public sector service providers on different forms of violence against people with disabilities to increase awareness and knowledge of the issue.

CEDAW-committee recommended that the Government provides adequate **shelters** for victims of gender-based violence in all regions, including the Sami homeland, and ensure that all shelters are accessible for women with disabilities.

29 shelters operate in Finland with around 230 family spaces. The number of family spaces falls short of the minimum standard of one family place per 10 000 head of population as set out in the Explanatory Report to the Istanbul Convention.

Finland has one shelter (Mona) specifically for women with an immigrant background, having experienced violence or a threat of it. They offer services in Arabian, Dari, English, Spanish, Farsi, Persian, French, Finnish, Belarussian, and Russian. Mona is the only shelter that is exclusively for women and the location of the shelter is not publicly available. The HRC stresses that all shelters should have cultural competences and cultural sensitivity to serve women from all different backgrounds.

The HRC notes that the most northern shelter is in Rovaniemi, 278 kilometres from Inari, 286 kilometres from Enontekiö and 451 kilometres from Utsjoki, the three municipalities located in the Sámi homeland. In essence the shelters are not evenly distributed geographically and distance to the closest shelter greatly varies based on the location of the victim. This shortcoming is recognised in the Government report but there are no solutions provided.

The Government report lists several measures taken to improve the shelter accessibility for people with disabilities. The Act on Compensation Paid from State Funds to Shelter Service Provider sets forth regulations for both the provider and the premises. The act mandates that the provider must meet certain requirements and that the premises intended for operation must be suitable and adequate for providing shelter services. However, the Act falls short of requiring the premises to be accessible for people with disabilities.

The HRC recommends Finland ensures enough accessible shelters and low threshold victim services throughout the country and that all shelter personnel have cultural competences and culturally sensitive approach in their work. Furthermore, HRC recommends that the Act is amended or alternatively the Government assures that all the new shelters established in the future are accessible.

II. Comprehensive, and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body

Currently there are **two government programmes related to combatting violence against women**: Action Plan for Combating Violence against Women for 2020-2023, coordinated by the Ministry of Justice and Action Plan 2022-2025 for the implementation of Istanbul Convention, coordinated by the NAPE committee and in the end the ministry of Social Affairs and Health.

The Government report clarifies that the NAPE Committee recognised the partial overlap of the implementation periods between the programmes and therefore concluded that its second Action Plan will not highlight specific forms of violence against women such as digital violence or honour violence.

With parliamentary elections in April 2023, there are concerns whether and to what extent the new government (Ministry of Justice) will draft a new Action Plan for Combatting Violence Against Women. If a new plan is not developed, there will be no coordinated policies to address specific forms of violence against women because that is not tackled in the Acton Plan for the Istanbul Convention.

The HRC is concerned about **the fragmentation that the two Action Plans provide**. This type of policy making does not support co-ordination of policies in combatting violence against women, as requested by Istanbul Convention. The current fragmented approach hinders the efforts to combat violence against women, as it is not always evident who is the responsible authority or department for implementing measures.

In March 2023, the Ministry of Justice released a final report on the Action Plan for Combatting Violence Against Women.⁹ The report concludes that the implementation of the Action Plan was a success. However, the report lacks any information regarding the future of the Action Plan and instead indicates that the Action Plan 2022-2025 for the implementation of Istanbul Convention is a key instrument in the future. The HRC underscores that the Action Plan 2022-2025 for the implementation of the Istanbul Convention, on its own, does not provide a comprehensive solution to address violence against women, due to the fact there was an overlap of the implementation periods. Therefore, it is imperative that the plan be updated to fill the gaps and provide a more holistic approach to tackling this pressing issue.

The HRC recommends streamlined and improved coordination of the efforts in combatting violence against women and continuation of actions over the four-year election periods.

The Government report indicates very little about the **coordination and services at local and regional levels and in the newly established wellbeing services counties** (since January 2023). A report from 2019 notes that about half of municipalities did not have any coordination mechanisms such as a working group to combat domestic violence.¹⁰ The Finnish Institute for Health and Welfare has drafted guidelines for municipalities and wellbeing services counties to establish coordination mechanisms to combat domestic violence.¹¹ The guidelines outline that all wellbeing services counties should have a named person responsible for coordinating efforts to combat and prevent domestic violence. This named person

⁹ <https://julkaisut.valtioneuvosto.fi/handle/10024/164769>

¹⁰ https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162012/STM_2019_55_Rap.pdf

¹¹ https://www.julkari.fi/bitstream/handle/10024/144538/OHJ2022_010_09062022.pdf

should work full-time on the issue at wellbeing service counties.

The HRC points out that municipalities and the wellbeing services counties have an important role in combatting violence against women and providing services for the victims of violence. The fact that many (or most) municipalities and wellbeing services counties do not have coordinators on domestic violence, requires hastened attention. Municipalities and wellbeing services counties must organise well-working service chains for the victims of violence against women and domestic violence as the burden to seek assistance and help should not be laid on the victim.

The HRC recommends that the wellbeing services counties be mandated to designate a domestic violence prevention work coordinator and a multi-professional working group coordinating domestic violence prevention work. This should be done by legislative measures that would define clear responsibilities and duties for different actors in combatting violence against women.

Since the beginning of 2022, the Non-Discrimination Ombudsman has been appointed as the **rapporteur on violence against women**. The placement of the task to the Non-Discrimination Ombudsman's office is regrettable. The responsibility of monitoring and promoting the implementation of the Istanbul Convention, among others, falls under the statutory tasks of the HRC, which has diligently carried out this responsibility for several years. Considering this, it would have been appropriate to assign the task to either the HRC or the office of the Ombudsman for Equality, which focuses already on issues related to gender, gender identity, and gender expression in its statutory tasks.

The HRC is concerned that, in practice, the creation of this role is not adequately supported by resources. Having one additional staff member does not provide sufficient resources to carry out the mandate effectively. The HRC has been, from the planning stages onwards, critical of the creation yet another position with almost no funding or other resources. This further widens and complicates the national structures on human rights, affects the holistic understanding of the complexity of the human rights problems and has yet another negative effect on the scarce funding.

III. Financial resources

The HRC stresses the crucial role of **adequate financial resources** in the fight against violence against women. It is worth noting that the healthcare costs alone for intimate partner violence against women are estimated to amount to 150 million euros per year. Costs are higher when considered also social and legal services.¹² Therefore, investing in measures to prevent and combat violence against women is not only a human rights obligation, but also a sound economic decision in the long term.

As the Government states, since 2021, the NAPE Committee has an annual budget of 150,000 euros per year from the Ministry for Social Affairs and Health. The Parliament has also granted additionally EUR 300,000 for 2021-2022 and EUR 300,000 for 2023-2024. This funding, however, is discretionary, and could be terminated at will. Since 2020, the NAPE Committee has had a secretary general.

The Action Plan coordinated by the Ministry of Justice has a budget of EUR 400.000 annually (for the length of the program, 4 years, which will end in 2023).

As the Ministry of Justice program is for the 4-year period only, so is its funding.

¹² <https://julkaisut.valtioneuvosto.fi/handle/10024/164292>

Equally, most of the NAPE's funding is not secured permanently. Part comes from the ministry and part at will from the parliament. Therefore, there is no guarantees for the permanent continuation of this funding. Also, a significant decrease in funding for the work against violence against women in the upcoming years is highly possible.

The HRC recommends that Finland increases significantly funding for efforts to combat violence against women and meet the minimum requirements of Istanbul Convention, including the units of family spaces in shelters and providing other low-threshold services for the victims of violence against women. This funding should be made permanent and not dependent on the will of the parliament bi-annually.

IV. Non-governmental organisations and civil society

The HRC recognises the importance of non-governmental organisations and civil society in combatting violence against women. These services are fundamental for securing the rights of the victims. However, the current practice of providing public funding for these services on a project-by-project basis is not sustainable. This funding model provides little time for organisations for improving the quality of their services to meet the needs of the victims, and it also creates uncertainty as funding can be cut off at any time, potentially resulting in the cessation of services. This is a concerning issue that requires attention.

The HRC recommends that Finland secures long-term funding for organisations working on combatting violence against women to ensure continuity of the low threshold services they provide.

V. Data collection and research

The HRC acknowledges Finland's recent efforts in funding critical research on combating violence against women. Regular data collection is crucial in obtaining information about the frequency and severity of violence, as experiences of violence tend to accumulate over time.

The HRC emphasises that data collection and research are paramount in efforts to combat violence against women. The Government report does not provide information about collecting disaggregated data which is required to formulate intersectional and comprehensive policies that cover women belonging to minorities such as Sámi or Roma or women with disabilities. For example, the crime victim survey only collects data based on binary gender categories.

The Second Action Plan for Istanbul Convention has a specific measure to support publicly funded research into the themes required by GREVIO and other subjects.

The HRC recommends that whenever possible the publicly funded research incorporates an intersectional approach and provides disaggregated information.

The amended provisions on sexual offences in the Criminal Code entered into force on 1 January 2023. The reform aims to strengthen everyone's right to sexual self-determination and the protection of personal integrity. The new definition of rape in the Criminal Code is based on consent. The lack of voluntariness is also a key element in other sexual offences. Monitoring the implementation and impact of the reforms is crucial to evaluate their success. This requires up-to-date data and further research.

The HRC recommends that Finland provides funding for research that would study the operationalisation and effects of amended provisions on sexual offences in the

Criminal Code.

VI. Custody, visitation rights and safety

Government report indicates that the judges and other judicial authorities who decide on child custody and the rights of accesses have received a wide range of training on violence. Report does not provide the exact numbers of professionals who have undergone such training. It is important to quantify the number of people who have received trainings to evaluate how widely the training has reached its target audience.

The HRC stresses that training and collecting information on training is also very much relevant with regards to personnel in social services. Social services approve consensual custody and visitation agreements and the information they register has substantial great importance in eventual custody and visitation decisions by the judicial authorities. Equally, the personnel in social services monitor visitations in many cases and their role in recognising (hidden) violence in relationships is vital to prevent traumatising of children whilst deciding on visitation and enforcing visitation rights.

The report highlights that obtaining comprehensive statistics on the extent to which all forms of violence are considered in custody decisions in Finland would be challenging. However, the lack of such data raises concerns about the current understanding of how violence (at mother or at children themselves) is considered as a factor in these decisions. Without a comprehensive understanding, it is difficult to ensure that violence is being appropriately addressed and prevented, highlighting the need for further attention and action.

The HRC recommends that Finland conducts substantive research on how violence is recognised and considered in the decisions regarding custody and visitation rights. Similar research should be conducted with regard personnel in social services as in many cases they either decide or at least monitor visitations and custody.

VII. Immediate response, prevention and protection

The HRC notes that recently the CEDAW-committee recommended Finland to address **the causes of underreporting in cases of rape** and provide mandatory capacity-building for judges, prosecutors, and the police on gender-sensitive interrogation methods and on the strict application of relevant criminal law provisions.

The Government interim report outlines that a training package on combatting violence against women has been created for police officers, but it is unclear from the report whether the training is mandatory or only voluntary which means those participating are the ones already interested to learn more about the subject matter. The final report of on the Action Plan for Combatting Violence Against Women states that a training on different forms of violence against women had been organised for different professionals, including the police, and the objective was to reach 500-1000 participants. However, four out of 10 trainings had to be cancelled due to a low number of participants and ultimately 107 participated in-person. The report indicates that 431 signed up for remote participation but does not provide an exact number of participants online.

It is essential for the Government to provide information on the number of police officers who have received training on combat against violence. This will help to ensure transparency and accountability and enable human rights experts assess

the effectiveness of the training program in improving human rights practices.

The Chancellor of Justice has issued a notification in November 2022 regarding police procedures in preliminary investigations of domestic violence and sexual assault.¹³ The Chancellor has identified that some police stations have numerous cases of **unreasonably delayed preliminary examinations** of domestic violence and rape.

The Chancellor noted, among others, that

- in one case the statute of limitations had expired on the prosecutorial authority for a case involving domestic violence at the East Uusimaa Police Department, even though the suspect had admitted to the crime two years prior to the expiration of the statute of limitations.
- no investigative measures had been taken in a rape case for 1.5 years although a minor had reported the crime and identified the alleged perpetrator.
- In a rape case, the police did not actively investigate the matter until over 3 years after the initial request for an investigation.

These delays are detrimental to the legal protection and rights of the victims and contribute to underreporting of violence against women. The findings of the Chancellor are direct violations of Istanbul Convention that requires investigations and judicial proceeding in relation to all forms of violence covered by the Convention should proceed without delay and should consider the rights of the victim. It must be noted that the police investigations are not delayed solely because of lack of resources. Furthermore, the findings concern only a very small portion of cases in a small area, which means this is only the tip of the iceberg.

The HRC recommends Finland to ensure that cases of violence against women are investigated in a proper and timely manner to secure the rights of the victims. This could be done by mandatory capacity-building training on violence against women to sensitise law enforcement officials about the serious and multifaceted nature of the violence against women and increase their knowledge of the matter.

A research based on combination of various public source data was published in March 2023 showing that **professionals do not often recognise the violence experienced by women** who are later killed by their partners.¹⁴ The number of intimate partner homicides against women decreased in Finland in the early 2000s, but the decline has not continued in the 2010s. Intimate partner violence mortality rates in Finland are significantly higher than in other Nordic countries and many EU countries.

According to the research, the victims had frequently visited healthcare services prior to being killed, but instances of violence were rarely documented in their medical records. The research does not indicate how long victim suffers from violence before being killed. The victims rarely had a restraining order against the perpetrator or visited a shelter. Generally, the most common reasons for not seeking or hindering access to a shelter, is shame caused by the situation, uncertainty about whether the situation was serious enough, and fear of violence or the escalation of threats.

Researchers also note that the victims come from lower socio-economic background, indicating that leaving their violent partner was not economically feasible. One of the key findings of the research is that efforts to improve the

¹³ <https://oikeuskansleri.fi/-/poliisin-menettely-lahisuuhdevakivallan-ja-seksuaalirikosten-esitutkinnoissa>

¹⁴ <https://julkaisut.valtioneuvosto.fi/handle/10024/164731>

identification and reporting of intimate partner violence should be improved.

The HRC recommends that relevant professionals, particularly in the field of social and health care, are trained with relevant skills to identify signs of violence.

VIII. Emergency barring, restraining or protection orders

The HRC commends the reform on **restraining orders**, coming into force in October 2023. The amendments will improve the rights of victims of violence against women and domestic violence. As noted in the Government report, the significant improvements include no-fee application for a restraining order which reduces the financial burden and in cases of immediate danger, the police will order emergency barring orders at their own initiative regardless of whether the person is able to order it for themselves.

IX. Specific recommendations (mediation and deportation)

The CEDAW-committee recommended Finland to give priority to prosecution over the use of **mediation** in cases of intimate partner violence and domestic violence and ensure that referral to mediation does not result in the discontinuation of criminal investigation and prosecution in these cases.

The HRC notes with concern that the working group established by the Ministry of Justice in 2020 until April 2023 to assess the use of mediation in general and the continuation of mediation in domestic violence cases has no representatives from the civil society or other relevant stakeholders working on combatting violence against women such as the HRC.

The Government interim report referred to a **study on mediation of domestic violence** that was published in February 2023. The publicly funded research concluded that mediation of domestic violence benefited most people whose cases were mediated, none of the participants in the study experienced that they were forced to partake in the mediation and most participants were happy with the fact that their case was mediated.¹⁵ This has been strongly contested by the NGOs working with the victims and victim services.

Also, the HRC is cautious about the conclusions the study draws because the sample of participants in the study is very small. A total of 25 people (16 women and 9 men) answered written questionnaire and 11 people (8 women, 3 men) participated in the interviews. Participants were either victims of violence, suspects of having committed violence or both victims and alleged perpetrators. Considering the fact almost 2500 cases of domestic violence were referred to mediation in 2021, the sample in the research is too small to make any definite conclusions about experiences that people have of mediation.¹⁶

Only the police or prosecutor can officially initiate a mediation process in cases of domestic violence. The National Police Board's guidebook on domestic violence has a chapter on mediation, and it outlines several challenges related to mediation, but simultaneously it mentions that in applicable cases mediation may have positive attributes, one of them being the speediness of mediation.

The police initiated the mediation process in 88.7% of domestic violence cases

¹⁵ <https://julkaisut.valtioneuvosto.fi/handle/10024/164663>

¹⁶ <https://thl.fi/fi/tilastot-ja-data/tilastot-aiheittain/sosiaalipalvelut/rikos-ja-riita-asioiden-sovittelu>

(compared to 88.1% the previous year), while the rest were initiated by the prosecutor.¹⁷ According to the available statistics, it seems that the police tend to recommend mediation to victims of domestic violence and rape. As mentioned in the previous section, there are significant delays in preliminary examinations during police investigations regarding violence against women.

A recent study finds that the one third of the police officers refer cases of intimate partner violence to mediation a completed preliminary investigation, one-third with an ongoing preliminary investigation, and the remaining third being based solely on a filed criminal report.¹⁸ In practice, this means that in most cases referred for mediation, the police had not completed their preliminary investigation before making the referral. Mediation thus is being used to lighten the investigative burden of the police.

In light of these issues, it may be worth **considering whether police should have the authority to propose a mediation** process to victims. GREVIO made a similar recommendation to Finland, and this has not been implemented. Also, CEDAW made a same remark in 2022 by recommending that Finland should give priority to prosecution over the use of mediation in cases of intimate partner violence and domestic violence and ensure that referral to mediation does not result in the discontinuation of criminal investigation and prosecution in these cases.

The Legal Affairs Committee of the Parliament stated that mediation should not be used in **cases of repetitive or continuous violence** when it considered the government's proposal for a law on the mediation of criminal cases.¹⁹ The National Police Board's guidelines establishes that the Police should not direct cases of repetitive or continuous violence to mediation.²⁰

However, the practice seems to continue in Finland. Studies that evaluate the experiences of mediation in the cases of domestic violence show that that some respondents who participate in the mediation have experienced repetitive or continues violence. This is the case in the study referred above (10 respondents out of 25 said they have experienced violence a couple of times earlier). Results are similar to the research from 2015.²¹ NGOs have also made similar remarks that cases of repetitive and continuous violence are being meditated.

Mediation remains a faster and often less expensive option for victims of violence against women. This is concerning as it could prompt them to choose mediation over judicial remedies in pursuit of a swift resolution. It is crucial to note that selecting mediation merely because it is more economical and expeditious should be avoided. The most common result of a mediation is an apology.

The HRC recommends that Finland evaluates whether police should have the authority to propose a mediation process to victims. Also, more attention should be paid to recognising repetitive violence and not allowing those cases being mediated.

The HRC highlights that there are victims of domestic violence who have a residence permit based on family relations. To enable the victim to continue living in Finland, separately from the perpetrator, an individual residence permit is needed.

¹⁷ <https://www.julkari.fi/handle/10024/144629>

¹⁸ https://www.julkari.fi/bitstream/handle/10024/137475/URN_ISBN_978-952-343-269-7.pdf?sequence=1&isAllowed=y

¹⁹ https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/lavm_13+2005.pdf

²⁰ <https://dev.hel.fi/paatokset/media/att/04/041572bc5262a824406d68e75bf78aead52f38b4.pdf>

²¹ <https://researchportal.tuni.fi/fi/publications/restorative-justice-and-partner-violence-victims-view-of-finnish->

The HRC notes that under section 54, subsection 7 of the Aliens Act (301/2004), a victim of domestic violence can be issued with a residence permit, but **the fear of deportation** continues to be an issue. The HRC regrets that there are no proper statistics available on the application of this ground. The data currently shows the number of approved permits, but not of those rejected. Also, there are still excessively high evidential barriers that prevent victims from applying residence permit. Not all victims are aware of their rights to apply for a permit on the ground of being victims of domestic violence.

Additionally, the HRC is deeply concerned that the individual residence permit requires that the applicant provides documentation of having sufficient financial resources to stay in Finland. In individual cases, a derogation regarding financial resources may be made if there are exceptionally serious grounds for such a derogation or if the derogation is in the best interest of the child. The current requirement for sufficient financial resources may trap victims in violent and abusive relationships

HRC recommends that Finland amends section 54, subsection 7 of the Aliens Act to remove the requirement of sufficient financial resources for issuing individual residence permits in such cases.

X. Other issues

The HRC would like to bring to the attention of GREVIO also three other issues. Firstly, the section 2 of the Sterilisation Law permits **the sterilisation of women with mental disabilities** who have limited legal capacity or who have been deprived of their legal capacity without their consent. This is a harmful practice and contrary to the Istanbul Convention.

The HRC recommends that Finland repeals the section 2 of the Act on Sterilisation.

The HRC regrets that Finland failed to strengthen **intersex children's** right to self-determination and prohibit the cosmetic, nonmedical surgeries on young children's genitals even though it was a goal outlined in the governmental programme. The continued unnecessary surgeries violate fundamentally their rights.

The HRC recommends that Finland introduce a legal ban on medically unnecessary procedures on intersex children without their free and informed prior consent.

Finally, the HRC notes that the Criminal Code was amended, **and gender has been added to the grounds for increasing punishment**. While the HRC commends the amendment, it is important to monitor to what extent police identifies gender-motivated hate crimes. Training and human rights education is crucial in this aspect.

The HRC recommends that the use of gender as grounds for increasing the punishment is monitored and analysed to improve the recognition and the penalisation of gender-motivated hate crimes.



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IOK/21/2023

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ANNEX: Compilation of recommendations from the Finnish Human Rights Centre/NHRI for the consideration of the Government mid-term report on Istanbul Convention 2023

I. Fundamental rights, equality, and non-discrimination

1. The HRC recommends that Finland explicitly criminalises FGM in the Criminal Code.
2. The HRC recommends that Finland immediately begins to evaluate the feasibility of criminalizing forced marriages.
3. The HRC recommends more training to relevant public sector service providers on different forms of violence against people with disabilities to increase awareness and knowledge of the issue.
4. The HRC recommends Finland ensures enough accessible shelters and low threshold victim services throughout the country and that all shelter personnel have cultural competences and culturally sensitive approach in their work. Furthermore, HRC recommends that the Act is amended or alternatively the Government assures that all the new shelters established in the future are accessible.

II. Comprehensive, and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body

5. The HRC recommends streamlined and improved coordination of the efforts in combatting violence against women and continuation of actions over the four-year election periods.

6. The HRC recommends that the wellbeing services counties be mandated to designate a domestic violence prevention work coordinator and a multi-professional working group coordinating domestic violence prevention work. This should be done by legislative measures that would define clear responsibilities and duties for different actors in combatting violence against women.

III. Financial resources

7. The HRC recommends that Finland increases significantly funding for efforts to combat violence against women and meet the minimum requirements of Istanbul Convention, including the units of family spaces in shelters and providing other low-threshold services for the victims of violence against women. This funding should be made permanent and not dependent on the will of the parliament bi-annually.

IV. Non-governmental organisations and civil society

8. The HRC recommends that Finland secures long-term funding for organisations working on combatting violence against women to ensure continuity of the low threshold services they provide.

V. Data collection and research

9. The HRC recommends that whenever possible the publicly funded research incorporates an intersectional approach and provides disaggregated information.
10. The HRC recommends that Finland provides funding for research that would study the operationalisation and effects of amended provisions on sexual offences in the Criminal Code.

VI. Custody, visitation rights and safety

11. The HRC recommends that Finland conducts substantive research on how violence is recognised and considered in the decisions regarding custody and visitation rights. Similar research should be conducted with regard personnel in social services as in many cases they either decide or at least monitor visitations and custody.

VII. Immediate response, prevention and protection

12. The HRC recommends Finland to ensure that cases of violence against women are investigated in a proper and timely manner to secure the rights of the victims. This could be done by mandatory capacity-building training on violence against women to sensitise law enforcement officials about the serious and multifaceted nature of the violence against women and increase their knowledge of the matter.

13. The HRC recommends that relevant professionals, particularly in the field of social and health care, are trained with relevant skills to identify signs of violence.

VIII. Emergency barring, restraining or protection orders

NA

IX. Specific recommendations (mediation and deportation)

14. The HRC recommends that Finland evaluates whether police should have the authority to propose a mediation process to victims. Also, more attention should be paid to recognising repetitive violence and not allowing those cases being mediated.
15. HRC recommends that Finland amends section 54, subsection 7 of the Aliens Act to remove the requirement of sufficient financial resources for issuing individual residence permits in such cases.

X. Other issues

16. The HRC recommends that Finland repeals the section 2 of the Act on Sterilisation.
17. The HRC recommends that Finland introduce a legal ban on medically unnecessary procedures on intersex children without their free and informed prior consent.
18. The HRC recommends that the use of gender as grounds for increasing the punishment is monitored and analysed to improve the recognition and the penalisation of gender-motivated hate crimes.