



NON-DISCRIMINATION

OMBUDSMAN

YHDENVERTAISUUSVALTUUTETTU
DISKRIMINERINGSOMBUDSMANNEN
OVTTAVEARDÁSAŠVUODÁÁITTARDEADDJI

Comments

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Committee of the Parties
Council of Europe Convention on Preventing and Combating
Violence against Women and Domestic Violence
(Istanbul Convention)

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Report by the Government of Finland 28 February 2023
with reference to IC-CP/Inf(2022)1

Comments of the Non-Discrimination Ombudsman

The Finnish Non-Discrimination Ombudsman acts as the national Rapporteur on Violence against Women. The Ombudsman is an independent and autonomous authority promoting fundamental and human rights. Her mandate was extended to issues related to violence against women in January 2022 with an explicit reference to the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter ‘the Istanbul Convention’, or ‘the Convention’). According to the Act on Non-Discrimination Ombudsman (1326/2014), the Ombudsman

monitors violence against women and domestic violence, monitors and assesses, jointly with the Committee for Combating Violence against Women and Domestic Violence, measures and policies targeted to prevent and combat all forms of violence covered by the [--] Convention, by means laid down in Article 10 of the Convention.

For the mandate of the Rapporteur, the Non-Discrimination Ombudsman’s office was granted a budget allocation of EUR 200, 000 per year as of 2022.

The Ombudsman hereby submits her comments on the Report by the Government of Finland on the implementation of the recommendations addressed to the state parties by the Committee of the Parties 28 February 2023. Each comment refers to a specific question numbered in the reporting form.

To conclude, the Ombudsman wishes to call the Committee's attention to four major concerns, regarding the Government's report and the need for comprehensive and co-ordinated policies:

- Finland lacks a comprehensive long-term national strategy to combat violence against women and domestic violence
- At national level, it is not clear who has the ultimate responsibility to implement and assess national policies
- Finland lacks permanent and sufficient earmarked funding to combat gender-based violence against women, especially at regional and local level
- There are no designated responsible bodies for data-collection concerning violence against women

I. Fundamental rights, equality, and non-discrimination (Article 4)

1. Have your authorities taken measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any grounds listed in Article 4, paragraph 3, of the convention, including in terms of the availability of services and the protection by law enforcement agencies?

The Ombudsman notes that in Finland, the measures combating violence often remain gender-neutral and the most vulnerable victim groups remain unidentified. Regardless of everyone's formally equal access to services and equal protection against violence, availability of services and access to justice of female victims of violence are often ignored. The Ombudsman is especially concerned for minority women and women whose vulnerabilities increase their risk for victimisation. The service system does not necessarily recognise their needs for support and assistance. It is known, for instance, that disabled women are at a higher risk to be victims of close relationship violence than other population. Also, many female victims of trafficking have been subjected to abuse and violence in their close relationships already during their childhood. Some of the immigrant women would need strengthened support system due to their insufficient language skills and poor economic situation.

The lack of data on the prevalence of experienced violence considering gender and different subgroups of women is alarming. Overall, Finnish authorities hardly ever resort to positive action targeting the most disadvantaged groups regardless the possibility granted by the national legislation.

2. Have your authorities taken measures contributing to prevent and combat violence against women who are or might be exposed to intersectional discrimination?

Actions against violence against women are not generally reviewed in Finland in the legal framework of prohibited discrimination. On one hand, the Non-Discrimination Act prohibits discrimination on several grounds but excludes gender, gender identity and gender expression. Gender-based discrimination, on the other hand, is prohibited by the Act on Equality between Women and Men. The Non-Discrimination Ombudsman monitors the compliance of the former, the Ombudsman for Equality the latter. This may result in, for instance, that female victims of racist and sexist hate speech and hate crimes lack comprehensive and effective legal protection.

Both Acts include explicit duties for public authorities to actively promote equality. Provisions on these duties differ in these acts, though, and it is not clear, for instance, whether measures to combat gender-based violence are considered as measures promoting actively gender equality, or not.

With reference to the Government's report, the Ombudsman agrees on the need to ensure accessibility of shelters, to ensure Sami women's access to shelters in their homeland region, and to understand needs for Roma women who stay in shelters.

The Ombudsman also notes with concern that marginalised women, that is, women with substance abuse issues and/or mental health problems often have a long history of trauma and abuse. Yet there is no targeted support for marginalised women, and services such as regular shelters are excluded for them. Also, a study on female prisoners shows, that women who end up in prison have often previous traumas and represent the prisoner group with the most health problems.¹

¹ Kaisa Tammi-Moilanen 2020: Naisvankiselvitys: Selvitys naisvankien olosuhteista, toiminnoista ja turvallisuudesta, Rikosseuraamuslaitoksen monisteita 4/2020.

II. Comprehensive and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced co-ordinating body (Articles 7 and 10)

4. Have your authorities developed a long-term plan/strategy to prevent and combat violence against women?

The Ombudsman disagrees with the Government's view. Finland does not have a long-term strategy to prevent and combat violence against women. Different policy programmes are always of fixed duration, most often comprising one parliamentary term at a time. This means that aims, means, and funding are constantly renegotiated and redefined on a national level. Lack of continuity and lack of long-term earmarked funding weaken national policy framework notably.

The second Action Plan for the Istanbul Convention leaps over the Parliamentary elections held on the 2nd of April 2023 but covers only four years, 2022-2025. The Action Plan did not originally have any budgetary funding for its implementation, and it was not until December 2022 when the Action Plan was given an extra EUR 600.000 as extra budgetary funding allocated by the Finance Committee of the Parliament. The Finance Committee decided overall on a total increase of EUR 40 million to the State Budget.

The Action Plan for Combating Violence against Women for 2020-2023 (VAW Action Plan) with a separate EUR 200.000 annual funding was agreed upon and implemented during Prime Minister Sanna Marin's Government. There is no guarantee that the next government will draw up a new Action Plan or allocate earmarked funding to combat violence against women.

The Committee for Combating Violence against Women and Domestic Violence (hereinafter the 'NAPE Committee'), attached to the Ministry of Social Affairs and Health, is responsible for drafting and monitoring the Action Plan of Istanbul Convention whereas the Ministry of Justice was coordinating the VAW Action Plan.

In the Ombudsman's view, it is good to compile different measures and give them visibility in national action plans just like the Istanbul Convention is based on four different pillars, that is prevention, protection, prosecution, and coordinated policies. Non-governmental organisations should participate in their drafting and implementation.

The Government Report on Gender Equality, submitted to the Parliament in June 2022, declared gender-based violence as one of seven thematic areas of concern in Finland. The Government Report aspires Finland as a State that has achieved gender equality by 2030. Regarding gender-based violence, the Report sets as a goal that by 2030 no one dies or loses one's health as a victim

of gender-based violence. In the Ombudsman's view, the goal is concrete and ambitious, as it should be. To achieve the goal, however, Finland needs to follow the prevalence of different forms of violence, or how else to assess whether actions taken are leading Finland to the right direction.

When assessing the Government Report, the Employment and Equality Committee stated that violence against women is a serious human rights issue in Finland that has not been tackled effectively so far. Following the Committee's conclusions, the Parliament gave a statement according to which the Government shall ensure that measures against violence will be of permanent nature and that the policy framework to combat violence will be assessed.

5. Which forms of violence against women covered by the Istanbul Convention are addressed by the plan/strategy? Please offer a brief description specifically indicating the forms of violence not previously addressed in plans or strategies at national level.

The Action Plan for the Istanbul Convention 2022-2025 excludes criminal law and its reforms as amendments to the national Penal Code and related legislation are carried out separately, often independently by the Ministry of Justice. This means, for instance, that the introduction of new criminalisations, such as criminalisation of forced marriage or female genital mutilation, are not assessed or decided by the NAPE Committee.

The Penal Code is not assessed as a whole, from the point of view of gender equality and violence against women, considering both the essential elements of different crimes as well as the general provisions on aggravated circumstances. In the Ombudsman's view, the Penal Code should be reviewed with the aim to better recognise especially intimate partner violence and close relationship violence, when applying different criminal acts and measuring the punishment.

6. Was specific attention given to place the rights of women victims at the centre of all measures planned?

As mentioned above, measures are mostly gender neutral. Instead of explicit reference to 'women' or 'violence against women', measures refer to 'gender-based violence' and does not exclude male victims.

7. Do the plan/strategy and the measures contained therein involve all relevant actors, such as government agencies, the national, regional, and local parliaments and authorities, national human rights institutions, and civil society organisations?

Again, the Ombudsman disagrees with the Government's view. The Ombudsman is concerned about the lack of institutionalised structures for violence prevention and the inadequate level of cooperation and coordination of services for victims of gender-based violence against women. The Ombudsman calls for a co-ordinated, cross-sectoral policy framework which includes all levels of decision-making, that is, the national, regional, and local level.

The Action Plan for the Istanbul Convention 2022-2025 involves many administrative branches and agencies of different levels. The drafting process was extensive and included many agencies, but the targets were abstracted during the process, at least partly due to the lack of earmarked operating appropriation. Consequently, the implementation of measures and their target level depend on the political will, formal powers, and allocated resources by each agency.

The Finnish social and health care system is undergoing an overall reform as the legal duty to organise public social and healthcare services has been transferred from municipalities and joint municipal authorities to new well-being services counties. The reform entered into force in January 2023. Yet, the counties do not have an explicit duty to set up a group and/or an office for coordinating measures against gender-based violence against women.

In the Ombudsman's view, to ensure effective protection of victims and their recovery, municipal and regional authorities, and service providers, including non-governmental organisations, must cooperate and act in a coordinated manner. Establishing institutional structures for cooperation and coordination, as well as service pathways for victims of gender-based and interpersonal violence throughout the country must be an integral part of the ongoing national reform.

The Ombudsman is particularly concerned that intimate partner violence remains largely ignored in the social and health care sector if the wellbeing services counties are not explicitly responsible for recognising and combating gender-based violence against women. In the Ombudsman's view the counties should develop services for both victims and the perpetrators.

The risk assessment of serious intimate partner violence and victim support system MARAK is a good example of how the measures can involve different actors from all relevant fields as it comprises a multi-professional group of experts working regionally or locally. However, the MARAK system is not nation-wide, nor has it permanent funding, and the NAPE Committee does not evaluate the system. In the Ombudsman's view, MARAK should be a nation-wide and permanent part of a national strategy to combat violence against women with a solid funding.

9. Please specify the mandate, powers, and competences, as well as the composition, of the co-ordinating body/bodies:

The Ombudsman wants to note that the members of the NAPE Committee are not in a position to decide whether their administrative branch will take action or not. Regardless they represent different administrative branches, they are not responsible for implementation of the measures adopted in the Action Plan but rather function as informants.

The Secretary General of the NAPE Committee is placed at the Competence cluster for violence prevention work of the national Health and Welfare Institute. The Institute, for its part, is under the administrative branch of the Ministry of Social Affairs

and Health. The organisational position gives the impression that the NAPE Committee and the Action Plan are mainly focused in social and health care sector.

In Finland, there has been a general agreement that the same body should not coordinate, implement, and assess national measures. Therefore, both the national Human Rights Centre and the Ombudsman for Equality advocated for an independent body separated from the executive power, assigned to evaluate national policies. As already referred to in the introduction of this document, to this end, the Non-Discrimination Ombudsman was given the task to act as the national Rapporteur of Violence against Women as of January 1, 2022. According to the Act on Non-Discrimination Ombudsman, the Ombudsman works jointly with the NAPE Committee.

III. Financial resources (Article 8)

13. Have these funds increased since the publication of GREVIO's baseline evaluation report?

The Ombudsman emphasizes that Finnish authorities have not allocated permanent, earmarked funds to combat violence against women at all levels of decision-making, especially not at regional and local level.

In Finland, there is no overall assessment on the annual public expenditure related to measures targeting violence against women and domestic violence. Yet, a recent study estimated that the annual direct costs for the healthcare caused by physical violence targeting women amount to EUR 150 million. This amount excluded indirect costs such as sick leaves or periods of disability.²

The Government reported an increase of EUR 400,000 for the Action Plan for Combating Violence against Women. The Committee should note that the increase was temporary, extending only the parliamentary term. Also, the annual allocation of EUR 200,000 for the Rapporteur was estimated to be sufficient only for one or two new positions at the Office of the Non-Discrimination, and to cover some other expenses.

IV. Non-governmental organisations and civil society (Article 9)

16. Have your authorities taken measures contributing to further recognise, encourage, and support the work of relevant non-governmental organisations and of civil society active in combating all forms of violence against women covered by the Istanbul Convention, including in terms of funding and co-operation?

Non-governmental organisations do not have a well-established role in the national decision making. As stated in the Government's report, the NAPE Committee has set up a permanent sub-group consisting of mainly non-governmental organisations (JÄTY). Its composition, working methods, and cooperation with the NAPE

² Domestic violence-related use of services and the resulting costs in health, social and legal services. Publications of the Government's analysis, assessment, and research activities 2023:4. Prime Minister's Office 20.01.2023. English version: <http://urn.fi/URN:ISBN:978-952-383-317-3>.

Committee seem, however, somewhat incidental. The Steering group of the National Action Plan to Combat VAW 2021-2023 had a representative of one national women's organisation as its member.

The Government's report enlists in its report many projects headed by different agencies that have recently received public funding. However, much of the NGO funding in Finland is granted by the Funding Centre for Social Welfare and Health Organisations, which to a large extent grants temporary funding. This also is true for NGOs and other agencies who work to combat violence against women. Dependency on temporary grants makes the work fragmented and short-sighted. Even when good practises are developed within the projects, the results are lost when the projects end, and people change their jobs. The Ombudsman draws attention to that the Government should spread and institutionalise the good practises developed and the expertise sustained by the NGOs.

V. Data collection and research (Article 11)

17. In implementation of the recommendation addressed to your authorities, have sectors of the administration improved their data collection?

The data collection and research in Finland lacks continuity and comparability. There is no comprehensive data base which would include information on the prevalence of different forms of violence against women. Currently, information needs to be gathered from different sources, that is, from different statistics, surveys, and research outputs.

No public authority has been given the specific duty to collect and analyse data on violence against women, and there is no systematic, long-term approach to data collection.

Many surveys touch upon violence, but women's experiences on personal safety, security and well-being are not of explicit interest. Furthermore, framing of questions often demonstrate lack of understanding violence as a gendered phenomenon.

Regarding the Finnish criminal legal system, it is difficult to assess its capacity to protect victims from violence and victims' access to justice due to lack of available and accessible data.

Statistics Finland provides statistical data on close relationship violence considered by the criminal investigation authorities. In 2021, almost 70 per cent of the total of approximately 11,000 victims of violence in a close relationship were women.³ Unfortunately, when public authorities make further decisions during the criminal

³ Statistics Finland www.tilastokeskus.fi (Search from the database Viranomaisten tietoon tulleen perhe- ja lähisuhdeväkivallan uhrin sukupuolen, iän, rikosnimikkeen, suhteen, asumismuodon ja ilmoitusvuoden mukaan, 2009–2021).

legal proceedings, it is not possible to sort out cases of close relationship violence from other types of violence.

According to the Government's report, the introduction of the new operational system of the police, called Vitja, has been delayed. The report asserts that the National Prosecution Authority's new information system, called AIPA, will enable targeted collection of domestic violence cases from other cases of violence. The Ombudsman considers it of utmost importance to ensure that these new systems of the investigating authorities render possible better data collection and analysis of close relationship violence.

The service system has not been analysed from the point of view of accessibility. Many organisations collect some data on the prevalence of violence and guidance of victims to the services. However, the data is not gathered systematically and put together. For instance, according to the help line service Nollalinja, one third of the callers had not sought help from anywhere else before contacting the help line.

The Ombudsman urges public authorities to follow the prevalence of different types of violence against women, the effectiveness of preventive measures, victims' access to services, and the handling of violence in criminal legal proceedings in a systematic manner. Data collection and analysis should be comparable in a long-term basis.

In the Ombudsman's view, public registers and statistics should be developed with the aim to better follow the trends of the prevalence of violence against women. A knowledge-based strategy plays a key factor when assessing the effectiveness of chosen measures.

VI. Custody, visitation rights and safety (Article 31)

22. Have your authorities taken measures contributing to ensure that incidents of violence covered by the scope of the Istanbul Convention are taken into account in the determination of custody and visitation rights, notably by judicial authorities?

The Ombudsman advocates the legislation to be amended to enable urgent assignment of a temporary legal guardian for a minor without hearing the parent if a parent is suspected of sexual offence or violence.

Specific recommendations

32. Please report on measures taken by your authorities contributing to the implementation of the recommendation to introduce clear protocols and guidelines on **mediation in domestic violence cases** with a view to ensuring that all law-enforcement and prosecution staff are aware that mediation is **prohibited in cases of repeated violence**; while safeguarding that all offers of mediation are accepted **entirely voluntarily** and that they **do not result in the discontinuation of criminal investigation and prosecution** in violence against women cases and to reconsider the power vested in the police to propose mediation as a criminal justice measure in domestic violence cases which might jeopardise the effectiveness of criminal investigations (Recommendation A.10, IC-CP/Inf (2020)3).

The latest national Review on Criminality by the National Institute of Criminology and Legal Policy (Krimo, Katsauksia 5/2022) reveals that cases of close relationship violence are often mediated. Close relationship violence cases constitute the second most common type of all violent offences referred to mediation. Overall, the numbers show a steady increase of close relationship violence cases in this procedure (pp. 176-177).

A recent study on mediation in cases of close relationship violence, being part of the Government Plan for Analysis, Assessment and Research, concluded that the mediation process worked generally well.⁴ The Ombudsman finds the conclusions drawn from the study problematic. The sample size comprised 25 filled questionnaires (out of the total amount of 500 contacted), and only 11 interviewees including both victims and perpetrators of close relationship violence. The general applicability of the results is questionable. While the current legislation supposedly limits mediation in cases of repeated violence, the study itself noted that the research material indicated that cases of repeated close relationship violence are referred to mediation, especially if psychological, economic, and sexual violence were considered as forms of close relationship violence.

The Ombudsman does not consider mediation to be an appropriate response to close relationship violence.

33. Please report on measures taken by your authorities contributing to the implementation of the recommendation **to ensure that fear of deportation from Finland**, with or without their children, **may not prevent migrant women from leaving abusive spouses/partners, by informing** newly arrived migrant women of the possibility of obtaining an independent residence permit after leaving an abusive relationship, **and ensuring capacity-building for immigration officials** to increase their understanding of the trauma this may cause, and **to remove excessively high evidential barriers for applications** for extended residence permits such as the requirement of a criminal conviction to prove the abuse. (Recommendation A.13, IC-CP/Inf (2020)3).

In its report, the Government refers to Section 54, Subsection 7 of the Alien's Act, to the measures taking place at the reception centres, and to the training for the officials who conduct oral hearings at the Finnish Immigration Service, Migri. The measures mentioned do not, however, confirm that women are explicitly informed about their possibility to apply for an extension of their residence permit under the said provision. To the Ombudsman's knowledge, access to information is deficient.

The Ombudsman notes furthermore that women who have been issued their first residence permit on the basis of family ties, have not, to a large extent, entered the country as asylum seekers through reception centres. Information on the possibility to apply for an independent residence permit could be provided when women are

⁴ Mediation in cases of close relationship violence: General characteristics and the parties' experiences with the process. Publications of the Government's analysis, assessment, and research activities 2023:11. Prime Minister's Office 24.2.2023.

notified on the permit based on family ties. This could be also a substantial part of integration services of immigrants. Information should be provided both orally and in writing in the native language of the permit-holder. Also, the personnel of the reception centres and the social and health care services must be aware of the provision and know where to turn to for legal consultancy. The National Migration Authority should update their website accordingly.

To the Ombudsman's knowledge, the preconditions for an extension of the residence permit laid down in Section 54, Subsection 7 of the Alien's Act are set quite high in practice and the issuance of the permit is unpredictable. This renders difficult to disclose violence and end an abusive relationship. Apparently, women whose family ties have terminated are not asked about the possible violence, and Migri does not, in general, provide an oral hearing for women when considering extension of their residency. In the Ombudsman's view, the National Migration Authority plays a key role to ensure the applicability of the said provision in practice. When considering the extension of their residence permit, women should be asked *ex officio* about the violence, and the national authorities should not rely solely on a documentary material on violence. Overall, the preconditions for the extension of the permit should be reviewed.

Non-Discrimination Ombudsman

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