

Submission to the Committee of the Parties on the implementation of the Istanbul Convention in Finland / Finnish League for Human Rights

The Finnish League for Human Rights (hereinafter FLHR) is a religiously and politically independent human rights organisation. Our principal objective is to monitor the human rights situation in Finland. We are International Federation for Human Rights' (FIDH) member organisation in Finland.

The FLHR appreciates the opportunity to provide our views to the Committee of the Parties to Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter Istanbul Convention) on the implementation of the Istanbul Convention in Finland.

In addition to this statement, we participate in a joint parallel report prepared by the Finnish civil society organisations (CSO's). Here, we focus more closely on the forms of violence against women that fall under our own area of expertise: the so called honour-based violence, forced marriage, and female genital mutilation (FGM). More specifically, we provide information about the shortcomings of the current legislation related to above mentioned themes (Istanbul Convention paragraph 5, articles 32, 37, 38).

Forced marriage (articles 37 and 32)

In accordance with the Istanbul Convention, forced marriage must be criminalised (art. 37) and made voidable, annulled or dissolved (art. 32). In Finland, forced marriage can currently only be punishable under the Criminal Code as trafficking or aggravated trafficking in human beings, or as coercion. However, in practice current legislation is not applicable to all cases of forced marriage.

According to FLHR forced marriage should be considered as its own separate phenomenon as the current human trafficking legislation applies mainly to cases where the forced marriage includes clear elements of human trafficking and clear coercion. Thus certain circumstances, for example in cases where parents force their child into marriage thinking that it is in the child's best interests without any intention of harming them do not fall under the human trafficking legislation.

According to experts the human trafficking legislation is very complex. In the decision by the Deputy Chancellor of Justice from 2021 it was noted that the police and investigators have difficulty identifying the elements of human trafficking and consequently, rights of victims of human trafficking are not being fulfilled currently.¹ Thus, the FLHR advocates that forced marriage should not be considered under the complex human trafficking legislation, because forced marriage is a very challenging and complex phenomenon as itself but also because it differs in many ways from human trafficking.

The need for criminalisation of forced marriages was under assessment at the Ministry for Justice in 2021-2022, and despite opposing statements on the memo by numerous CSO's with expertise on

¹ <https://oikeuskansleri.fi/en/-/deputy-chancellor-of-justice-mikko-puumalainen-the-police-have-difficulties-identifying-human-trafficking-offences>



the phenomenon, the ministry proposed no amendments to the current legislation². Another example of Finland's unwillingness to criminalise forced marriage comes from the recent UPR (Universal Periodic Review) process. Finland gave its answers to the United Nations Human Rights Council on the March 27th 2023, but only noted (not accepted) the recommendations to criminalise forced marriages.

The current legislation is not in accordance with the Istanbul Convention article 37 and violates the human rights of the victims of forced marriage. It is therefore crucial that marriages concluded under force are criminalised, including legally invalid marriages, such as so called cultural or religious marriages.

Also some slightly positive development regarding to legislation related to forced marriage has recently taken place. The government proposal on dissolving forced marriage was accepted in the parliament in February 2023 and will come into effect in October 2023³.

The new law enables a forced marriage to be dissolved (*kumota*). In this case, the marital status will be restored to what it was before the marriage. However, the legal effects created during the marriage will remain. This is problematic as the suggested law fails to recognise the variety of forced marriages. Consequently, the rights of the victims in different circumstances are not recognised. Therefore, the possibility to annul (*mitätöidä*) a forced marriage where all legal effects of the marriage would disappear must be included in the Marriage Act. In 2022, the judiciary committee of the Finnish parliament consulted the FLHR and requested more information on the need to enable the possibility to annul a forced marriage. However, our recommendations were not included in the final provision proposal.

Female genital mutilation (article 38)

Currently there is no specific legislation concerning female genital mutilation (FGM) in Finland. The process of assessing the need of a specific criminalisation of FGM took place at the Ministry for Justice between 2021-2022 after a citizen's initiative demanding specific criminalisation had been accepted in the parliament. FLHR was part of the working group. To our great disappointment, the working group did not propose amendments to the provisions of the criminal code in its report published in February 2023⁴.

From the beginning, the working group faced many difficulties. The Finnish Criminal Code is gender-neutral and consequently, FGM was regarded in parallel with male circumcision. It was not taken into consideration that FGM is violence that specifically targets the genitals of girls and women and that the practice is examined in international human rights treaties, especially in the Istanbul Convention, as a form of violence against women and girls. In our view, the working group should thus have

²Arviomuistio avioliittoon pakottamisen rangaistavuudesta (with an English summary). Oikeusministeriön julkaisuja 2021:29. https://api.hankeikkuna.fi/asiakirjat/141ff90b-9cb5-4428-8fc0-14ab4e658e69/2c60f8d0-f035-42af-bae4-c6681b0affa1/LAUSUNTOPYINTO_20211117093805.PDF

³https://www.eduskunta.fi/FI/vaski/EduskunnanVastaus/Sivut/EV_285+2022.aspx

⁴ *Tyttöjen ja naisten sukuelinten silpomisen rangaistavuuden selkeyttäminen rikoslaisissa*. Oikeusministeriön julkaisuja, Mietintöjä ja lausuntoja 2023:6 <https://julkaisut.valtioneuvosto.fi/handle/10024/164633>



deviated from the principle of gender-neutral legislation. The gender-neutral approach made it difficult for the working group to draft a provision to ban FGM – not to mention a provision that would ban all types of FGM because of the prevailing unwillingness to criminalise male circumcision.

In addition, the working group did not, in our view, recognise and understand the special nature of FGM as a form of violence against women and girls, as all non-medical operations performed on the genitals, such as cosmetic genital surgery performed with consent were equated. In our opinion, principle of gender-neutral legislation overshadowed the spirit and principles of the Istanbul Convention.

It is important to note that the working group was not unanimous in its decision, and for instance the FLHR left an opposing statement⁵ in the final report, where we stated that Finland must specifically criminalise all forms of FGM. In March 2023 the FLHR coordinated a joined statement by 35 CSO's demanding specific criminalisation of all forms of FGM⁶.

Coercive control

Also, legislation to protect women from coercive control, which is a central form of honour-based violence, and also violence against women in general, is lacking in Finland. It is essentially important to strengthen the legislation by criminalising coercive control.

Helsinki 31.3.2023

Contacts:

Duin Ghazi

Manager, gender-based violence
Finnish League for Human Rights
duin.ghazi@ihmisoikeusliitto.fi
tel. +358 44 742 0413

Johanna Latvala

Adviser, gender-based violence
Finnish League for Human Rights
johanna.latvala@ihmisoikeusliitto.fi
tel. +358 45 7061447

⁵ Johanna Latvala/FLHR: Eriävä mielipide/Opposing statement, s. 143-148.

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164633/OM_2023_6_ML.pdf?sequence=1&isAllowed=y

⁶ <https://ihmisoikeusliitto.fi/tytojen-sukuelinten-silpomisen-kaikki-muodot-on-kiellettava-laissa/>

