



# The EU Mutual Learning Programme in Gender Equality

## Tackling sexual harassment

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### Comments Paper - Finland



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# Tackling sexual harassment – The Finnish perspective

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## 1. The Finnish Context

### 1.1. Legal background

#### 1.1.1 Criminal Law

Since 2014, physical forms of sexual harassment have constituted a crime in Finland. However, to be regarded as criminal, the act needs to involve unwelcome touching, hugging or kissing, as the adopted Section covering harassment is in fact limited to physical acts of sexual molestation.

Section 5a of Chapter 20 in the Criminal Code of Finland defines **Sexual harassment** (509/2014) as an activity by person who, “[b]y touching, commits a sexual act towards another person that is conducive to violating the right of this person to sexual self-determination, shall be sentenced [], for sexual harassment to a fine or to imprisonment for at most six months.” Verbal sexual harassment is therefore not criminalized.

When the government was passing the Bill in 2014, the text did originally include all forms of sexual harassment as covered in the Art. 40 of the Istanbul Convention, thus including verbal forms of sexual harassment. However, during the parliamentary process the Legal Affairs Committee argued that including verbal or non-verbal harassment would leave the Section too vaguely defined and make the application of the Section open to various interpretations and thus decided to leave out the criminalization of verbal sexual harassment. [1]

In terms of digital sexual abuse, grooming was also criminalized in 2014. Section 8b defines **Solicitation of a child for sexual purposes** as (1) A person who suggests a meeting or other contact with a child so that it is apparent from the contents of the suggestion or otherwise from the circumstances that the intent of the person is to prepare sexually offensive pictures or visual recordings of the child [], shall be sentenced for *solicitation of a child for sexual purposes* to a fine or to imprisonment for at most one year. [2]

Since the amendments inspired by international conventions in 2014, in the legislation concerning sexual abuse the criminalized acts have been defined more concretely than before. The law aims to prohibit the exploitation of children for pornographic use and material production more precisely.

### **1.1.2 Equality Act and Labour Law**

In Finland, the Equality Act recognises harassment as (direct) discrimination based on sex (Section 7). Sexual harassment in the Equality Act is defined as verbal, non-verbal or physical unwanted conduct of a sexual nature by which a person's psychological or physical integrity is violated intentionally or factually, in particular by creating an intimidating, hostile, degrading, humiliating or offensive atmosphere.

The Equality Act generally applies to all societal activities and all areas of life. The Act does not apply to relationships between family members, other private relationships or activities relating to religious practice. In terms of effective prohibition of discrimination (incl. access to remedies or compensation), the scope of the prohibition of discrimination under these acts is limited to working life, provision of goods and services, educational institutions and labour market organisations (Sections 8, 8a-8e). Thus, it does not either apply to verbal sexual harassment in public places.

In working life context, if the harassment is so serious, that it may form a health hazard to the employee, sexual harassment may also constitute forbidden harassment under Section 28 of the Occupational Safety Act. Employers who fail to protect employees from workplace harassment are subject to fines or a maximum of six months in prison.

The Finnish legal norms covering sexual harassment are somewhat sporadic and whilst covering a range of acts, the application is not always simple, especially in terms of harassment in public spaces. Verbal acts still remain uncovered by law in many contexts.

## **1.2 Prevalence of sexual harassment and digital sexual abuse**

### **1.2.1 Prevalence of sexual Harassment**

A very large proportion of sexual crimes tend to remain hidden. Therefore, to analyse the prevalence of sexual harassment it is necessary to look at both police statistics and victim surveys. Sexual harassment can only be found in the police statistics since September, 2014 as the act only became criminal then. In 2016, police recorded 535 cases of sexual harassment.

In the EU-28 survey by EU Agency for Fundamental Rights (FRA) the findings on questions regarding sexual harassment showed, that Finnish women had since the age of 15, experienced the fifth highest prevalence of sexual harassment of all EU Member States, with 62 %. [3]

The Finnish Equality Barometer [4] contains information about experienced harassment, sexual harassment and fear of violence. In the most recent Barometer of 2012, a third of women had experienced sexual harassment, and one sixth of men had done so. According to the barometer, sexual harassment experienced by women has increased somewhat during this century. Since 2008, harassment

against women over the age of 55 has also increased. Sexual harassment is experienced most often by young women under the age of 35. Women also fear becoming objects of violence more often than men do when they move alone outside, in mass transportation and at work. According to the School Health Promotion Study in 2013, over 60 % of girls on 8<sup>th</sup> or 9<sup>th</sup> grade and over 50% of boys had experienced sexual harassment. [5]

### **1.2.2 Prevalence of digital sexual abuse**

Recorded numbers of sexual offences against children and minors fluctuates annually, reflecting the large proportion of hidden crime and varying recording practices of sexual acts by the police.

According to the police statistics, the prevalence of sexual abuse of children has increased significantly in the past 10 years. This is most likely due to increased levels of reporting and authorities' capacity to recognise the cases better, as the child victim studies from past years do not correspond to this increase.

According to a recent survey on the crime victim experiences of youth, 27 % of young people had experienced sexual harassment online, harassment including persuading the victim to sexual activities or receiving harassing or sexually natured messages via social media or messages online. Online teasing and sexual harassment were in fact the most common victim-experiences of young girls. [6]

According to the School Health Promotion Study, bullying, name-calling or criticism with insults directed at the body or sexuality (cyber-teasing) have been experienced sometimes or repeatedly by 24% of girls at comprehensive schools, 23% of girls at upper secondary schools and by 29% of girls at vocational institutions. Disturbing suggestions or harassment on the phone or internet had sometimes or repeatedly been experienced by 28% of girls at comprehensive schools, 32% of girls at upper secondary schools and by 37% of girls at vocational institutions. [7]

Based on the Child Victim Survey data, online digital abuse was studied in 2008 [8], with the respondents being 13-16 -year-old schoolkids. Back then, around every fifth 9<sup>th</sup> grader had experienced sexual harassment in the past 12 months. Sexual harassment and abuse online was then clearly more common at girls than boys.

Finland's National Bureau of Investigation lacks sufficient resources for investigating sexual crimes against children in digital media. This results in only the most serious cases of child sexual abuse being investigated.

## **2. Policy Debate**

### **2.1 Critical aspects on the debate on sexual harassment**

Sexual harassment has always been a reality to especially the women in Finland. In 2008, as many as one-third of women employed by the Finnish parliament said they had experienced sexual harassment at their workplace. This is telling, how sexual

harassment occurs everywhere, in the social media, in schools, streets and at the working places.

In recent years, the molestation and abuse on women has become more of a public topic, but often the loudest worries arise only when the offender is a foreigner. This discourse was most active in the new year of 2016, after the media covered the events of New Year's celebrations in Germany as well as in Finland. It is clear, that some of the concern is not really fuelled by the need to protect women from abuse, but rather by the need to point out foreigners as potential perpetrators.

## **2.2 Critical aspects on the debate on online sexual abuse**

In Finland, the terminology of "child pornography" is still commonly used instead of online child sexual abuse, which does not account for the seriousness of sexual exploitation and abuse of children in the online media and fails to express respect to the child and his or her individual rights.

Image and video material evidencing sexual abuse of children is still not regarded as a very serious crime against a child. Simultaneously, the digital dimension is present in many sexual crimes against children.

The NGO Save the Children has recommended, that Finland should enhance research to monitor and assess regularly sexual harassment and abuse against children in digital media.

In general, typical for the Finnish policy debate is the strong involvement of NGO's. Authorities have only quite recently opened up for public policy debates and often many policy initiatives are taken up only after the active promotion of the 3<sup>rd</sup> sector. This is also the case in the policy debate on digital sexual abuse.

According to the EU Kids Online –research network Finnish kids, along with the Swedish, Dutch, Danish and Norwegian kids, encounter more pornographic material online than kids elsewhere in the EU. The study classified kids and their online behaviour in four categories. Finnish kids belonged to the supported risky explorers –cluster along with the aforementioned nationalities.

On the positive note, media education and pedagogical use of ICT have become now a part of the new national core curriculum at Finnish schools, in force since 2016. However, it is very much up to the individual capacities of the teachers to educate children on their rights in the digital media and the risks involved in dating or posting material online.

## **3. Learning**

Looking at the Danish experience, it was most impressive how the initiatives were implemented from top to down. The involvement of several ministers enabled a multifaceted approach, which is likely to influence the whole national policy all the way to the individual schools or authorities. In Finland, the collaboration between

individual ministries for unified themes is relatively rare and each minister's sector is "respected" by the other ministers as to have autonomy over their own field.

Also, the understanding of the phenomenon was in the Danish initiative clearly very diverse, including the criminally motivated more serious abuse as well as the out of context –taken mishaps of youthful experiencing. The wide understanding seemed to also lead into versatile initiatives.

The local collaboration by schools, social service and police (SSP) seemed also more established than similar in Finland, where the authorities still work much in silos which unfortunately hinders active pre-emptive work and early detection of problems. However, recent development work including a government key project to address child and family services aims to improve the situation. In the Danish case, the initiatives planned to the field of education did not seem to include sexual education and human rights-based approach to equality promotion or anti-discriminatory planning, which could complement the palette.

The French example of tackling sexual harassment in public transport resembled a recent Finnish awareness-raising campaign which tackled racist harassment in public transport. However, the French campaign was more officially managed as well as national, as the Finnish example covered only the capital city region and its public transport companies.

The French campaign resulted, at least according to the media company that realized it, in an impressive amount of attention both as media spin-offs and public debates, and was backed by official initiatives such as an emergency line. The lack of official assessment however is a problem. The French experience reminds, how important it is also to plan the assessment and follow-up stages when planning campaigns.

## 4. Conclusions

The European national legal systems seem to prohibit some of the harmful practices as gender discrimination, but not all. The full scope of Article 40 of the Istanbul Convention is still to be implemented in all concerned countries. Improving the access to justice of the victims of sexual harassment requires amendments of both procedural and criminal law as well as other types of resources, such as training of professionals.

In the field of education, statutory gender equality and anti-discrimination planning should be introduced to schools. The plans should address also gender-based/sexual harassment. These plans need to be monitored and sanctions appointed for missing plans. Teachers and personnel of schools and educational institutions need to get basic, post- graduate and in-service training for recognising gender-based violence and means to address it. It is necessary to increase sexual, emotional and safety skills education of children to ensure awareness of risks associated with the Internet. When teaching the use of ICT and media, social support should be strengthened and family interaction should be highlighted. This includes teaching the children about their rights online.

It would also be necessary to guarantee adequate resources to the police for investigating image and video material, as the amount of sexually abusive material continues to grow online.

The European Union's Fundamental Rights Agency (FRA) has listed as structures needed for genuine access to justice in discrimination matters, that the complexity of procedure should be minimized by reducing fragmentation of legal provisions between grounds and areas of discrimination (or the material and personal scope of anti-discrimination law). This is certainly true in the case of Finland.

Furthermore, procedures should be simple and transparent, decisions clear and binding. Competent equality bodies should have regional or local presence. Procedures for claiming rights could be improved by making decisions of 'quasi-judicial' equality bodies legally binding. Complaints by multiple claimants should be permitted. Equality bodies should have the resources and powers to bring cases of strategic importance to court, and a critical mass of cases to provide a 'culture of compliance' brought to courts. [9]

As a common conclusion from both papers, systemic problems are most effectively examined in a multi-faceted manner by a joint effort, as the Danish example aimed to do. When planning the actions, due diligence should also be granted to the follow-up procedures to be used in order to measure effectivity.

## Sources

- 1) See: Legal Affairs Committee Report 4/2014 (Available in Finnish at: [https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/lavm\\_4+2014.pdf](https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/lavm_4+2014.pdf))
- 2) The Criminal Code of Finland (in English), available at: <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf>, also contains provisions on Distribution of a sexually offensive picture, Illegal exhibition or distribution of video programmes to a minor, Possession of a sexually offensive picture depicting a child and Unlawful marketing of obscene material.
- 3) European Union Agency for Fundamental Rights (FRA) Gender-based violence against women survey dataset, 2012, based on short set of harassment items, prevalence with full 11 items was 71 %.
- 4) Experiences of sexual harassment were last studied in the Gender Equality Barometer in 2012. The barometers are published every 4-5 years. Next Barometer is due in spring 2018.
- 5) See: Katarina Alanko's study from 2014 based on the School Health Promotion Study data, available in Finnish at: <http://www.nuorisotutkimusseura.fi/images/julkaisu/sateenkaarinuori.pdf>
- 6) Youth criminality and crime victim experiences – study by Matti Näsi, published in Finnish in 2016 by the Institute of Criminology and Legal Policy, paper 18/2016.



- 7) The National Institute for Health and Welfare: School Health Survey 2013 & 2015.
- 8) An article by Venla Salmi on violence in digital media was published in Finnish in a Police Academy Report 17/2008.
- 9) Access to Justice in Cases of Discrimination in the EU. European Union Agency for Fundamental Rights, 2012, Available at:  
<http://fra.europa.eu/en/publication/2012/access-justice-cases-discrimination-eu-steps-further-equality>