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## **RE: Questionnaire on the human rights implications of the implementation of the Madrid International Plan of Action on Ageing (MIPAA)**

### **Contribution from the Finnish NHRI/Human Rights Centre**

The Human Rights Centre (HRC) would like to thank the Independent Expert on the enjoyment of all human rights by older persons for the possibility to provide information concerning the human rights implications of the implementation of the Madrid International Plan of Action on Ageing.

The HRC, its Delegation and the Office of the Parliamentary Ombudsman together form Finland's National Human Rights Institution. The institution was accredited with the highest A-status by the International Coordinating Committee of National Human Rights Institutions in December 2014. According to legislation, one of the tasks of the HRC is to participate in European and international cooperation related to the promotion and protection of fundamental and human rights.

As the HRC generally represents the Finnish NHRI in international cooperation, the answers to this questionnaire have been prepared by the HRC on behalf of the Finnish NHRI. Our input incorporates observations made by the Parliamentary Ombudsman's Office in public reporting.

It is evident that positive developments have taken place after the adoption of MIPAA in 2002. However, most of our answers deal with developments in the situation of older persons in general. The connections between latest legislative and policy reforms and MIPAA are unclear since relevant documents do not contain references to the Madrid Action Plan.

We hope that you will find our response useful when compiling your report.



**Question 1: What is the role of your organization? Do you participate in MIPAA implementation or monitoring thereof?**

The Human Rights Centre, its Delegation and the Office of the Parliamentary Ombudsman form Finland's National Human Rights Institution.

**The statutory tasks of the HRC** are to promote information provision, training, education and research on fundamental and human rights in Finland and to draft reports, take initiatives, give statements and perform other tasks to promote fundamental and human rights. According to its work plan for 2016, the HRC will increasingly concentrate on the realisation of the rights of persons in vulnerable position, including older persons.

**The Human Rights Delegation** functions as a cooperative body in the field of fundamental and human rights. It also deals with human rights issues of a far-reaching significance and principal importance. The Delegation's members include the Chair of the Advisory Board for Ageing and Pensioners' Affairs.

**The Parliamentary Ombudsman** oversees and promotes the legality of actions taken by public authorities and the implementation of fundamental and human rights. The Ombudsman examines complaints, takes initiatives on his own and carries out inspections at offices and institutions, in particular closed institutions. The Ombudsman is also the National Preventive Mechanism under the Optional Protocol of the UN Convention against Torture.

**Question 2: Has a human rights-based approach been integrated in the implementation framework of MIPAA in your country and if so, how did this translate into concrete policies and normative actions? Are there any mechanisms to monitor and assess the impact of MIPAA implementation on the enjoyment of all human rights by older persons?**

**The Ministry of Social Affairs and Health** is responsible for the implementation of MIPAA in Finland. Information about MIPAA implementation can be found in the Ministry's second periodic report on the implementation of the Regional Implementation Strategy of MIPAA (2012).<sup>1</sup> However, **it is difficult to assess how much MIPAA has influenced legislative and policy reforms directly**, as relevant laws and policy documents do not include references to it.

**A comprehensive human rights based approach is largely absent at the level of legislation and policies concerning older persons.** Apart from the Constitution and the Non-Discrimination Act, most laws, policies, reports and other government documents often refer to very specific rights, for example the rights to health, social services, specific social security benefits and pensions. Policy documents and government reports dealing with older persons do talk about

<sup>1</sup> Reporting on National Follow-up to the UNECE Regional Implementation Strategy (RIS) of the Madrid International Plan of Action on Ageing (MIPAA). The second cycle of review and appraisal of MIPAA/RIS implementation Reporting period 2007-2011. The Ministry of Social Affairs and Health, 2012. Available at [http://www.unece.org/fileadmin/DAM/pau/age/country\\_rpts/FIN\\_report\\_final\\_1.pdf](http://www.unece.org/fileadmin/DAM/pau/age/country_rpts/FIN_report_final_1.pdf)



ensuring (intergenerational) justice and well-being, but fundamental and human rights are not in the core of the discourse and the normative framework, at least explicitly.

### Relevant legislation

#### *The Constitution*

**Basic rights and liberties are guaranteed to all persons in the Constitution of Finland (731/1999).**<sup>2</sup> According to the Constitution, no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.<sup>3</sup> Public authorities guarantee the observance of basic rights and liberties and human rights.<sup>4</sup>

#### *Non-discrimination legislation*

The **revised Non-Discrimination Act (1325/2014)**<sup>5</sup> entered into force in 1.1.2015. It is applied to all public and private activities, excluding private life, family life and practice of religion, and it **includes age as one of the prohibited discrimination grounds**. Protection against discrimination is equal regardless of whether the discrimination is based on ethnic origin, age, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. The obligation to promote equality applies to public authorities, education providers, educational institutes and employers. Direct and indirect discrimination, harassment, denial of reasonable accommodation and an instruction or order to discriminate all constitute discrimination. The Act and the Government Bill on the revised Act (HE 19/2014 vp) do not contain any references to MIPAA.

The Act aims to ensure the right to equality and equal treatment. **However, it still allows for discrimination in certain situations**, and these provisions have been considered unclear. Unequal treatment is allowed if it has acceptable grounds and an objective based on fundamental and human rights and if the means to achieve the objective are in proportion. For example, **discrimination based on age and place of residence** is considered justified if the treatment has an objectively and appropriately justified employment policy objective or an objective concerning the labour market, or if the different treatment is attributable to the age limits adopted for qualification for retirement or invalidity benefits.

#### *Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons*

**The Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons (980/2012)**<sup>6</sup> directly

<sup>2</sup> Unofficial English translation: <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>

<sup>3</sup> Section 6 of the Constitution.

<sup>4</sup> Section 22 of the Constitution.

<sup>5</sup> Unofficial English translation: <https://www.finlex.fi/fi/laki/kaannokset/2014/en20141325.pdf>

<sup>6</sup> Unofficial English translation: <https://www.finlex.fi/en/laki/kaannokset/2012/en20120980.pdf>. This



relates to the objectives of MIPAA. The Act seeks to ensure that older persons receive individual treatment and care based on their needs and on an equal basis throughout the country. It supports the well-being, health, functional capacity and independent living of older persons, strengthens their possibilities to influence and participate in decision-making at the municipal level and in their individual circumstances, and reinforces the rights and access of older persons to social and health care services of good quality. The Act emphasises the importance of independent living and sets out home care as the primary form of care.

According to the act, “an older person” is “a person whose physical, cognitive, mental or social functional capacity is impaired due to illnesses or injuries that have begun, increased or worsened with high age or due to degeneration related to high age”. The definition does not include references to age.

The Government Bill on the Act does not mention MIPAA or the international human rights framework, although it does evaluate the relationship between the Constitution and the Act. Although the Act cannot be regarded as an example of a comprehensive human rights based approach, **it can be seen as improving the rights of older persons to care, health and social services and social security on equal footing, and enhancing their possibilities to influence decision-making both at the level of local policies and in their own lives**, as called for by MIPAA.

#### *Older persons' rights in other legislation<sup>7</sup>*

**The rights of clients in social and health services** are laid out in the Act on the Status and Rights of Social Welfare Clients (812/2000) and in the Act on the Status and Rights of Patients (785/1992), which include provisions on the rights of customers and patients to good social and health care and to good treatment in care without discrimination. The dignity, privacy and convictions of customers and patients have to be respected. The individual needs, mother tongue and cultural background of the individual have to be taken into consideration.

#### Policies

**The aims of Finnish ageing policy are to promote older people's functional capacity, independent living and active participation in the society, which directly correspond with the aims of MIPAA.** Municipalities are responsible for providing social and health care services to older persons based on their **individual needs**, not on their age.

#### **The National Development Programme for Social Welfare and Health Care**

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translation is based on the Act of 2012 and it does not contain latest amendments which entered into force in 2015.

<sup>7</sup> In addition to the Acts mentioned here, other legislation relevant to the rights of older persons includes the Employment Contracts Act (55/2001), the Occupational Safety and Health Act (738/2002), the Occupational Health Care Act (1383/2001), the Social Welfare Act (2014/1301), the Primary Health Care Act (66/1972), the Act on Specialized Medical Care (1062/1989) and the Act on Support for Informal Care (937/2005).



**(Kaste Programme)**<sup>8</sup> is a strategic steering tool that seeks to manage and reform social and health policy. It aims at increasing participation, health and wellbeing, and improving service quality and effectiveness and reducing regional differences. The government adopts a new Kaste programme every four years. The main targets of the programme for 2012–2015 are to reduce inequalities in wellbeing and health and to organise social welfare and health care structures in a client-oriented and sustainable way. Specific targets are to increase the opportunities of risk groups for social inclusion, wellbeing and health, to concentrate on preventive care and to reduce interpersonal and domestic violence. The targets will be met through six sub-programmes. **One of the sub-programmes is to improve the wellbeing and functional capacity of older persons** through timely services based on need by reforming the service structure and content of their services.

The Ministry of Social Affairs and Health and the association of Finnish Local and Regional Authorities issued a **quality recommendation** in 2013 to **guarantee high quality ageing and effective services for older persons needing assistance**.<sup>9</sup> The quality recommendation was prepared in a broad-based working group and it was designed to support local authorities to develop and evaluate services for the elderly. The recommendation sought to assist the local authorities in the implementation of the Act on Supporting the Functional Capacity of the Ageing Population and on Social and Health Care Services for Older Persons.

**Employment policy** and recent reforms of the pension system have intended to extend working careers at the end of working life and to create incentives for older persons to delay their retirement. Labour market organisations have been actively involved in the reforms (for more information about pensions, see answer to question 6 on page 8).

**Question 3: Have the needs of specific groups of older persons been taken into consideration in the process of implementation of MIPAA and if so, how?**

The revised **Non-Discrimination Act** (1325/2014) has somewhat improved protection from multiple discrimination. The Act created authorities who investigate discrimination based on multiple discrimination grounds. As a result, individuals do not have to choose the discrimination ground based on which they are going to seek assistance. As such, the Act provides better possibilities for discriminated persons to get advice and legal aid. The new **Non-Discrimination Ombudsman** has a mandate to supervise compliance with the Act with regard to all grounds of discrimination. However, the Ombudsman for (Gender) Equality continues to supervise compliance with the Equality Act on gender-based discrimination. The National Discrimination Tribunal and the (Gender) Equality Board were merged and the mandate of the new **National Non-Discrimination and Equality Tribunal** covers all discrimination grounds. Compliance with the provisions on equality in

<sup>8</sup> For information in English, see <http://stm.fi/en/kaste-programme>.

<sup>9</sup> Quality recommendation to guarantee a good quality of life and improved services for older persons. Ministry of Social Affairs and Health 2013. Available at <http://www.julkari.fi/handle/10024/126220>. This quality recommendation replaced the earlier quality frameworks from 2001 and 2008.





working life in individual cases will continue to be supervised by occupational safety authorities, although the Non-Discrimination Ombudsman has some powers relating to equality in working life.

With regard to older women, Finland recently ratified **the Council of Europe Convention on preventing and combating violence against women and domestic violence** (Istanbul Convention). In 2010, the Government prepared **the Action Plan to Reduce Violence against Women** for 2010–2015, which took into account violence experienced by older women.<sup>10</sup> However, the National Action Plan for Gender Equality 2012–2015 did not address the situation of older women. Prime Minister Juha Sipilä's government, which started its term in office in May 2015, has not announced whether it is going to prepare a new action plan for gender equality.

**Finland has not yet ratified the UN Convention on the Rights of Persons with Disabilities.** The Parliament accepted the ratification of the Convention in March 2015, but the ratification will not be finalised until national legislation has been amended so that it is consistent with the Convention. The final ratification depends on the adoption of new legislation concerning the strengthening of the right to self-determination of clients in social welfare and health care and conditions for the use of restrictive measures.<sup>11</sup> **The Government has been widely criticised for the delays in the ratification process.** However, according to Finnish policy, before an international convention can be ratified, national legislation has to be in line with the convention.

The Ministry of Social Affairs and Health is currently preparing the aforementioned draft legislation on self-determination. **The new act is expected to have a significant impact on the care of older persons suffering from dementia and memory disorders**, as it would lay out strict conditions for the use of restrictive measures.

**Question 4: Have older persons been informed about MIPAA and if so, how? How are older persons participating in the implementation of MIPAA including in decision-making about MIPAA implementation?**

**There is very limited amount of information available on MIPAA, especially in Finnish.** MIPAA is only briefly mentioned on the website of the Ministry of Social Welfare and Health, under "International Cooperation"<sup>12</sup>. The Ministry has

<sup>10</sup> Action Plan to Reduce Violence against Women. Ministry of Social Affairs and Health 2010. [http://www.julkari.fi/bitstream/handle/10024/112432/JUL1015\\_Violence\\_verkko\\_Final.pdf?sequence=1](http://www.julkari.fi/bitstream/handle/10024/112432/JUL1015_Violence_verkko_Final.pdf?sequence=1)

<sup>11</sup> The previous Government Bill proposing a new Act on Self-Determination was withdrawn from Parliament in 2015 due to the Parliamentary Constitutional Committee's assessment that the Act conflicted with the Constitution.

<sup>12</sup> Finnish web page: [http://stm.fi/en/international-cooperation/un?p\\_p\\_id=56\\_INSTANCE\\_7SjjYVdYeJHp&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=3&\\_56\\_INSTANCE\\_7SjjYVdYeJHp\\_languageId=fi\\_FI](http://stm.fi/en/international-cooperation/un?p_p_id=56_INSTANCE_7SjjYVdYeJHp&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_count=3&_56_INSTANCE_7SjjYVdYeJHp_languageId=fi_FI); same page in English: <http://stm.fi/en/international-cooperation/un> [does not contain a link to the 2012 report]



completed two reports on the implementation of the Regional Implementation Strategy (RIS) of MIPAA<sup>13</sup>, which are the only comprehensive government sources on MIPAA. The reports are available online only in English. Based on available information, the Ministry has not conducted any substantial activities in order to promote awareness about MIPAA.

With regard to **monitoring the implementation of MIPAA**, when preparing the most recent RIS/MIPAA report, the Ministry requested opinions from various government actors as well as municipal and non-state actors, including four organisations of older persons and their representatives. Thus at least these four organisations are aware of MIPAA.

At a more general level, older persons and their representatives participate in the implementation of policies through **the Advisory Board for Ageing and Pensioners' Affairs**, located at the Ministry of Social Affairs and Health, and in **municipal councils for older persons**. NGOs working with older persons' issues are also consulted by ministries and policy makers on matters concerning them.

The mandate of **the Advisory Board for Ageing and Pensioners' Affairs** is based on a Government Decree (867/2000). Its members include representatives from ministries, government agencies, academia and older persons' organisations. The Advisory Board acts as a link between actors working with older persons' issues and pensions, promotes the distribution of information on the living conditions, rights and experiences of the ageing and pensioner population, monitors and evaluates the living conditions, income security and services of the ageing and pensioner population, takes initiative and issues proposals and statements, and follows up developments in the EU. The Advisory Board also promotes intergenerational understanding and appreciation of older persons in the society

The Local Government Act (410/2015) states that **each municipality has to have a council for older persons** in order to ensure their participation and their opportunities to influence local decision-making. The councils must be given sufficient resources and they must be included in the planning, preparation and monitoring of policies and actions which affect older persons in the municipality. The councils have to be included in the preparation of local plans to support the older population and in the evaluation of the adequacy and quality of social services for the older population.

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<sup>13</sup> **First report (2007):** Reporting on National Follow-up to the UNECE Regional Implementation Strategy (RIS) of the Madrid International Plan of Action on Ageing (MIPAA). The Ministry of Social Affairs and Health, 2007. Available at

[http://www.unece.org/fileadmin/DAM/pau/docs/age/2007/AGE\\_2007\\_MiCA07\\_CntrRprtFIN\\_e.pdf](http://www.unece.org/fileadmin/DAM/pau/docs/age/2007/AGE_2007_MiCA07_CntrRprtFIN_e.pdf).

**Second report (2012):** Reporting on National Follow-up to the UNECE Regional Implementation Strategy (RIS) of the Madrid International Plan of Action on Ageing (MIPAA). The second cycle of review and appraisal of MIPAA/RIS implementation Reporting period 2007-2011. The Ministry of Social Affairs and Health, 2012. Available at

[http://www.unece.org/fileadmin/DAM/pau/age/country\\_rpts/FIN\\_report\\_final\\_1.pdf](http://www.unece.org/fileadmin/DAM/pau/age/country_rpts/FIN_report_final_1.pdf)



**Question 5: What impact has MIPAA implementation had on equality and non-discrimination of older persons?**

The recently revised **Non-Discrimination Act** improves the protection of older persons against discrimination (see answer to question 2 on page 3 and answer to question 3 on page 5).

**Question 6: What impact has MIPAA implementation had on the fulfillment of the right of older persons to an adequate standard of living?**

Due to the lack of information and references in policy documents we doubt MIPAA has had much direct impact on the fulfillment of the rights of older persons to an adequate standard of living.

However, **the Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons** can be seen to have improved the realisation of the right of older persons to an adequate standard of living, including right to social security and right to health (see answer to question 2 on page 3).

**Legislation and policies aim to guarantee adequate standard of living and social protection for older persons.** Services (home services, informal care or institutional care, social assistance or other social care services) are decided upon based on individual needs. Health services consist of municipal health centres, physical examinations, dental care, home nursing, rehabilitation services and assistive devices, and specialized medical care. Home service and home nursing care are provided for those who require assistance at home. Care can be organised as institutional care, if needed. Informal care support can be granted to family members caring for older persons at home. Older people's independent housing is supported with reimbursements for housing renovation work and by providing service accommodation.

**Financial benefits for older persons include pensions, housing allowance for pension recipients and care allowance, as well as reimbursements for pharmaceuticals and private nursing.** Pension security consists of multiple types of statutory pensions, including earnings-related pension, national pension for those without earnings-related pension or whose earnings-related pension is small, and guarantee pension which guarantees a minimum pension for all pensioners.<sup>14</sup> Recipients of an old-age pension can work without restrictions, but their earnings impacts the taxation of their pension and possible housing allowance. Pensioners with a long-term illness or disability can receive a care allowance to support their daily activities, functional capacity and rehabilitation.

**Recent reforms of the pension system have aimed at increasing the average age of retirement and improving the income security of poorest pensioners.**

<sup>14</sup> More information on the pension system can be found in English at <http://stm.fi/en/income-security/pensions>





The minimum and maximum ages for retirement were raised to 63 and 68 in 2005<sup>15</sup>, although it remains possible to postpone retirement beyond the age of 68. Currently, partial pension can be granted to older persons working part-time after the person turns 61. The amount of pension accrued from a person's monthly salary rises the longer a person stays at work, and after the age of 65 the amount of pension accrued rises significantly. The guarantee pension was introduced in 2011 and its purpose is to provide residents of Finland with a minimum pension (€746,57 per month in 2015). The rates of national and guarantee pensions are adjusted annually according to changes in the national pensions index, which reflects the cost of living. Similarly, the rates of earnings-related pensions are adjusted each year.

**The pension system will go through another reform in 2017.** The aims of the reform are to further prolong working careers, balance the national economy and promote intergenerational equity and fairness. As working careers will be longer, the reform is also expected to raise the amount of pensions. The reform will affect persons born in 1955 or after, and it will be phased so that the minimum and maximum ages for retirement will increase based on year of birth. The minimum age for retirement and old age pension will be 65 years and the maximum 70 years for persons born in 1962 or after. After 2025 the amount of pension accrued from a persons' monthly salary will not increase based on the workers age before the age of 65. The reform also includes changes in part-time pensions.

**Question 7: Please provide examples of best practices from a human rights perspective in your country in the implementation, monitoring, review and appraisal of MIPAA.**

The views of four organisations representing older persons and informal carers were sought in the **reporting process** concerning the national implementation of the Regional Implementation Strategy of MIPAA in 2012 (see answer to question 4 on page 7).

*The following examples have not necessarily directly resulted from MIPAA implementation, but they can be considered best practices in terms of the rights of older persons:*

The **new non-discrimination legislation** includes age as one of the prohibited discrimination grounds and improves older persons' protection from discrimination (see answer to question 2 on page 3 and answer to question 3 on page 5).

With regard to the right to participation, **the Advisory Board for Ageing and Pensioners' Affairs** and the mandatory **municipal councils for older persons** can be seen as good practices that promote the ability of older persons and their representative organisations to influence and evaluate policies both at the national

<sup>15</sup> Minimum and maximum ages apply to earnings-related pension. The age limit for national pension is 65. Early retirement is possible already at the age of 62, but in that case the amount of pension will be permanently lower. In addition, there are some professions for which retirement age is lower than 63.



and the local level (see answer to question 4 on page 7).

**The Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons (980/2012)** strengthens the right of older persons to care and services. According to the Act, local authorities have to have a **municipal plan to support the older population**, which should include measures to support the wellbeing, health, functional capacity and independent living of the older population as well as to organise and develop the services and informal care needed by older persons. The plan must emphasise rehabilitation and possibilities to live in the own home. Local authorities must regularly cooperate with stakeholders in order to support needs of the older population. Authorities must regularly gather feedback from service users, their family members, other persons close to them and municipal staff. The municipal councils for older persons have to be included in the drafting and evaluation of the municipal plan (see also answers to questions 2 and 4).

Since 2014, the Ministry of Social Affairs and Health has presented an **award to an older person, employee, team or unit** for promoting the goals and implementation of the Act on social and health care services for older persons. In 2014, the acknowledgement was received by two home care units, based in Helsinki and Hämeenlinna.

Previous governments have paid attention to older persons' **right to information** and to the challenges they face in the information society. Information on services aimed at older people is available through a comprehensive **information portal on citizens' services**, Suomi.fi, in Finnish, Swedish and English.<sup>16</sup> **The national Digital Agenda** for 2011–2020 emphasises the need to create user-friendly online services and provide guidance for older persons on digital services in order to support their equal participation possibilities in the information society.<sup>17</sup> In 2011, the Ministry of Transport and Communications prepared an **action plan** for 2011–2015 entitled “Towards a barrier-free information society”, which identified barriers that prevent equal participation of citizens in the information society and aimed to decrease the number of those barriers.<sup>18</sup>

In the area the right to personal security, in 2011, the Ministry of the Interior prepared an **action plan on a safe life for the aged**, which aimed to improve the safety and security of older persons. The action plan estimated safety risks faced by older persons and it covers issues such as sense of security, safe housing, prevention of accidents, mistreatment, violence and crime.<sup>19</sup>

<sup>16</sup> [http://www.suomi.fi/suomifi/english/services\\_by\\_topic/family\\_and\\_social\\_services/ageing/index.html?sort=2](http://www.suomi.fi/suomifi/english/services_by_topic/family_and_social_services/ageing/index.html?sort=2)

<sup>17</sup> Productive and Inventive Finland. Digital Agenda for 2011–2020. Ministry of Transport and Communications 2011. [http://www.oph.fi/download/135323\\_productive\\_and\\_inventive\\_finland.pdf](http://www.oph.fi/download/135323_productive_and_inventive_finland.pdf)

<sup>18</sup> Kohti esteetöntä tietoyhteiskuntaa. Toimenpideohjelma 2011-2015. Ministry of Transport and Communications 2011. Available in Finnish at <http://www.lvm.fi/julkaisu/1225363/kohti-esteetonta-tietoyhteiskuntaa-toimenpideohjelma-2011-2015>

<sup>19</sup> Turvallinen elämä ikääntyneille - Toimintaohjelma ikääntyneiden turvallisuuden parantamiseksi. Publications of the Ministry of the Interior 2011. Available in Finnish at [http://www.intermin.fi/download/24903\\_192011.pdf](http://www.intermin.fi/download/24903_192011.pdf)



**Question 8:** Please provide information about the main challenges (such as institutional, structural and circumstantial obstacles) your country faces at the various levels of government (communal, provincial and national etc.) to fully respect, protect and fulfill the human rights of older persons in the implementation of MIPAA.

MIPAA is not widely known and it is not referred to in relevant policy documents.

There are multiple barriers preventing the full realisation of the rights of older persons. Policies and legislation are not formulated based on a human rights based approach. In government documents, **the ageing of the population is often regarded to be a problem for the sustainability of the national economy.** The aims to increase the employment rate of ageing workers and to maintain the health and functional capacity of the ageing population are often only seen from the economic point of view.<sup>20</sup> For example, reforms of the pension system are largely seen as ways to balance the public economy, and they are not based on older persons' right to work (or their right to choose whether or not to work). Pension reforms have also been criticised since longer working careers might have a negative impact on the well-being, quality of life and health of older persons. Other problems faced by older persons include discrimination in working life, unemployment as well as access to services as the amount of online-only services increases.

#### *Government Programme 2015*

The programme of Prime Minister Juha Sipilä's centre-right government was published in May 2015. The Government Programme<sup>21</sup> considers the ageing of the population and the rising dependency ratio as two of the main weaknesses of the country. Although the programme includes some positive measures, such as reductions in earned income taxation that focus on pensioners and persons with low incomes, it introduces **austerity measures that can have a severe impact on older persons.** The amount of obligatory municipal services will be decreased. Austerity measures include reductions in the staff-client ratio in services to older people as well as increases in fees charged for older persons' long-term institutional care, assisted living facilities, home services and other social and health care services. Guarantee pensions will be increased but pensioners' housing allowance will be adjusted to correspond with the general housing allowance, decreasing the amount of housing allowance received by pensioners. Reimbursements for private health care services and medicines will be reduced. Full accessibility will only be required for a certain number of flats on new housing sites.

One of the key projects of the government is to develop home care provided for the elderly and to reinforce informal care. The opportunities of family members to

<sup>20</sup> See, for example, the Government's Ageing Report from 2009 in <http://vnk.fi/julkaisu?pubid=3734>

<sup>21</sup> Strategic Programme of Prime Minister Juha Sipilä's Government, 29 May 2015. Available at [http://valtioneuvosto.fi/documents/10184/1427398/Ratkaisujen+Suomi\\_EN\\_YHDISTETTY\\_netti.pdf/8d2e1a66-e24a-4073-8303-ee3127fbfcac](http://valtioneuvosto.fi/documents/10184/1427398/Ratkaisujen+Suomi_EN_YHDISTETTY_netti.pdf/8d2e1a66-e24a-4073-8303-ee3127fbfcac)



care for the elderly will be improved. This shift towards informal care and family care is based on economic considerations and it is introduced as a cheaper option to institutional care and enhanced sheltered housing. The impact of the change in the form of care is not considered from the point of view of the wellbeing and rights of older persons. In addition, the programme states that the terms of family care will be restricted so that persons belonging to the working-age population will not be attracted “unjustifiably” to become family carers.

### *Observations of the Parliamentary Ombudsman's Office*

In his Annual Reports for 2013 and 2014<sup>22</sup>, the **Parliamentary Ombudsman has highlighted the continuous shortcomings in the conditions and treatment of the elderly as one of the ten central fundamental and human rights problems in Finland.** According to the Ombudsman, shortcomings related to nutrition, hygiene, change of diapers, rehabilitation and access to outdoor areas, as well as substituting medication for insufficient staffing are identified continuously in institutional care and assisted living units. There are also shortcomings in safety, outdoor recreation arrangements and services for running errands. Measures limiting the right to self-determination in the care of the elderly should be based on law, but the required legislative foundation is still lacking. There are insufficient resources for internal overseeing of the administration, and regional state administrative agencies do not always have the means to supervise the activities of service providers.

Decisions issued in 2014 dealt with multiple problems and barriers faced by older persons, including **inadequate quality of care and inappropriate treatment.** In several cases the right to self-determination was restricted without statutory grounds. Several decisions concerned the lack of an official decision on care and services against which customers could appeal. In some cases, customers of municipal accommodation services had to pay separately for “additional” services and activities, although these services were relevant to core accommodation services and affected the rights of the customer and quality of care.

In 2014, multiple problems were uncovered regarding care homes, service centres and service accommodation facilities, including lack of toilets for the disabled, small and impractical rooms, and problems with accessibility. During the year, the Ombudsman's Office conducted 11 surprise inspections to care homes and service accommodation units for older persons. **The inspections revealed severe deficiencies in the treatment and conditions of older persons.** Older persons faced inhuman and degrading treatment as they were forced to use incontinence pads as opposed to being provided assistance to use the toilet. Palliative care was inadequate in one care unit as it was provided in rooms with

<sup>22</sup> The Ombudsman's Annual Report 2014 is available online in Finnish, <http://www.oikeusasiamies.fi/Resource.phx/ea/julkaisut/toimintakertomukset.htm>. A summary of the annual report will be published in English later in the year and it will be posted on the Ombudsman's English website, <http://www.oikeusasiamies.fi/Resource.phx/ea/english/publications/annual.htm>. Annual report for 2013 can be found in English in <http://www.oikeusasiamies.fi/dman/Document.phx?documentId=zx19214134114436&cmd=download>



two residents, and staff resources were insufficient. In addition, older persons were provided insufficient possibilities for outdoor activities. In some care units, alarm systems were dysfunctional. A resident living in an apartment at a service accommodation centre in Helsinki who did not use the services of the centre was found only four weeks after their death. The Deputy Ombudsman demanded that the municipality should always give her a written statement about such cases and their causes. One dementia unit used restrictive measures such as restrictive bed guards, “hygiene overalls” and a geriatric chair. The inspectors paid special attention to the fact that restrictive measures should always be based on legislation and their need should be evaluated regularly.

The Deputy Ombudsman has launched an **own-initiative investigation into home care and its adequacy and quality**. The investigation includes an inquiry into municipal decision-making concerning home care for older persons and how the authorities handle requests for assistance. Currently, family members do not always get an official decision on the denial of services, which obscures the conditions for receiving such care and how commonplace such requests for assistance are. In addition, without a formal decision, there are no possibilities to appeal against the decision. The investigation will first look into the situation in Helsinki but the intention is to investigate home care throughout the country.

With regard to accessibility, officers of the Ombudsman’s Office conducted surprise inspections to advance polling stations before the recent parliamentary elections in April 2015. The inspections revealed **a number of shortcomings related to accessibility and the secrecy of ballot around the metropolitan area**, including lack of wheelchair access and insufficient arrangements to protect the privacy of wheelchair users while voting. Prompted by the inspection results, the Parliamentary Ombudsman decided to examine the voting arrangements in the metropolitan area on his own initiative.

#### *Observations of human rights treaty bodies concerning Finland*

**The UN Committee on Economic, Social and Cultural Rights** concluded in 2014 that disadvantaged and marginalized women, including older women, face multiple forms of discrimination in Finland, paying special attention to discrimination in working life. The Committee also noted inadequacies in minimum levels of old-age benefits.<sup>23</sup> In its concluding observations in 2014, **the Committee on the Elimination of Discrimination against Women** expressed concern about the persistence of a pay gap between genders in Finland and the high unemployment rate and low wages among vulnerable groups of women, including older women.<sup>24</sup>

<sup>23</sup>Committee on Economic, Social and Cultural Rights 2014. Concluding observations on the sixth periodic report of Finland. E/C.12/FIN/CO/6. Available at:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW8ONFvylZeflVf46yTVq4vdYCo%2b6l8M8Sc2UMn8NF7eHC3J%2bPFRZNoBmWT3n58gXzkkESMSuyiSUQLWQEznG3G%2fl6gW5qz5ypA7%2bNFvF9ErF>

<sup>24</sup>Committee on the Elimination of Discrimination against Women 2014. Concluding observations on the seventh periodic report of Finland. CEDAW/C/FIN/CO/7. Available at:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjuNjw8>





**The European Committee of Social Rights** concluded in 2013 that the levels of Finnish social security benefits, including the minimum level of old-age benefits such as the guarantee pension, were inadequate. In addition, there were issues with care and services provided to older persons, including geographical inequalities regarding informal care allowances and other alternative support, difficulties in receiving information about services, as well as insufficient regulation of fees for service housing and supported housing.<sup>25</sup> Recently, in a decision concerning a collective complaint regarding the minimum level of social security benefits and social assistance, the Committee reiterated its view that minimum amounts of social security benefits were inadequate in Finland.<sup>26</sup>

On behalf of the Finnish NHRI/Human Rights Centre,

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<sup>25</sup>European Committee of Social Rights 2013. Conclusions for Finland. Available at:

[http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/Finland2013\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/Finland2013_en.pdf)

<sup>26</sup>European Committee of Social Rights 2014. Decision on Complaint No. 88/2012 Finnish Society of Social Rights v. Finland. Available at

[https://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC88Merits\\_en.pdf](https://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC88Merits_en.pdf)