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STATEMENT BY THE FINNISH HUMAN RIGHTS CENTRE
THIRD UPR OF FINLAND
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1- Presentation of the Organisation

This statement is delivered by the Finnish Human Rights Centre (HRC). The HRC, its Human Rights Delegation and the Parliamentary Ombudsman together form Finland's National Human Rights Institution (Finnish NHRI). The HRC is an autonomous and independent expert institution, which according to its statutory tasks represents the Finnish NHRI in international co-operation and promotes and monitors the implementation of fundamental and human rights in Finland.

2- National consultations for the drafting of the national report

In December 2016, the Ministry for Foreign Affairs circulated the draft UPR report for comments to more than 130 stakeholders, including the Finnish NHRI and numerous NGOs. At a meeting held in December 2016 at the Ministry for Foreign Affairs, NGOs and the Finnish NHRI had an opportunity to comment on the draft report.

3- Plan of the Statement

The statement addresses the following issues: **(1) Overview of the domestic human rights situation, human rights mainstreaming and structures and human rights education and training (2) the rights of Sámi people (3) LGBTI rights and in particular the legal recognition of gender assignment.**



4- Statement

i. Overview of the domestic human rights situation, human rights mainstreaming and structures and human rights education and training

A. Latest developments

The third national report by Finland (national report) for the UPR process describes the human rights situation and latest developments in Finland. Although the report focuses mainly on the measures taken by the Government and provides less information about their actual impact, many human rights problems are included in the report.

These include for example reports on **discrimination** experienced by many people (para 41), **hate speech** (para 44 and 45), **violence against women** as one of the worst human rights problems (para 63), **discrimination of persons with disabilities** (para 79) and **Roma** (para 87). The report also acknowledges the major domestic challenges of **exclusion and the polarisation of society** (para 109). This self-critical approach by the Government is welcome as such.

The report does not - in the chapter Future of Immigration and impacts of refugee crisis in Finland – include list of **the legislative and policy measures taken to limit the rights of asylum-seekers and refugees** in Finland. The report mentions (para 121) that NGOs have expressed concerns about the rights of unaccompanied minors and the increasing difficulty in receiving international protection and family reunification. The HRC reported on some of the restrictions in its own UPR submission and remains very concerned about the cumulative impact of the amendments made to laws (e.g. removing the category of humanitarian protection, restrictions on legal aid and appeal times) on the fairness of the asylum procedure and the right to family reunification.

On **recent measures** introduced by the Government, the HRC welcomes the Second National Action Plan on Fundamental and Human Rights in Finland (NAP) as a sign of a more systematic approach to human rights monitoring and mainstreaming. The four thematic focus areas prioritized – human rights education, equality and non-discrimination, the right of individuals and groups to self-determination and fundamental rights and digitalisation - are well chosen and respond to many relevant and timely issues raised in the consultations. Lack of separate resources was seen as one of the greatest weaknesses of the first Action Plan. The new NAP has some project funding available for its activities, but is



mainly implemented within existing resources. The NAP has been criticized by NGOs for not including some of the most pressing current human rights issues in Finland (such as the situation of asylum seekers and refugees).

On the **Government's general commitment to human rights** in its legislative and policy work, it needs to be noted that the Government has in many instances been urged to review how its Bills and budget proposals may affect the fulfilment of human rights. Especially when planning and carrying out austerity measures the Government should find solutions, which do not weaken the fulfilment of human rights of persons in a vulnerable situation or contribute to growing inequality.

In the ongoing major health, social services and regional government reform, which is going to have significant effects in terms of access to health care and social services, more rigorous human rights impact assessment would have been essential. Advocates for the rights of children and persons with disabilities have been particularly concerned about the impact of the reform and persons with disabilities have been complaining about lack of participation in the preparatory process.

On **structural human rights issues**, the HRC welcomes the setting up of the Government network of contact persons for fundamental and human rights as a permanent structure. The Network strengthens co-operation between different ministries on human rights issues and enables systematic monitoring and follow up by the ministries.

On **human rights education and training**, in the 2nd UPR cycle Slovenia recommended introducing human rights education as a mandatory part of teachers' training. This recommendation was rejected by the Government. Even though Finnish legislation guarantees the autonomy of higher education institutions, there is a clear need to promote human rights education in these institutions, especially in teacher training but also in the training of future public officials and legal professionals. The HRC's own baseline study (2014) revealed that there were significant shortcomings in teacher training and in the in-service training for civil and public servants. Some progress has been achieved since and the fact that human rights education is a priority theme included in the NAP has to be commended.

B. Recommendations

The HRC recommends that the Government is asked to

- **ensure that all asylum seekers have access to fair and efficient procedures and legal aid and that everyone receives adequate**



information on their rights; vulnerable persons need to be recognized and paid special attention

- **more systematically and carefully assess human rights impacts of its bills, budget proposals, policies and other actions**
- **ensure meaningful participation of persons with disabilities as required by the UN Convention on the Rights of Persons with Disabilities (CRPD)**
- **to explore different possibilities to promote human rights education and training in higher education while respecting the autonomy of Finnish universities guaranteed by legislation and to expand its human rights education and training programmes to include regional and municipal officials**

ii. The rights of Sámi people

A. Latest developments

Disagreement and tensions surrounding the Sámi definition and Sámi people's right to self-determination continue in Finland. The national report mentions that the rights of Sámi have aroused acrimonious debates and conflicting views in the context of some legislative initiatives (para 134).

Some of the disagreements have concerned the actual participation by the Sámi in the legislative processes. Based on a complaint by the Sámi Parliament, on 27 March 2017 the Chancellor of Justice reprimanded the Government for having partially neglected its lawful obligation to negotiate with the Sámi Parliament on *Tana Fishery Agreement* in a timely manner thus depriving the Sámi the possibility to participate in a meaningful way in the negotiations. The Parliamentary Constitutional Committee had expressed similar views earlier in its statement. The national report (para 138) states that the parties (Finland and Norway) reached consensus on the Agreement in summer 2016. The negotiations between the Government and the Sámi Parliament only took place in October 2016 and were thus conducted too late to have any real influence on the content of the Agreement.

An international comparative research report on the actualizing of Sámi rights commissioned by the Government was published in January 2017. The report includes recommendations to strengthen co-operation and dialogue between officials and Sámi Parliament, to ensure equal and actual participation of the Sámi in matters related to the use of land and waters, to protect their traditional livelihoods by prohibition to weaken the culture of Sámi, to increase knowledge among officials on Sámi culture and to clarify Sámi definition by amending the Act on the Sámi Parliament.



According to the report, many of these measures would also contribute to the ratification of the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries that is still pending finalisation.

B. Recommendations

The HRC recommends that the Government is asked to

- **inform all the relevant stakeholders as well as the public about the key findings and recommendations of the research report and to pay due attention to the recommendations in its own policy formulation and legislative proposals**
- **in a constructive, meaningful and structured manner engage the Sámi people in all matters concerning them**
- **finalize the process to ratify the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries**

iii. LGBTI rights

A. Latest developments

During the second cycle UPR review, Finland received a recommendation to increase its efforts in the field of discrimination on grounds of sexual orientation and gender identity by reviewing national legislation and administration. The HRC welcomes the recent legislative reforms and amendments, which contribute to the fulfilment of equality for sexual and gender minorities and the respect of their private and family life. The gender-neutral/equal Marriage Act that entered into force on 1 of March 2017 is a significant achievement in the field of equality.

Regardless of these positive developments, the current *Act on Legal Recognition of the Gender of Transsexuals* still includes a requirement to be infertile before a person, whose gender has been reassigned can be legally recognised. This requirement constitutes a severe interference to the physical integrity of a person and is discriminatory.

Already the previous Government prepared a draft law that would remove the infertility requirement. However, the second NAP does not include amending this law as an activity in its thematic area of Equality and Non-discrimination.

The Government's Human Rights Report (2014) referenced in the national report (para 7) as another key instrument steering the implementation of human rights policies, specifically mentions the importance of said law for the equal rights of



LGBTI persons in the chapter concerning the promotion of LGBTI rights. The 2014 report in its Policy guideline 23 stated that the Government considers that the fundamental and human rights of sexual and gender minorities should be promoted by drawing up a national strategy or action plan for them.

It can be concluded that the current Government clearly has no will or intention to remedy the situation. This is a clear shift in the Government's policy and commitment to the advancement of LGBTI rights.

B. Recommendations

The Centre recommends that the Government is asked to

- promote the equality of transgender persons by immediately abolishing the requirement to be infertile as a condition for the legal recognition of gender reassignment and review legal or other measures in order to remove harmful or discriminatory laws, policies and practices**