

## ECRI, 5th monitoring round – Finland

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

The Human Rights Centre (HRC) would like to thank the ECRI secretariat for the possibility to provide input for the 5<sup>th</sup> monitoring round with regard to Finland. This contribution concentrates only on the issues relating to rights of LGBT-persons and more specifically on the violations of the rights of Trans people.

**The Human Rights Center** (HRC) is an autonomous and independent expert institution whose task is to promote the implementation of fundamental and human rights in Finland as well as increase cooperation and exchange of information between various actors in the field.

**The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 40-member Human Rights Delegation and the Parliamentary Ombudsman.** The Institution was established by law, effective as of 1 January 2012, and received **A-status 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. The HRC represents the Finnish NHRI in international NHRI cooperation.

### Discrimination against transgender and intersex people

Trans-people continue to face discrimination characterized by transphobic attitudes, gender stereotypes and discriminatory legislation. (FRA survey 2013<sup>1</sup> and Ministry of Justice study 2016<sup>2</sup>). This discrimination issue was also highlighted by UPR recommendations that Finland received and accepted in 2017 (100.44 and 100.45)<sup>3</sup>.

### Legal gender recognition of trans people

Despite the legislative reforms and amendments contributing towards equality and respect for private and family lives of sexual and gender minorities, the Act on Legal Recognition of the Gender of Transsexuals in Finland still includes infertility

<sup>1</sup> EU Fundamental Rights Agency LGBT Survey (May 2013), <http://fra.europa.eu/en/publication/2013/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-trans-survey-results>

<sup>2</sup> 1/5 of respondents had experienced hate speech or harassment more than once within a month. of the LGBT respondents 81 per cent never reported the incident of hate speech or harassment further. The most common reason for not reporting was that it was not believed that anything would have been done to it. [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/76633/omso\\_7\\_2016\\_vipu-raportti\\_158\\_s.pdf?sequence=1&isAllowed=y](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/76633/omso_7_2016_vipu-raportti_158_s.pdf?sequence=1&isAllowed=y) (english summary)

<sup>3</sup> [https://www.upr-info.org/sites/default/files/document/finland/session\\_27\\_-\\_may\\_2017/response\\_to\\_recommendations\\_finland\\_2017.pdf](https://www.upr-info.org/sites/default/files/document/finland/session_27_-_may_2017/response_to_recommendations_finland_2017.pdf)

requirement for legal recognition.

The gender registered at birth can only be changed if the person, 18 years of age, presents a medical statement certifying that they wish to permanently belong to the opposite gender, live in that gender role, and have been sterilized or are infertile. This requirement constitutes a severe interference to the physical integrity of a person and has been found a human rights violation by the European Human Rights Court.

The amending of the Act on Legal Recognition of the Gender of Transsexuals has come to a standstill. Finland is for the time being, the only country in the Nordics where sterilization/ infertility is required for legal gender recognition.<sup>4</sup>

The European Court of Human Rights' statement/conclusion has also been echoed in UPR- recommendations that Finland received and noted (not accepted) in 2017 (100.46, 100.47, 100.48, 100.49, 100.51, 100.52, 100.53)<sup>5</sup>.

Additionally, the CEDAW Committee has in 2014 recommended expeditiously to amend the Act on Legal Recognition of the Gender of Transsexuals (para 29 (b))<sup>6</sup>.

### **Issues specific to transgender children**

According to a school health survey made by the National Institute for Health and Welfare 5-6 % of the children and youth in high school and vocational school experience a different gender than the one stated in their ID. Therefore, the issue of transgender children's rights have become more current and has been discussed publicly. The Ombudsman for Children organized a round table discussion on the issue in 2017.

### **Amnesty International Annual Report – Finland (2/2018)**

Amnesty international published its Annual Human Rights Report on 22 February 2018. With regard Finland, it stated, on the rights of the Trans people:

*“Legislation on legal gender recognition continued to violate the rights of transgender people. They could obtain legal gender recognition only if they agreed to sterilization, were diagnosed with a mental disorder, and were aged over 18. Despite an April decision by the European Court of Human Rights condemning sterilization, the government did not consider amending the law.”*

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<sup>4</sup> Provisions on prohibition of discrimination based on gender identity or gender expression were added to the Equality Act, and came into force in January 2015. Law only available in Finnish:

<http://www.finlex.fi/fi/laki/ajantasa/1986/19860609>

<sup>5</sup> [https://www.upr-info.org/sites/default/files/document/finland/session\\_27\\_-\\_may\\_2017/response\\_to\\_recommendations\\_finland\\_2017.pdf](https://www.upr-info.org/sites/default/files/document/finland/session_27_-_may_2017/response_to_recommendations_finland_2017.pdf)

<sup>6</sup> <http://formin.finland.fi/public/download.aspx?ID=127460&GUID=%7B50D3AE8D-B478-40D7-8B71-6EE474410022%7D>

### **Recommendation by the HRC and its Delegation to the Government**

The HRC and its pluralistic Human Rights Delegation made in December 2017 a public statement with recommendations with regard to the renewal of the Act on Legal Recognition of the Gender of Transsexuals.

According to that statement, the Government should,

- **take immediate steps to amend the Act on Legal Recognition of the Gender of Transsexuals, especially by removing the sterilization requirement. The name of the law should also be modernized,**
- **secure the right to medical treatment and other services based on personal needs as part of the health services,**
- **separate the processes of legal recognition of gender and recognition of person's gender identity as two independent issues,**
- **consider the removal of the age criteria from legal gender recognition process taking into account the child's age, level of development and the best interest of the child.**

Attached to this letter you will find

- Amnesty International Finland's submissions in 2017 to the UPR (LGBT issues on page 10).
- Finnish LGBTIQ+ rights organizations SETA and Trasek's submission to the UN CAT-Committee in 2016 and a link to submissions to the UPR in 2017 (<http://seta.fi/setan-ja-trasekin-lausunto-ykn-upr-prosessista/>).

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