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[ghabtom@ohchr.org](mailto:ghabtom@ohchr.org)

[crosniansky@ohchr.org](mailto:crosniansky@ohchr.org)

[ccpr@ohchr.org](mailto:ccpr@ohchr.org)

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**Asia LOIPR – Finland – 2019 – NHRI submission**

This is the submission of the Finnish Human Rights Centre/National Human Rights Institution for the preparation and adoption of the List of Issues Prior to Reporting for Finland by the Human Rights Committee in March 2019, during its 125<sup>th</sup> session.

The submission aims at drawing your attention to some issues that we find important to be included in the LOIPR for Finland. The issues in this submission reflect themes that the Finnish NHRI has worked on and it includes possible questions to be placed before the Government. It is not an exhaustive list.

In addition, reference is made to the submission made recently to the Committee of Economic, Social and Cultural Rights for the LOIPR under the ICESCR.

We will provide more detailed submissions prior to the hearing of Finland.

Should you have any questions, feel free to contact us.

Sirpa Rautio  
Director

Leena Leikas  
Expert

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**UN Human Rights Committee (125<sup>th</sup> session)**  
**Submission from the Finnish Human Rights Centre/National Human Rights Institution for the adoption of the List of Issues Prior to Reporting – Finland**

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## General Information on the National Human Rights Situation

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

**The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 38-member Human Rights Delegation and the Parliamentary Ombudsman.**

The National Human Rights Institution in Finland was established by law in 2012, and received **A-status in 2014.**

1. In 2014, the Parliamentary Ombudsman was designated as the Finnish National Preventive Mechanism (NPM) under the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
2. In 2016, the entire Finnish NHRI together was given a statutory special task to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities.
3. The Human Rights Centre has a wide mandate<sup>1</sup>. The current resources are very limited in relation to the mandate and tasks despite incremental growth over the past few years. The HRC has 4 permanent posts. There is funding for a 5<sup>th</sup> permanent post in the budget approved for 2019. The budget of the Human Rights Centre is c. 600.000 euros. The Finnish NHRI overall resources are c. 60 posts and a budget of some 6 million euros (including the c. 600.000 euros for the Human Rights Centre) most of which is allocated to the Parliamentary Ombudsman for its tasks of examining complaints and conducting on-site investigations. Considering the resources, however, the overall Finnish context needs to be taken into account. There are several independent human rights bodies working in Finland of which the Finnish NHRI is but one.<sup>2</sup>

- Please report on the measures taken to ensure that the Finnish NHRI (Human Rights Centre, Human Rights Delegation and the Parliamentary Ombudsman), and especially the Human Rights Centre, is provided with adequate financial and staff resources to enable it to carry out its mandate effectively, including the special tasks with regard the CRPD.
- Please report on the measures taken to ensure that the Parliamentary Ombudsman in its duties as the National Preventive Mechanism under the OP-CAT, is provided with adequate financial and staff resources to enable it to carry out its mandate effectively.

<sup>1</sup> <https://www.humanrightscentre.fi/about-us/human-rights-centre/>

<sup>2</sup> Non-Discrimination Ombudsman, Equality Ombudsman, Child Ombudsman, and Data Protection Ombudsman.

4. Issues relating to human rights structures and resources
  - **human rights monitoring and promotion structures** that are confusing to citizens, fragmented, have at times overlapping mandates, lack of resources and only in some cases ability to recommend compensation to victims of violations.
  - **insufficient resources** for human rights work in government and in independent institutions and actors and especially the Finnish Human Rights Centre.
  - **shrinking space or decreasing support for the NGOs** due to cuts in Government funding.
5. Issues relating to implementation of human rights
  - **Negative**, polarized and populist **climate against human rights**, linguistic and other minorities and human rights defenders, fueled by some politicians, political parties, media and individuals.
  - insufficient **knowledge and implementation of** international human rights standards on all levels of administration.
  - lack of overarching **human rights impact assessment**, in planned and implemented legislation, including insufficient **assessment of compounding effects** of legislative changes to access to rights.

### Ten Key Problems in Fundamental and Human Rights in Finland

6. The Parliamentary Ombudsman, part of the NHRI, has listed ten key problems in fundamental and human rights in his annual report since 2013. The list includes typical or ongoing problems that have been identified specifically through the observations compiled by the Ombudsman under his remit. The Ombudsman mainly obtains information on failures and shortcomings through complaints, inspection visits and own initiatives. However, not all fundamental and human rights problems are revealed by the Ombudsman's actions. This list reflects his findings in 2017. For more details on individual topics, see the annual report of the Ombudsman.<sup>3</sup>
  1. Shortcomings in the conditions and treatment of the elderly
  2. Shortcomings in child welfare services
  3. Shortcomings in guaranteeing the rights of persons with disabilities
  4. Policies limiting the right to self-determination in institutions
  5. Problems with legal assistance for foreigners and the vulnerability of undocumented immigrants

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<sup>3</sup> <https://www.oikeusasiamies.fi/documents/20184/39006/summary2017/60b49491-8e8a-4737-b8f1-e061f1010b08>

6. Flaws in the conditions and treatment of prisoners and remand prisoners
7. Problems in the availability of health services and the relevant legislation
8. Problems in learning environments and decision-making processes in primary education
9. Lengthy handling times of legal processes and shortcomings in the structural independence of courts
10. Shortcomings in the prevention of and recompense for fundamental and human rights violations

### Specific Information on the Implementation of Articles 1-27 of the Covenant

#### Sami, Self Determination (art. 1, 26, 27)

7. A comparative international study was published in 2017<sup>4</sup> on the Government's request on the land- and participatory rights of Sámi (including the FPIC) and the Sámi definition. The study included conclusions and possible solutions for advancing Sámi rights in Finland.
8. As one result of the study, a review of the Act on Sami Parliament was initiated. It included the definition of Sámi and inclusion in the Sámi electors register, participatory rights of the Sámi and the FPIC and the duty of the authorities to negotiate with the Sámi parliament in matters that may affect the Sámi. In 2018 the Sámi Parliament refused to accept the proposal on the amendment of the Act due to insufficient opportunities to be heard and the transitional provisions that would have continued the current problematic acceptance procedure until after the next elections. The reform proposal was not submitted to the national Parliament. The future of the necessary reform remains open<sup>5</sup>.
9. Currently other important Sami related issues under discussion in Finland include the following:
  - **Nordic Sami Convention** and the rights to vote and to be included in the electoral list of the Sami parliament, the process of appeal of the decision
  - the **definition** of Sami
  - the plans for the **Arctic railroad** and the lack of impartial impact assessment to reindeer herding and other traditional way of life<sup>6</sup>
  - right to develop and promote traditional livelihoods
  - limitations (since 2016) in the traditional **fishing rights** of non-resident Sami in the Sami homeland,

<sup>4</sup> <https://bit.ly/2Sa6Sud>

<sup>5</sup> <https://bit.ly/2r3ifIS>

<sup>6</sup> <https://www.fiia.fi/julkaisu/the-arctic-railway-and-the-sami>

- the **Teno River Fishing Agreement** and its new permission to fish for non-resident land owners, limiting fishing opportunities of Sami and other local residents and impacting local tourism trade,
- **mining** (gold) and other use of natural resources in the Sami homeland, related environmental and water source effects
- pending **ratification** of ILO 169 Convention
- Insufficient **availability of services** in the Sami languages, especially for children and elderly persons,
- lack of **services for victims of violence** against women and domestic violence in Sami languages and in the Sami homeland
- **resources** of Sami parliament and their actual possibilities to follow up and participate in various negotiations and legislative processes, FPIC and its challenges
- **education** in and of Sami languages outside the Sami homeland
- permanent **funding** of Sami Giellagáldu, the centre for coordinating and deciding on the Sami language issues, preserving the cultural heritage relating to Sami languages and acting as a professional expert body for Sami language users.
- general **negative attitudes and discourse**, including hate speech, with regard Sami and their culture and language even by politicians, media and individuals.

- How does the Government intend to proceed with the necessary reform of the Act on Sami Parliament, respecting the participatory rights of the Sami?
- What steps are planned to improve the ability (resources, processes) of Sami Parliament to participate in all the relevant processes and within all the branches and levels of administration concerning Sami and their constitutional rights?

### Freedom of Speech and Hate Speech (arts. 2, 19, 20 and 26)

10. Results of recent academic study<sup>7</sup> suggest that there are possibly five **threats to Sámi freedom of speech** in Finland: silencing, subordination, delegitimisation, disinformation and epistemicide. The study claims that the Finnish state has not paid enough attention to ensure that the freedom of speech of the indigenous people Sámi is fully realised in Finland. It seems from media reports and public discussion that similar issues are relevant to other minorities as well as to persons with disabilities.

11. **Intolerance, hate speech, harassment** and other **hate crimes** have increasingly become a concern in Finland. This is between groups of persons, but also within minority groups themselves. In particular, the topic of immigration

<sup>7</sup> Näkkäläjärvi (2017) *Threats to the Freedom of Speech of the Indigenous People Sámi in Finland*. MSc Dissertation submitted to the Department of Media and Communications, London School of Economics, in August 2017,

has roused heated debate. This has resulted in verbal attacks against ethnic minorities, journalists, academics, activists and politicians, especially in social media. In October 2015, the Human Rights Delegation in its statement<sup>8</sup> expressed concern over the increasing prevalence of hate speech and intolerance in society. According to the Delegation, the Government should combat and denounce all kinds of hate speech and hate crimes, as respect for everyone's human dignity is in the core of fundamental and human rights. Reference is also made to recommendations by the CERD-committee in 2017

12. According to a **survey on hate speech and harassment**<sup>9</sup>, published by the Ministry of Justice in 2016, foreign-language speakers, foreign nationals, immigrants, Roma people and members of gender and sexual minorities had primarily experienced hate speech or harassment by people unknown to them. Disabled people had mostly encountered such discrimination by healthcare and social welfare workers, and the Sámi and members of religious minorities by politicians or other people in a public position. Almost a fourth of the respondents had experienced hate speech or harassment by politicians or other people in a public position. Only a fifth of the respondents who had encountered hate speech or harassment during the past twelve months had reported it further.
13. In recent years the impact of **troll factories, alternative media, "fake news" and various hate crime related outlets** have increased noticeably. Paired with lack of media reading skills and insufficient monitoring by the authorities this continues to induce hate speech. It has also become frequent that journalists and private individuals have become targets of negative and even violent campaigns and serious harassment after having research and reported on online troll-factories and fake news outlets. In some cases person's lives have been seriously affected and their reputation destroyed.<sup>10</sup>

- How is the Government ensuring the freedom of speech of the minorities, including the Sami? In law and in practice?
- What action has the Government taken to implement recommendations from various actors to tackle more visibly the prevalent hate speech and hate crimes in general.
- Please provide information on legislation and action against prevalence and incidents of anti-semitism and islamophobia. What steps have been taken to encounter extremism and its effects in specific with regard to persons with minority background or religious minorities?

<sup>8</sup> [See the statement \(2015\) in Finnish](#)

<sup>9</sup> See, for example Jauhola & Korhonen (2016). "[I often find myself thinking how I should be or where I shouldn't go](#)". *Survey on hate speech and harassment and their influence on different minority groups*. Publication of the Ministry of Justice 7/2016 (English abstract on pp. 18–21)

<sup>10</sup> <https://www.bbc.com/news/world-europe-45902496>

- What concrete measures are taken against hate speech by politicians and other people in public position? How have the political parties followed up their 2017 declaration to refrain from hate speech?
- Please report on the threshold for and actual cases of investigation, prosecution, outcome of the court proceedings and the follow up on decisions in cases of doxing, targeting and harassing journalists and private individuals who investigate disinformation and related actors.

### **Access to Justice and Fair Trial (arts. 2, 14 and 24)**

14. After the legislative changes to the Aliens Act in 2016, the following issues have effectively limited **access to justice by the asylum seekers**:
- **lack of knowledge** of legal protection
  - **free legal aid** is provided during asylum investigation only if there are weighty reasons for it or if the asylum seeker is under 18 years of age and has arrived unaccompanied.
  - right to choose **legal representative** is limited mainly to public legal aid providers.
  - **time for appeal** against the asylum decision is 21 days before Administrative Courts and 14 days before the Supreme Administrative court, instead of the normal 30 days.
  - **requirements for family reunification** were made more strict. The suggestive income requirement set for the sponsors may be impossible for most to achieve. Stricter provisions are problematic with regard to the right to respect for family life of sponsors and to the best interest of the child in cases where the sponsor is a minor.
  - **possibility to obtain residence permit** based on humanitarian protection no longer exists.
  - **custody order** is re-examined in the District Court on the request of the person in question (not every two weeks, as previously)
15. A study, financed under Government's analysis, assessment and research activities<sup>11</sup> (published 12 December 2018) on the **status and needs of asylum seekers with regard to legal aid** states multiple recommendations to improve their access to rights. These included, among others, improved provision of information on legal aid immediately after asylum request was made, guaranteed legal aid resources in amount and quality as well as normalizing the time for appeal before Administrative Courts to 30 days, instead of 21 and 14 days.
16. **Access to justice by persons with disabilities** is an issue that has not been widely addressed, analysed or evaluated. Furthermore, there are no specific

<sup>11</sup> <https://tietokayttoon.fi/documents/1927382/2116852/33-2018-Turvapaikanhakijat+oikeusavun+asiakkaina.pdf/36e2f2b3-8320-f8c0-9aca-22e98cdeea4c?version=1.0> (in Finnish only)

measures addressing the possible shortcomings in access to justice of persons with disabilities. Finland's ratification of the CRPD in 2016 has brought the issue to the fore, but inactivity on the part of the state party regarding measures prevails.

- How does the Government intend to ensure access to justice for asylum seekers as required under international law? What follow up is planned to the recent Government Study on the access to legal aid by asylum seekers?
- Please explain, what is the situation with regard to access to justice of persons with disabilities? In particular, please elaborate on how persons with disabilities are taken into account in all legal proceedings.
- Please provide information on the measures relating to awareness raising and training of the judiciary with regards to access to persons with disabilities.

### **Non-discrimination (Arts 3 and 26)**

17. The new Non-Discrimination Act (1325/2014) brought along many needed reforms with regard to the scope of application, duties of service providers and supervision. It also covered the concerns of the Committee with regard to the private transactions.
18. The situation with regard to **discrimination in work life** is still being monitored by multiple authorities. According to the new Law, the Non-Discrimination Ombudsman monitors all discrimination grounds. However, the discrimination in individual work-life cases is monitored by the occupational safety and health authorities. The Equality Ombudsman continues to monitor compliance with the Act on Equality between Women and Men.
19. The National Non-Discrimination and Equality Tribunal of Finland (former Discrimination Board and the Equality Board merged) with its wide powers and possibilities to impose penalty payments, prohibitions, obligation decisions and even reconciliations does not monitor the application of the Non-Discrimination Act in working life. However, complaints based on the Act on Equality between Women and Men fall within the mandate of the Tribunal also in the working life. For an individual to receive compensation in cases of work-life discrimination a criminal investigation needs to be conducted by the police, on the initiation of the occupational safety and health authorities, and depending on the outcome of criminal proceedings.
20. All this is likely to create confusion on the right forum for the victim of discrimination, especially if the victim has lacking skills in national languages or is unaware or unsure of his rights not to be discriminated against.
21. **Digitalisation** creates, among others, human rights challenges for many. Accessibility and universal design need consideration. Also the digital divide

between old and young, rich and poor affects the access to rights, information, services and participation options.

- Please explain any plans to improve the human rights protection with regard to work life discrimination.
- What plans are there to diminish the digital divide and improve the equality in the quest to digitalise the society to the maximum?

### **Violence against women and domestic violence (Arts 2-3, 7 and 26)**

22. According to the extensive report published by the EU Agency for Fundamental Rights in 2014, **violence against women is especially common in Finland**<sup>12</sup>. Domestic violence also affects children in many ways. According to research carried out in 2017 by the Central Union for Child Welfare<sup>13</sup>, as many as 40% of parents have at some point used violence against their children for discipline purposes. According to a report published by the Ministry of the Interior in May 2018, violence against women is currently the second most serious factor affecting general safety<sup>14</sup>. A fifth of women in relationships have experienced violence from their partner. Around 30% of young women and girls are worried about sexual violence. Sexual violence, domestic violence, violence in close relationships, sexual harassment, and the quiet acceptance of all of these is disturbingly widespread in Finnish society. The future review published by the Ministry of the Interior in June 2018 states that violence hotspots include women who suffer repeated violence in close relationships and that, because of this, gender equality is not fulfilled with regards to personal safety.<sup>15</sup>
23. Reference is made to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the **Istanbul Convention**, which entered into force in Finland in 2015. The first monitoring cycle is currently ongoing<sup>16</sup> and the GREVIO-expert group is to give its views and recommendations on the implementation in Finland in July 2019.
24. During the **country visit of the GREVIO-experts** the question was raised with regard the court fee levied on the unsuccessful applications of restraining orders. The risk of losing one's residence permit (on family grounds) if the marriage ends and its significance for reporting or not reporting a violent spouse to the police were discussed. Also the question of appropriately considering the domestic violence in the custody proceedings was raised during the country visit of the GREVIO-experts.

<sup>12</sup> <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

<sup>13</sup> <https://www.lskl.fi/verkkokauppa/piiskasta-jaahypenkkiin/>

<sup>14</sup> [http://intermin.fi/artikkeli/-/asset\\_publisher/selvitys-turvallisuudessa-on-isoja-eroja-eri-vaestoryhmien-valilla](http://intermin.fi/artikkeli/-/asset_publisher/selvitys-turvallisuudessa-on-isoja-eroja-eri-vaestoryhmien-valilla)

<sup>15</sup> [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160894/12\\_TUKA\\_SM\\_WEB.pdf?sequence=1&isAllowed=y](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160894/12_TUKA_SM_WEB.pdf?sequence=1&isAllowed=y)

<sup>16</sup> <https://bit.ly/2Sa6HPz>

25. A **National Action Plan for the Implementation of Istanbul Convention** in 2018–2021<sup>17</sup> was adopted in 2017. Most of the actions towards the implementation of the Convention are financed within existing resources and often depend on the priorities within the ministries and administration. The lack of multiannual funding affects the planning and implementation of the actions. This has been criticised by the NGOs and service providers.

26. In October 2018 the Human Rights Delegation made a statement with recommendations on the implementation of the Convention drawing attention to lacking resources and other problem areas of the implementation of the Convention.<sup>18</sup>

27. Reference is made also to the

- recommendations under the CEDAW Convention in 2014
- recommendations under the CAT Convention in 2016
- recommendations in the UPR process in 2017
- the first ever individual complaint against Finland, examined by the CEDAW Committee<sup>19</sup> (Communication 103/2016, decided upon on 5 March 2018)

- What steps has the Government taken to ensure the sufficient **long-term resources** for the overall implementation of the Istanbul Convention and especially for the services aimed at victims of the domestic violence, including victims of minority (and minority within a minority) origins, the geographical distribution of services and cultural/linguistic ?
- Are there plans to appoint **an official national monitoring body** responsible for the independent monitoring and supervision of activities to combat violence against women, and to **report to Parliament** once every parliamentary term on the progress and problem areas regarding implementation, in order to stimulate discussion in society about the topic?
- Please report on the progress made to influence underreporting of violence against women and domestic violence, the low prosecution and conviction rates of such violence.
- How does the Government justify a court fee for unsuccessful applications for restraining order in cases of violence against women and domestic violence?
- What steps have been taken to ensure a safe reporting of domestic violence for persons whose residence permit depends on their marital status?
- How is the Government ensuring that the domestic violence and the best interest of the child are appropriately taken into consideration in the custody proceedings?

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<sup>17</sup> <https://bit.ly/2r2WqZQ>

<sup>18</sup> <https://bit.ly/2AgHOdK>

<sup>19</sup> <https://bit.ly/2FFShVV>

## Torture, cruel, inhuman or degrading treatment (Art 7)

28. **Trans-people** continue to face **discrimination** characterized by transphobic attitudes, gender stereotypes and discriminatory legislation. (FRA survey 2013<sup>20</sup> and Ministry of Justice study 2016<sup>21</sup>). This discrimination issue was highlighted also by UPR recommendations that Finland received and accepted in 2017<sup>22</sup>.
29. The Act on Legal Recognition of the Gender of Transsexuals in Finland still includes infertility 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.
30. 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>23</sup>
31. The European Court of Human Rights' statement/conclusion has also been echoed in seven UPR- recommendations that Finland received and noted (not accepted) in 2017<sup>24</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>25</sup>.
32. **Intersex-children** in Finland are still subjected to medically unnecessary sex-“normalising” surgery without their informed consent, contrary to the 2017 resolution ‘Promoting the human rights of and eliminating discrimination against intersex people’ by the Parliamentary Assembly of the Council of Europe (PACE)<sup>26</sup>. There is also variation in practice in different geographical locations with regard performing or not performing such surgeries. Equally, problems have been reported in receiving treatment for non-binary persons. With no national guidelines for treatment, some regions/hospitals have interrupted treatments.

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<sup>20</sup> [EU Fundamental Rights Agency LGBT Survey \(May 2013\)](#)

<sup>21</sup> 1/5 of respondents had experienced hate speech or harassment more than once within a month. Of the LGBT respondents 81 % 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. <https://bit.ly/2R4vO68> (english summary)

<sup>22</sup> <https://bit.ly/2SawqHM>

<sup>23</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:](#)

<sup>24</sup> <https://bit.ly/2SawqHM>

<sup>25</sup> <https://bit.ly/NCKXu5>

<sup>26</sup> [European network of legal experts in gender equality and non-discrimination: Trans and intersex equality rights in Europe – a comparative analysis \(2018\)](#)

33. **Older persons in care** are entitled to **individual care plans**. However, too often the care plans are not updated according to the wishes of the persons in question. Adequate **access to the outdoors** is part of good basic care, as well as dignified treatment. Prisoners are entitled to a minimum of one hour of outdoor time daily, according to law. The Parliamentary Ombudsman has concluded that the persons in psychiatric care have the same right. However, older persons in care, especially the ones suffering from memory loss, often do not have the option to go outside and their outdoor time is dependent on the amount of personnel in the care home in question. The issue arises also in cases, where the older persons, in increasing amounts and lengths, are cared for in their own homes with care personnel only visiting briefly. The Ombudsman has recommended that outdoor time is included in the residents' care and service plan.
34. In several areas of social and health care **deprivation of liberty** takes place without sufficient legal basis and legal safeguards. Such areas exist in particular in the care of elderly people with dementia and somatic health care of patients who lack capacity. It is a common understanding that new legislation is urgently needed. The Ministry for Social Affairs and Health has published draft laws on this subject on two occasions, in 2014 and in J2018. However, recently the further preparation of the project has once again been postponed. In general, oversight and supervision of the elderly care is insufficient and often inadequate.
35. **Children placed in substitute care homes** face unnecessary **restrictions** to their rights. During inspections carried out by the Parliamentary Ombudsman<sup>27</sup> it became evident that the supervisory authorities, the Regional State Administrative Agency and the municipalities placing children in homes were unaware of the illegal and repressive measures used against children there. Children residing in the homes were not systematically consulted during mandatory inspections and the social workers responsible for organising and supervising the substitute care were effectively unable to perform their statutory duties due to excessive number of client families per social worker.
36. It also appears from articles written by investigative journalists that **antipsychotic drugs** intended for adults are being used to medicate children placed in substitute care homes. The number of children under medication has rapidly risen and close to 4000 children are medicated currently. The given reasons for medication include sleeping disorders. In many cases, therapy is not available, due to lack of professional therapists in remote geographical locations.

- What are the Government plans with regard to amending the Trans-legislation and especially removing the infertility requirement from the process of legal recognition of gender?

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<sup>27</sup> <https://bit.ly/2TDhHGP>

- Does the Government have plans to ban medically unnecessary procedures on intersex children without their free and informed prior consent? Are there binding guidelines to the effect for medical professionals? How is equal access to treatment for non-binary persons guaranteed with no national guidelines for it?
- Has the Government discussed measures to enable effective access to justice for trans or intersex individuals who have been subjected to such interventions?
- Are there plans to increase the amount of actually present personnel for older persons in care to enable outdoor time and timely updating of individual care plans? Any plans to increase oversight and supervision on care for older persons?
- What action has the Government taken to improve the supervision of private substitute care facilities, especially with regard to restrictive measures, medication and children's right to be heard in matters concerning them?
- What measures have been introduced to make sure that the workload of individual social workers allows them to appropriately perform their statutory duties with regard to organizing and supervising the substitute care of a child? How is the Government handling the insufficient availability of psychiatric therapy for children in care homes in remote areas of the country?
- When does the Government intend to remedy the current state of affairs with regard to restrictive measures in social and health care setting?

### Liberty and security of persons and treatment of persons deprived of their liberty (Arts 9-10)

37. Prisoners serve their sentences in either a closed prison or an open institution (15 closed and 11 open prisons). The average number of prisoners is about 3,000. According to Law, **prisoners/remand prisoners under the age of 18 (minor)** must be kept separate from adult prisoners/remand prisoners unless some other arrangement is in the minor's best interest. Placing minor and adult prisoners together cannot be an established practice or the only option available. Based on findings of the Ombudsman's/NPM's inspection visits to various prisons (both pre-planned and unannounced), no separate unit for minor prisoners exist in any prison in Finland. The number of minor prisoners is very small.
38. The **placement of remand prisoners in police prisons** is a long-standing problem. The Deputy-Ombudsman makes recurring references to the CPT reports on Finland, which have drawn attention to the point that the responsibility for the detention of those deprived of their liberty and those under criminal investigation should be strictly separated. Overlaps in criminal investigation and

detention duties present a risk of misconduct. The Deputy-Ombudsman has made several recommendations to police departments on this issue.

39. Prisons are currently under wide assessment, since the legislative amendment entering into force on 1 January 2019 is aimed to significantly reduce the period for which a remand prisoner may be detained in police custody (to one week).

- What actions has the Government taken in order to enable the placement of minor prisoners at specific units separate from adult prisoners, as required by law as the main rule?
- What actions has the Government taken in order to minimize the time remand prisoners are kept in police prisons and that the detention conditions are not influenced by the criminal investigation authorities?

#### **Right to Privacy (art. 17)**

40. Section 10 of the Constitution of Finland contains provisions on the **secrecy of communications**. It was amended in 2018 to enable restrictions to privacy for the purposes of national security. The new laws on **civilian and military intelligence**, and related changes in other legislation, are pending in the Parliament, and are due to be adopted in early 2019. The Parliamentary Ombudsman and recently the Constitutional Committee of the Parliament in its statement have raised several issues with regard to **external control and oversight** of the proposed processes, among others. Two new bodies are to be established: an independent intelligence ombudsman and a parliamentary intelligence committee as a standing special committee.

41. **Right to privacy for persons with disabilities** is limited. There are shortcomings with regard treatment, care homes, personal assistance etc, but also with regard to elections and voting. Especially persons with limited vision or who are blind cannot vote without an assistant, as electronic braille voting does not exist in Finland.

- Please inform on the processes of limiting the secrecy of communications and on the compatibility of the external control and oversight of the new intelligence legislation with Article 17 of the CCPR.
- Please report on the plans to increase privacy of persons with disabilities in treatment, care homes and voting.

### Freedom of Religion (art. 18)

42. The Committee has recommended that the preferential treatment accorded to Jehovah's Witnesses with regard to military service should be extended to other groups of conscientious objectors.

43. In 2018, in a final decision, Court of Appeal found that sentencing conscientious objectors other than Jehovah's Witnesses to prison term was not in line with the equal treatment requirement in the Constitution and international human rights instruments. As a result, a draft law is currently being examined in the Parliament with the intention of removing the preferential treatment altogether and effectively oblige also the Jehovah's Witnesses perform civilian service. This will increase the equal treatment of all persons but the question can be raised whether this is in line with the Covenant. Also the question of previous sentences needs to be discussed.

- Please explain how the planned legislative changes with regard to conscientious objectors is in line with the ICCPR.

### Rights of the child (arts. 7, 24 and 26)

44. Currently the Parliament is examining draft bill that aims to remove the possibility of children under the age of 18 to **marry with a special permission** or at least to clearly limit the age for such a permission. There are c. 20 applications for such a permission annually, most applicants being 17 years of age.

45. The national School Health Promotion (SHP) study is conducted every two years with participation of 236 000 pupils in 2017 (pupils from 1st to 9th grades around the country). According to the study, experiences of **sexual harassment and violence** are more commonly experienced by children born abroad and children belonging to minorities, including linguistic and religious minorities.<sup>28</sup>

- Please provide additional information on the under aged marriages concluded with a special permission and the effects of such marriages to the education, development and wellbeing of those persons.
- Please report on the steps taken in schools and free time activities of children to prevent sexual harassment and acts of violence experienced by children born abroad and children belonging to minorities, including linguistic and religious minorities. Elaborate on the protection of LGBT-children and non-binary children in this regard.

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<sup>28</sup> <https://bit.ly/2SeGPIN>

## Right to participate (Art 25)

46. **Participation of children** in the decision making in general and in specific in the decisions concerning them needs improvement. According to national School Health Promotion Study (SHP, see above) and other studies less than 10% of students in level 8-9 in basic education (age 14-15) have participated in some political activity during the school year and equivalent percentage of student feel that they have good opportunities to influence in school.
47. **Participation of civil society and citizens** in public hearings and processes is usually done by representatives of NGOs. However, not all Roma, persons with disabilities or persons from minority background are members in such organisations nor are their voices heard through the active participation of these organisations in the processes.
48. Recently many public and open processes and services have been created to increase and more easily enable participation of citizens in policy making, preparing draft laws and in having their say in public life in general. Most of these are online, which despite accessibility requirements etc. can pose problems for many persons, including elderly persons, persons with disabilities and persons with no access to internet.

- How is the Government ensuring effective participation of children and youth in society, in schools and in leisure time activities? How can existing structures be improved?
- How does the Government enable equal participation of all persons in participatory processes, taking into account the digital divide present in society and special requirements of persons with disabilities?

## National Minorities (Art 26 and 27)

49. **National minorities**, the Sami, linguistic minorities (including persons using sign languages), in addition to foreigners, persons with disabilities and LGBTI-persons, encounter discrimination on many levels. In addition to discrimination in working life, housing, education and services the minorities are often subjected to hate speech and various hate related crimes online and in real life, from outside their communities but also from within. **Minorities within minorities** are in more precarious position than the mainstream minority representatives. The minorities are also in many ways invisible in the society, be it in media, civil service, provision of services, in educational and other published material and in everyday life in many geographical and professional spheres.
50. The National Roma Policy 2018-2022 does not stress internal discrimination and limitations to individual rights within the Roma community by the members of the

community. Violations of rights or pressure to comply with standards of Roma culture are common with regard to using or not using the traditional clothes, requirements for moving permission, avoidance culture, discrimination of LGBTI Roma persons etc. A survey was conducted in 2014 by the Ombudsman for Minorities and its findings are still relevant today.<sup>29</sup>

- What steps is the Government taking to ensure better visibility of national minorities in the society, educational materials, media, civil service etc.?
- In addition to the national minorities, also the new minorities, immigrants and asylum seekers face problems in their integration. How is the Government tackling these problems?
- Has the Government considered taking steps to include minority groups within minorities in their action plans, for example with regard to Roma?

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<sup>29</sup> <https://bit.ly/2FEhvnX>