

SAMS response to the list of issues prior to submission of the seventh periodic reports of Finland in relation to the International Covenant on the Civil and Political Rights (“ICCPR”).

SAMS – the Swedish speaking Co-operative federation on disability issues (here on after “SAMS”) welcomes the possibility to provide comments for the ICCPR:s 7th periodic report on Finland.

SAMS would like to bring the following remarks into your attention in relation to the list of questions brought forward.

Q: A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on processes in place to implement the recommendations contained in the Committee’s previous concluding observations (CCPR/C/FIN/CO/6). Please indicate which procedures are in place for the implementation of the Committee’s Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party.

SAMS response to Q1: In the 6th periodic report Finland was urged to take all necessary measures to combat violence, especially sexual violence against women. SAMS considers the progress unsatisfactory in some aspects, i.a. due to the fact that rape of a disabled person is legally defined only as sexual exploitation in an institutional environment (Finnish Criminal Code, Chapter 20, § 5). Another principally very critical problem is that the women’s shelters are not necessarily accessible for women using wheelchairs or needing other kinds of reasonable accommodation. The Finnish women’s shelters have just stated that they are accessible but have not in any way informed the public in what ways their premises are accessible for persons with different disabilities. Essentially this may exclude very vulnerable persons from necessary protection against domestic violence.

Q: Non-discrimination, gender equality and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

Question 5. Please report on the impact of the Non-Discrimination Act (1325/2014) on ensuring effective access to justice and reparation for victims of discrimination, clarifying, inter alia, whether: (a) the Non-Discrimination Ombudsman can bring cases before the courts on its own motion; and (b) the National Non-Discrimination and Equality Tribunal can award compensation to victims of discrimination.

SAMS response on Q5: It is still unclear what effects the Act and the Non-discrimination ombudsman has had – this simply remains to be seen. However, the institution has made societal problems more visible and hence hopefully easier to address. For instance, in the annual report from 2018 by the Non-Discrimination ombudsman discrimination against persons with disabilities was the most common reason for reporting discrimination. In total 192 persons reported discrimination due to their disability, which corresponds to 20% of all the reports addressed to the ombudsman. In other words, disability

was even a more common reason for discrimination than e.g. ethnic origin, which was reported by 17 % as a reason for experienced discrimination.

Question: 6. Please comment on the reported increase in hate speech and intolerance in society, and provide information on measures taken to respond effectively to reports of: (a) hate crimes, harassment and hate speech, including online (especially on social media) and in political discourse, against foreigners and foreign-language speakers, immigrants and members of ethnic and religious minorities such as Roma and Muslims; (b) a rise in anti-Semitic hate speech online; and (c) a proliferation of fake news outlets and Internet trolling factories that encourage and contribute to hate speech. Please also report on the measures taken to ensure effective investigation of and prosecution for hate crimes, and supply data on the number of reported cases, investigations and prosecutions initiated and their outcome.

SAMS response on Q6: SAMS is concerned about the significant levels of intolerance and hate speech directed at persons with disabilities. According to the open CRPD-questionnaire conducted by the Finnish disability organizations and the Finnish Human Rights Centre, nearly 27% –of those who answered (N 1444) had experienced their right to life being directly or indirectly questioned in 2016 - 2018.

Q. Violence against women, including domestic and sexual violence (arts. 2, 3, 6, 7 and 26)

11. With reference to the previous concluding observations (para. 7), please report on measures taken and progress achieved in relation to tackling effectively the prevalence of violence against women, particularly domestic violence and rape, including measures: (a) to provide sufficient funding for the Committee for Combating Violence against Women and Domestic Violence and for the implementation of policies and programs aimed at combating violence against women and assisting victims; (b) to encourage reporting of such violence and address the root causes of its underreporting, the low prosecution and conviction rates for rape and the ensuing lenient penalties; (c) to make the lack of victim's consent, as opposed to the use or threat of violence, the core element of the definition of rape; (d) to reconsider the court fee for unsuccessful applications for restraint orders and ensure effective access to justice and remedies for victims of violence, including sexual violence; (e) to provide sufficient and adequate victim support services, including shelters and sexual assault support centres, throughout the country, and facilitate access to such services for all victims; and (f) to provide counselling services for perpetrators. Please respond to reports that protection against forced marriage remains insufficient in the absence of comprehensive data on its extent and on its effective criminalization, and report on the outcome of the project initiated in 2017 to collect information about forced marriage.

SAMS response on Q11:

SAMS would like to highlight that according to the current Criminal Code of Finland, rapes at institutions directed at persons with disabilities are only considered to be "sexual exploitation" as opposed to rape or aggravated rape (Finnish Criminal Code 20:5). In other words, **sanctions for the same offenses vary depending on whether the crime is committed in an institution or not.** SAMS considers persons with disabilities in institutional care to receive less protection from the law compared to non-disabled persons outside institutional care. Hence, their protection of physical and psychological integrity may be more easily compromised in a way that should be regarded inhumane treatment. SAMS does not find any justifying reasons for this and finds the current legal status quo outrageous.

(See the wording here: <https://www.finlex.fi/fi/laki/alkup/2014/20140509>)

Question: Liberty and security of person and treatment of persons deprived of their liberty

(arts. 9 and 10)

14. Please report on the progress made in strengthening the right to autonomy for persons with intellectual or psychosocial disabilities in the context of involuntary placements and treatment in psychiatric institutions, including on safeguards available to them and on their effective access to legal remedies through judicial review. Please also respond to reports of deprivation of liberty in health and social care settings without sufficient legal basis or legal safeguards, including of older persons with dementia and patients “lacking capacity”, and to concerns about the repeated postponement of draft legislation to address such shortcomings.

SAMS response on Q14: The legal safeguards for protecting and strengthening the right to autonomy with intellectual and/or psychological disabilities is currently insufficient. This is true for both involuntary placements and other aspects of life. There has been propositions (e.g. HE 108/2014) and draft propositions to amend the situation, but these have regrettably not yet been realized. Also the abovementioned wording that predefines rapes taking place in institutional environments as only sexual exploitations (Finnish Criminal Code 20:5) is deeply problematic.

Question: Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 10, 13, 14, 17 and 24 (3))

17. Please respond to the following concerns related to restrictions limiting the rights of asylum seekers, and report on measures taken to address them:

(d) Income requirements that significantly restrict the right to family reunification;

SAMS response on 17d: The income requirements can be regarded as especially restrictive to refugees with disabilities due to their poor prospects within the Finnish labour markets. Hence, while the restriction is based on income, it also indirectly excludes applications from refugees with disabilities. SAMS regards this as an unjustified infringement on the right to respect and protection of family life for persons with disabilities.

Another issue which requires closer examination is the requirement for family members to apply family reunifications from certain Finnish embassies abroad. While it was earlier possible to initiate an application in Finland, the physical presence is now required at specified Finnish embassies abroad. This creates logistical and bureaucratic (visa requirements etc) obstacles that can be especially hard or impossible to overcome for persons with disabilities. Hence, the current technical rules can be seen as discriminating to those with disabled family members, essentially jeopardizing their right to respect and protection of family life. It is also unclear to what extent Finland has taken necessary measures to facilitate reasonable accommodations in this regard.

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