



IOK/27/2022

9.8.2022

## UPR Pre-session on Finland in Geneva, 29 August 2022

### Statement by the Human Rights Centre/ Finland's National Human Rights Institution

#### 1. Presentation of the Organisation

This statement is delivered on behalf of Finnish Human Rights Centre, as a representative of the National Human Rights Institution (NHRI) of Finland. The Finnish Human Rights Centre has participated in UPR processes at the national level since 2016.

#### 2. National consultations for the drafting of the national report

The Ministry for Foreign Affairs has been responsible for the drafting and coordination of Finland's fourth national report. The report was finalised in co-operation with other ministries.

Civil society organisations (CSOs) and the NHRI were consulted during the process. The Ministry for Foreign Affairs organised an online hearing and CSOs and the NHRI were provided with the opportunity to comment on the draft national report.

#### 3. Plan of the statement

This statement addresses the following issues: (1) Human rights architecture in Finland and (2) Finland's immigration policies.

#### 4. Statement

### Human rights architecture

#### A) Follow up to the last UPR review

During the third UPR cycle, Finland received recommendations to introduce further measures against discrimination, including ensuring the same level of protection for all grounds of discrimination. (See recommendations 93.30. by Indonesia, 93.38. by State of Palestine, 93.39. by Albania and 93.40. by Bulgaria.)

In Finland, the oversight of non-discrimination and equality is divided between several different actors. The Non-Discrimination Ombudsman is competent to act on discrimination based on age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relations, state of health, disability, sexual orientation, or other personal characteristics. Although mandated to oversee the Non-Discrimination Act that covers these discrimination grounds, the Non-Discrimination Ombudsman cannot consider cases of discrimination in the area of working life, as this task belongs to the occupational safety and health authorities. The Equality Ombudsman who according to the Equality Act is responsible for the oversight of discrimination based on gender, gender identity and gender expression, however, has competence in the area of working life. Similarly, the Non-Discrimination and Equality Tribunal,

which is the low-threshold body to consider discrimination cases brought to it by individuals or the Ombudsmen has asymmetric powers in the area of working life. It can consider working life cases if they concern discrimination covered by the Equality Act but not covered by the Non-Discrimination Act. This limits the possibilities of these authorities to tackle discrimination, irrespective of the discrimination ground.

When it comes to addressing intersectional discrimination, similar incoherencies in the powers of the two Ombudsmen prevail. Only Non-Discrimination Ombudsman can consider cases of intersectional discrimination. For the Equality Ombudsman this means that it does not have competence in cases where two discrimination grounds, such as gender and religion are intertwined.

## B) New developments since the last review

A partial reform of the Non-Discrimination Act is underway and may address some of the aforementioned problems. Yet in the future, the Non-Discrimination and the Equality Act should be reviewed simultaneously to harmonise the legal protection against discrimination and strengthen the intersectional perspective. This is also one of the recommendations done by the Human Rights Centre in its study on fundamental and human rights actors in Finland, published in June 2022. The study was conducted as a result of the continuous evolution and complexity of Finnish human rights structures, and focuses on the current state of these structures, how well they function, the clarity and sufficiency of actors' competencies in law and their capacity and resilience.

The study highlights that the Finnish human rights architecture consists of several actors with independent status and legislative tasks to promote, monitor and/or protect human rights. Some of the actors have a broad human rights mandate whilst some of them are mandated to focus on specific human rights groups or themes. These actors include the supreme guardians of the law (Chancellor of Justice and Parliamentary Ombudsman), the National Human Rights Institution, the special ombudsmen (e.g. Non-Discrimination Ombudsman, Equality Ombudsman, Ombudsman for Children, Data Protection Ombudsman and Intelligence Ombudsman).

New actors, such as the Ombudsman for older people or tasks, namely the rapporteur on gender-based violence, have also been established in 2021. At the same time, no thorough analysis or discussion on the structures and their development has taken place in the Government, even though there are overlaps and gaps in some of the actors' mandates. From the rightsholders' perspective this is problematic, as it might be difficult to understand what the division of task between the actors is, and which instance is eligible to consider their cases in different situations.

The Centre's study shows that there is a clear need for a more holistic approach to human rights structures. Balance should be sought between general and specific human rights mandates. When structures become too fragmented, resources and expertise are scattered for several different actors which risks weakening the clarity, coherence, and efficiency of the structures. The Human Rights Centre is of the opinion that before considering new actors, the existing human rights structures should be clarified and strengthened.

## C) Recommendations:

- **Strengthen the existing actors in Finnish human rights structures, instead of setting up new actors. Any consideration of new actors or functions should be based on a careful and holistic analysis of the existing structures and on a needs assessment.**

- **Prioritise reviewing and amending the Non-Discrimination Act and the Equality Act together to harmonise and strengthen the legal protection of victims and to better tackle intersectional discrimination.**

## **Immigration policies**

### A) Follow up to the last UPR review

In the last UPR cycle the recommendations received by Finland on its immigration policies and legislation covered issues such as rights of children during the asylum procedure (recommendation 93.126 by France), ensuring fair treatment for persons in need of international protection and respecting the right to reunification for refugees (recommendation 93.152 by Kazakhstan), as well as reviewing legislation on the granting of asylum and migration in order to align it with international obligations and standards (recommendation 93.153. by Honduras).

Government's recent actions paint a mixed picture. There are some positive developments, such as the legislative proposal to fully remove income requirement for family members in family reunification situations where the sponsor<sup>1</sup> is under 18 years old. The requirement would no longer be dependent on the status of the underaged sponsor (refugee or beneficiary of subsidiary protection) or on the moment when the application for reunification was filed. Although as a rule the authorities have used discretion in cases of underaged sponsors and made exceptions to the requirement, it is important to have this stated in law.

Despite progress in considering the best interest of the child in asylum procedures, some new concerns regarding the reception of asylum seekers at borders during exceptional situations have aroused. Also, concrete protection for human rights defenders living abroad and at risk are needed. These concerns will be explained more thoroughly in the next paragraph.

### B) New developments since the last review

#### *Possibilities to seek asylum at borders*

The Parliament adopted an amendment to the Border Guard Act in June 2022. According to the amendment, the reception of asylum applications could be centralised at the Helsinki-Vantaa airport in situations where the Government decides to prevent a serious threat posed by a mass influx of migrants or instrumentalisation of migration. This would mean that the border of around 1 300 kilometers between Finland and Russia could be closed. In individual cases, where the rights of children, persons with disabilities and other persons in vulnerable situations are concerned, exceptions to the restrictions could be made.

While the Human Rights Centre understands the need to strengthen border security, it is concerned that the amendment to the Border Guard Act, if interpreted very strictly, will hinder effective access to asylum for people in need of protection. The European Union Fundamental Rights Agency (FRA) has stated that border crossing points should be located at a reasonable distance from each other at EU external borders.<sup>2</sup> In July 2022, the Council of Europe Commissioner for Human Rights communicated to the Finnish Government her concerns on the amendment noting that it could lead to situations where persons arriving at a border area without a designated crossing point are turned back without individual assessment.<sup>3</sup> Similarly, the Court of Justice of the European Union has underlined that if the submission of applications for international protection is directed to a designated place in an EU member state, this should

<sup>1</sup> The family member living in Finland.

<sup>2</sup> See FRA's 2020 report on fundamental rights issues at land borders: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-land-borders-report\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-land-borders-report_en.pdf).

<sup>3</sup> See Commissioner's letter: <https://www.coe.int/fi/web/commissioner/-/finland-amendments-to-border-guard-act-must-be-accompanied-by-clear-human-rights-safeguards>.

not in practice prevent third country nationals to submit their applications.<sup>4</sup>

### *Support to human rights defenders*

Support to the human rights defenders is a priority in Finland's foreign policy on human rights and one of the voluntary pledges made by Finland for the membership in the Human Rights Council (term 2022–2024). The Finnish Human Rights Centre welcomes these explicitly stated commitments, but more concrete actions are needed.

Despite political and even financial contributions for the support of human rights defenders abroad, there are no instructions or mechanisms, such as temporary protection or special visa procedures, to receive human rights defenders coming to Finland. Finland could make use of lessons learned from other countries, such as Ireland, Netherlands, Norway and Germany where these kinds of mechanisms are already in place. More and more human rights defenders are in danger even inside the European Union, which should also be taken into account when introducing measures for the protection of human rights defenders.

### **C) Recommendations:**

- **Ensure effective access to seek asylum at land borders, even in exceptional circumstances.**
- **Consider setting up a special protection mechanism or program for human rights defenders and their families, coming from inside and outside the European Union.**

---

<sup>4</sup> See decision C-72/22 PPU.