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**Submission from the Finnish Human Rights Centre/NHRI for the consideration of State Report – Finland – 93<sup>rd</sup> Pre-sessional WG**

This submission is prepared by the Finnish Human Rights Centre/NHRI.

**The Finnish Human Rights Centre (HRC)** is an autonomous and independent expert institution whose task is to monitor and promote 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 39-member Human Rights Delegation and the Parliamentary Ombudsman.**

The National Human Rights Institution in Finland was established by law in 2012. It received **A-status in 2014 and 2019.**

This submission covers events up to June 2022 and is in response to the combined fifth and sixth periodic report of the Government of Finland on the implementation of the Convention on the Rights of the Child, which covers the period between July 2008 and July 2019.

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Annexes:

Compilation of recommendations proposed by the NHRI

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## Introduction

1. The Human Right Centre (HRC or the Centre) finds the Government report extensive and very detailed. However, it is very technical stating developments as they appear on paper. It does not include sufficient analysis, comparable information or reflections on the measures taken and the effects they have on the enjoyment of human rights for individuals or groups of individuals. This leaves gaps and makes it difficult for the Committee to get a full and comprehensive picture of the situation.
2. The inclusion of critical remarks made by civil society and independent ombudsmen is commendable. Also, the inclusion of information and data in various thematic areas from Åland Islands is highly appreciated, as the developments on the Åland Islands rarely appear in the national reporting. However, further efforts need to be made to encourage NGOs and CSOs in the future to engage directly with the Committee.

## Climate change and children

3. The HRC includes in the submission a very topical theme, which is not included in the Government report. This omission by the Government reflects the general notion that children are not necessarily included in the climate change discussions.
4. Children must live with the consequences of climate change, despite not contributing to most of the emissions. Children are particularly vulnerable in many ways also in Finland to the climate change effects. The rights that may be affected in the future include e.g., the child's right to life, right to self-determination, right to development, right to health, right to education, equality and non-discrimination and the right to one's language and culture.
5. The rights of the indigenous Sámi children are particularly affected by climate change. The Arctic areas are considered to warm up four times as fast as other areas on the planet. Sámi children face a heightened threat to their right to work and the rights to their own language and culture, as the traditional livelihoods and culture of the Sámi depend on nature.
6. The possible effects of climate actions and mitigation measures on children and their rights have not been evaluated in the laws and climate strategies implemented in Finland. This can lead to further negative impacts on children.
7. Children have become the leading activists in the battle against climate change globally and in Finland. They are actively promoting mitigation measures and where possible, taking steps to hold governments accountable for their omissions in mitigation in climate related court cases. Children and youth also regularly participate in demonstrations promoting climate actions. Children and youth should also be allowed to

participate meaningfully in discussions about climate actions, as they will be greatly affected by the results.

8. The Finnish legislative system does not explicitly enable the protection of future generations. However, the impacts of global warming and climate change will only increase in seriousness in the future. Future generations, and therefore future children should be taken into consideration in all mitigation and adaptation measures.

## 9. **RECOMMENDATIONS:**

- **Assess carefully** human rights **impacts** especially on children and youth, including indigenous Sámi children and youth when enacting and implementing legislation and adaptation measures relating to environment and climate change.
- **Enable** meaningful and effective **participation** of children and youth in climate change related discussions.

## I. **General measures**

### **Human Rights Structures**

10. 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).
11. While all of the human rights bodies can and do monitor and promote the rights of the child in accordance with their legislative competencies, the most relevant ones are the Parliamentary Ombudsman (part of the Finnish NHRI) and the Ombudsman for Children. It is to be noted that the mandate of the special Ombudsman for Children is promotional, and she does not deal with complaints. The complaints handling and the protection of rights of the child is the competence of the Parliamentary Ombudsman. This division is due to historical reasons known to the Committee. As such, the cooperation between the two is generally good. The promotional activities of the specialized Ombudsman for Children are very visible and well known to the public. The Parliamentary Ombudsman generally enjoys respect of the authorities, and its findings often lead to concrete improvements in legislation or practices.
12. New actors, such as the Ombudsman for older people or tasks, namely the rapporteur on gender-based violence, have also been recently established. 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.

13. Due to the continuous evolvement and complexity of Finnish human rights structures, the Finnish Human Rights Centre conducted a study on the current state of these structures, focusing especially on how they function, the clarity and sufficiency of their competencies in law and their capacity and resilience. The study on the fundamental and human rights actors was carried out in a participatory manner, as the actors themselves were interviewed and thus given the opportunity to share their observations. Representatives from relevant ministries and NGOs and some researchers were also consulted.
14. The study was published in June 2022 in Finnish (Swedish translation is underway). It includes recommendations by the Human Rights Centre for the development and strengthening of the Finnish human rights structures. Recommendations are addressed mostly for the Government, but also for the human rights actors themselves. Already at the end of April 2022, the Human Rights Centre facilitated a meeting for the interviewed actors, to discuss on cooperation possibilities arising from the study.
15. The 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.
16. The Centre is of the opinion that before considering new actors, the existing human rights structures should be strengthened. For example, the Ombudsman for Children notes in the Centre's study that Ombudsman's small resources increase the institution's vulnerability, as possible staff absence or rotation can have a direct impact on Ombudsman's ability to conduct its activities. Limited resources also weaken Ombudsman's capacity to cooperate with other actors, as this requires time and effort as well.

**17. RECOMMENDATION:**

- Strengthen the existing actors in **Finnish human rights structures**, including the Ombudsman for Children, 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.

## Independent monitoring

18. Directly related to the previous section on human rights structures, a significant legislative development has taken place very recently. A new Act on the division of tasks between the supreme guardians of the law (The Parliamentary Ombudsman and the Chancellor of Justice) enters into force on 1 October 2022. While both maintain their constitutional competencies, the new act divides their tasks with the objective of creating more efficiencies and possibilities for further specialization. The Act further expands the legal basis for the specific tasks and priorities in the Parliamentary Ombudsman's legal and human rights oversight. According to the Act, cases concerning the realisation of children's rights are concentrated to the Ombudsman. The Ombudsman will be also mainly responsible for the complaints received from different vulnerable groups and persons as enumerated in the Act.
19. The Parliamentary Ombudsman has, as part of his/her duties, in recent years increased contacts with children and young people, especially those placed outside their homes. A dedicated website has been created for children. This has increased Ombudsman's visibility among the children and young people, their understanding of their rights and possibilities to have alleged violations examined. This is very much needed and as a result of these contacts, the number of complaints made by children has increased.
20. Based on the HRC's study on fundamental and human rights actors, structural independence of special ombudsmen (including the Ombudsman for Children) from the Ministry of Justice could be further strengthened. While the specialised Ombudsmen enjoy functional independence, they are subjected to the result management of the Ministry. Although the independent status of the ombudsmen is considered in the process, in essence the result management builds on the goals stated the Government programme. Therefore, the result management cannot be considered being totally in line with the principles of independence.
21. Also, the HRC would like to highlight that the required qualification of the Ombudsman for Children, the appointment of the Ombudsman and its staff as well as the length and renewal of his/her term are regulated by a government decree, not by an act. When it comes to the new Ombudsman for older people, who has similar promotional powers as the Ombudsman for Children, the aforementioned matters are included in the Act on the Ombudsman.

## 22. RECOMMENDATIONS:

- **Strengthen** further the **independence** of special ombudsmen (including Ombudsman for Children) from the Ministry of Justice by considering alternatives for the result management of the Ministry.

- Include all provisions affecting the **independence of the Ombudsman for Children** in the Act on the Ombudsman for Children.

## National Child Strategy

23. Finland has published its first National Child Strategy in February 2021. The Strategy spans Government terms and was prepared by a parliamentary committee with vision for a child- and family-friendly Finland. Each upcoming government is to create its own implementation plan for the strategy. The Strategy is based on three key ideas: respect for the rights of all children, due account of children in society and support for the wellbeing of children.
24. In October 2021 the current Government published implementation plan for the Strategy. The plan includes a total of 30 new measures to secure the wellbeing of children and young people and to strengthen their rights. The measures are based on the best available information and the assessment of impacts on children. The collection and sharing of information play a key role in strengthening the rights of the child, with a special attention to children in vulnerable situations.
25. Human Rights Centre finds this is an exemplary development. The Ministry of Social Affairs and Health has published extensive supporting material in the preparation of the strategy, highlighting, among others, the Government's international commitments and recommendations for the Government with regard to the rights of the child. This will help further the implementation of those rights and draw attention to the findings, for example, of the CRC-Committee.
26. **RECOMMENDATION:**
  - Ensure that the **four principles of the CRC** (non-discrimination, best interests of the child, the right to survival and development and the views of the child) are respected in the implementation of the national child strategy and the development of the implementation plans also by the future Governments.

## National Action Plan on Fundamental and Human Rights and Indicators

27. The first ever Finnish framework for **human rights indicators**, was published as a core part of the Government's third Action Plan on Fundamental and Human Rights (NAP, for 2020–2023). The third NAP has received funding for its implementation and follow up, unlike the two previous ones. However, much of the work on indicator development was done by non-governmental actors, such as the Human Rights Centre. The resources of the Ministry of Justice coordinating the work were clearly insufficient for the task and the constant turnover of mostly junior staff frustrated the efforts.
28. The indicators created/selected will only be updated partly annually (numerical statistics), partly once in a government term (those requiring more analysis). Many of the indicators will be hard to utilise and during the

preparations it became clear that statistics and other information is lacking on many important rights and fields of life. Many of these were left out of the framework. Also, some indicators were not included due to lack of political will, i.e. indicator relevant to the rights of transgender children.

## 29. RECOMMENDATION:

- Develop further **disaggregated national statistics** and other objective data to enable additional themes to be included in the indicator framework of the National Action Plan on Fundamental and Human Rights.

## Impact assessment

30. During law drafting or policy planning phases human rights impact assessment, evaluation regarding crosscutting issues, multiple discrimination and effects on specific age groups, minorities or persons with disabilities is not always done sufficiently.
31. Some of the reasons for this are lack of sufficient knowledge on human rights by responsible authorities, insufficient data collection and lack of disaggregated data. Efforts have been made in the last few years, however, in carrying out impact assessments concerning the rights of the child, although there is still much room for improvement.
32. The follow up on the reporting and other directly human rights related work in the administration is also too often dependent on individual civil servants rather than the whole system. The resources are scarce. A lot remains to be done for achieving the overarching and cross cutting human rights approach within the entire public administration.
33. In 2001, an international study on the impact of the UN human rights treaty system on the domestic level was published. In 2022, an updated version of the study will be published, with Finland as one of the 20 States to be included. The HRC commissioned the research and update for the Finnish chapter. The study clearly shows that although the work of the treaty bodies is taken into consideration to some extent at the domestic level, the impact varies a lot between the various bodies and that the regional human rights mechanisms, in particular the European Court of Human Rights is taken more seriously.

## 34. RECOMMENDATIONS:

- Enhance the **knowledge base for legislative drafting** and other decision making by
  - supporting research related to topical fundamental and human rights questions from the Government's research funds,
  - developing dialogue and increasing participation of different population groups, including children
  - ensuring that vulnerable groups and people, including children, are included and can participate effectively.
- Improve the **human rights impact assessment** of the legislation, Government programs, action plans as well as state and municipal



budgets. Pay special attention to the possible accumulation of any negative effects. Continue to improve the impact assessments as regards the rights of the child.

## Rights of the child and the business sector

35. Finland is committed to the obligations of the UN Convention on the Rights of the Child and the International Labour Organization (ILO) conventions (138, 182) on child labour. Yet there is no prohibition of direct or indirect use of child labour by companies domiciled in Finland: No restrictions exists either for businesses to import or sell goods produced using child labour. Work has begun on national corporate responsibility legislation, but the process has progressed slowly and there is currently no consensus withing the government on how to advance on the issue. It seems now clear that the legislation will not go ahead during this Government's term.
36. According to the study conducted in 2021 (Status of the Human Rights Performance of Finnish Companies, SIHTI), all the assessed Finnish companies (78) have committed themselves to prohibit child labour. Only some of them are committed to verify the age of job applicants in its own operations or have any age verification requirements for their suppliers. Despite a clear commitment made by the companies to prohibiting the use of child labour, it is not yet done in practice.
37. In addition to the use of child labour, there is a need to take a broader look at the businesses affecting the well-being of children and families in each industry. Technology is a growing part of school and social life, and children remain at risk of exploitation and abuse online. ICT companies have a significant role and responsibility in this regard. It is also necessary to assess the questions related to the environmental impact of business activities on children.

### 38. RECOMMENDATION:

- Finalise the **national corporate responsibility legislation** and other measures to strengthen the human rights performance of Finnish companies and to prevent child labour, considering the previous recommendations of the UN Committee on the Rights of the Child. At the same time, take into account the rights of the child more broadly, not just in relation to child labour.

## II. General principles

### (Non-)Discrimination and Roma

39. According to the Non-Discrimination Ombudsman (2022) and other sources, discrimination against Roma is a serious human rights problem in Finland.

40. Many young Roma experience structural discrimination from primary school age onwards, which potentially has a negative lifelong impact. However, most contacts to Non-Discrimination Ombudsman from Roma (also young people) concern discrimination in housing. According to the Finnish Roma Association, young men in particular are vulnerable to housing issues due to cultural norms and discrimination. Difficulties in housing also negatively impact on Roma children.
41. Roma also experience ethnic discrimination by the police. In 2013–2015, the Helsinki Police Department had an operation targeted at the Roma. The mission was to intensify surveillance and control of all presumed Roma. The case did not come to light until 2021.
42. According to Roma Wellbeing Study, Roma in Finland face a wide range of discrimination in their daily lives. There is concern about how seeing discriminatory treatment repeatedly affects Roma children. Experiences of discrimination and insecurity are concentrated in young Roma (aged 18–29).
43. According to a report by the National Board of Education, bullying, discrimination and naming of Roma children in early childhood education were quite rare, and no different from bullying against the general population. However, 14 percent of staff felt that Roma students were more bullied than other students.
44. The evaluation of the second National Roma Policy (2018–2022) started in 2021 and will be completed in 2022. At the same time, the preparation for the third National Roma policy program for 2023–2030 has started. As part of the program four separate working groups consulted Roma population and various authorities for example about children, young people and families.
45. The Human Rights Centre Youth Program organized discussions on racism and discrimination with Roma youth in the spring of 2022, together with the Ministry of Justice.
46. For many children, the first racist encounters happen in school by either educators or other pupils. This can cause stigma to which some children react by trying to hide their Roma identity. For example, Roma clothing and dresses that many girls and women wear can increase the risk of discrimination.
47. Discrimination and racism in schools may include racist name-calling, prejudices and practices where Roma children are put in language classes for those who do not speak Finnish as their native language.
48. Outside of school, Roma children are subjected to the same discrimination as the rest of the Roma population. For example, Roma youth are often followed by security guards in stores and suspected of stealing based on their background alone.

#### 49. RECOMMENDATIONS:

- Include information on the **Roma culture** and rights in teacher's education and in school curriculums.
- Ensure that schools have clear processes on how to **address discrimination and racism** that Roma children and youth face in schools.

#### (Non-)Discrimination and LGBTI children and youth

50. About 1 in 10 young persons in Finland belong to sexual and/or gender minorities. The challenges faced by them at home and in schools require more active measures by the authorities.
51. Physical violence by a parent is twice as common for LGBTI youth than for others. Bullying in school affects particularly gender minorities. LGBTI youth also report anxiety and symptoms of depression more often than non-LGBTI youth.
52. A governmental working group to prepare the legislative reform of the Act on Legal Recognition of the Gender published its draft proposal in February 2022. According to the draft, one of the requirements of the recognition of gender will continue to be that the person is at least 18 years old. This means that trans children are excluded from the reform and are not granted the right to have their legal gender recognised according to their gender identity.
53. The Human Rights Centre regrets that the proposal does not promote the right of trans children, especially considering that in the draft proposal it was explicitly stated that the requirement of being an adult is not in keeping with the rights of the child. The Government proposal is expected to be submitted in August 2022.
54. Currently, no national treatment practice regarding intersex children exists, and treatments that aim at sex "normalising" treatments are still practiced. These children risk being subjected to medically unnecessary surgeries without their consent.
55. The Ministry of Social Welfare and Health has in a memorandum in spring 2022 proposed measures to improve the rights of intersex children. The Ministry stated that unnecessary treatment should be postponed until the child can give their informed consent to the treatment. The Ministry does not, however, propose legislative changes but research on the practices concerning treatment, guidance and education for health care professionals and more regard to the information given to intersex children and their parents. The memorandum does not rule out the possibility to include the rights of intersex children in legislative reforms concerning the right to self-determination of patients in health-care services.
56. The Human Rights Centre underlines that as possible unnecessary treatments of intersex children without their consent violate the rights of the child, they should be prohibited on a legal basis. Experiences of many countries indicate that guidance and education, while important, remain insufficient.

## 57. **RECOMMENDATIONS:**

- **Improve the well-being** of LGBTI youth, ensure a safe learning environment and provide low threshold services for those experiencing violence and suffering from mental health problems.
- Complete the **reform of the Trans Act** as soon as possible and ensure the right to self-determination for transgender children.
- Introduce a legal **ban on medically unnecessary procedures** on intersex children without their free and informed prior consent.
- Guarantee equal access to **treatment for intersex people** by preparing national guidelines for medical professionals.

## IV. **Violence against children**

### **Violence against girls**

58. Since the entry into force of the Istanbul Convention, many positive developments have taken place in legislation, education and training related to violence against women and girls, funding of preventive action and victim services (new shelters, helplines, SERI centres, training and action plans).
59. The increasing resources the Government is investing in countering violence against domestic violence is to be commended. Yet the service structures are complicated. Mandates of authorities and supervisory bodies are partly overlapping, NGOs who provide services in practice are not fully integrated in the structures, services are not easily accessible to all and there are not enough low threshold services enabling victims regardless of their age, cultural background, language skills, physical abilities or geographical location to get services and help they need. All service providers and authorities also suffer from lack of resources.
60. New forms of violence need to be recognised better and faster, as has been evident during the pandemic and lockdowns. Children in especially vulnerable situations (closed religious and other communities, children and youth in care, persons with disabilities and especially in various living arrangements, migrant girls and minorities) need to be considered while designing services.
61. In developing measures to prevent violence against girls, it is essential that different forms of violence and partly new forms, also those brought about by the pandemic or those based on electronic communications are better known and recognised in the society.
62. In identification, it is essential that the authorities at different administrative levels, individual officials and office holders are sufficiently aware of the different forms of offences and recognise the forms of offence targeted at girls of different backgrounds, ages and states of life in different ways.

63. The high numbers of victims of sexual harassment and violence in the society, schools and workplaces are alarming. Even more alarming are those victims that do not appear in statistics. These include LGBTI children, children with disabilities, minority children and minorities within minorities.
64. Girls with migrant background and their experiences often remain outside the official numbers, as well as services. In communities, where sexuality and sex are tabus, the violence remains invisible from the view of authorities but also from statistics. This leaves many vulnerabilities in the service structures and in the implementation of girls' (and boys') rights.
65. With regard to legal proceedings, legislation and statistics in criminal matters there is also place for improvement. The overall changes in Penal Code are timely, including adding the lack of consent in the definition of rape. However, improvements are needed in knowledge, attitude and abilities with regard to the needs of the victims, as well as perpetrators.
66. As mentioned by the Government, nearly half of the shelter clients are children, most often under 4 years of age. Despite increased funding and training of shelter personnel, cultural and special needs of various minority groups are not always considered. In addition, the most northern shelter is in Rovaniemi which leaves the entire Sámi homeland without the necessary and adequate services.

#### 67. **RECOMMENDATIONS:**

- In all policies and legislation aimed at protecting children from violence, as well as their implementation, pay **special attention to safeguarding** in an inclusive manner the children with disabilities, children belonging to various ethnic, linguistic and cultural minorities, children in out-of-home placements and children belonging to sexual and gender (LGBTIQ+) minorities.
- Increase **human-rights-based training on recognising domestic violence** and violence against girls and on how to help the victims or children witnessing violation. Focus general training of attitudes on men and boys in particular.
- In the implementation of regional and international obligations addressing violence against girls, ensure **coordination between authorities**, cooperation with NGOs and engagement of local and regional level, especially in the development of service structures.
- Secure sufficient, multi-professional, individually tailored and geographically distributed **services for child victims** of domestic violence.

#### **Bullying, harassment and violence against children with disabilities**

68. According to the recent study from 2022, 4-year-old children with disabilities were bullied more at home, in care, and in free time than 4-year-old children without disabilities – especially boys with disabilities experienced bullying.

69. According to the same study, children with disabilities were more likely to experience some (and usually more than one) form of violence or bullying in schools than children without disabilities. 14 % of boys with disabilities experienced bullying at least once a week in school, approximately three times as much as boys without disabilities.
70. Girls and boys with disabilities experienced significantly more sexual violence and harassment than children without disabilities. 57 % of girls with disabilities in the 8th and 9th grades experienced psychological violence from their parents or other trusted grown-up.
71. Violence against children with disabilities is not always recognised or taken seriously. This leads to challenges in acquiring assistance and support. In addition, the service structures do not sufficiently take into consideration the individual needs of victims, such as girls with disabilities.
72. Difficulties in finding or locating accessible shelter places and services poses a challenge for women and girls with disabilities. Accessible services are not widely available and information on accessible shelter places is not easy to find. In 2020 disability NGOs started a project to make the accessibility of each shelter more easily visible in one place on the internet, but it seems this has not been finalised.

### 73. **RECOMMENDATIONS:**

- Educate professionals on how to **protect children with disabilities** from bullying and how to teach security skills to children with disabilities.
- Ensure protection to children with disabilities against **sexual violence and abuse**, also in institutional settings, as well as in private residences.
- Secure **individually tailored and accessible services** for disabled child (and women) victims of domestic violence.

## V. Family environment and alternative care

### Children deprived of family environment

74. A study was conducted on implementing and monitoring children's rights in child welfare. The study focused on the decisions issued by the Parliamentary Ombudsman concerning complaints filed by children themselves in 2018–2020.
75. Two key observations were the worrying shortcomings in the supervising of substitute care and the fundamental deficiencies in the appropriate application of the restrictive measures of the Child Welfare Act.
76. Another study in 2021 examined adolescents' experiences of maltreatment in out-of-home care. Maltreatment includes experiences of

mental and physical violence or sexual harassment and abuse, abusive practices in residential homes, and bullying or violence between peers in the same residential home.

77. Among the adolescents studied, 18% had experienced some type of maltreatment by employees during the past 12 months. The most common type of maltreatment was mental abuse, which was reported by 14% of adolescents, whereas 8% had experienced physical abuse and 7% sexual abuse. Experiences of maltreatment were more common in professional foster homes than in child welfare institutions. Depression and anxiety disorders and physical disabilities were significantly related to maltreatment experiences.
78. In addition, length of out-of-home care and the number of different out-of-home care places were associated with maltreatment. Among abusive practices that are part of residential homes' culture, the study explored abusive punishment practices. The findings of the study raise important questions regarding the competence of professionals working with adolescents to take account of the special needs of adolescents living in professional foster homes and in child welfare institutions.
79. The government proposal on amending the Child Welfare Act's sections regarding specialized foster care was delayed for lack of resources. Instead, the government proposed a two-phased, comprehensive reform. In the first phase, in spring 2023, the Government will form a vision and pre-process for the reform. It remains to be seen whether the reform is executed during the next government term after the parliamentary elections to be held in the spring of 2023.
80. The postponement has caused great concern among child welfare actors. They consider that the main problems in child welfare are the implementation of the current legislation (including lack of resources) and not necessarily the legislation itself.

#### 81. **RECOMMENDATIONS:**

- Increase the **supervision of the residential homes** and ensure that the **competences and respect for human rights of the children and young people by professionals in specialized foster care are on appropriate level.**
- Grant sufficient resources to necessary **amendments of the Child Welfare Act** and to its effective implementation.

### **Family reunification and the rights of migrant children**

82. When developing Finland's immigration and refugee/asylum policies, particular attention should be paid in ensuring that protection is offered in a coherent and non-discriminatory manner, even and especially during crisis situations. This concerns persons fleeing war, persons applying for asylum

for some other reason or persons who have remained without documentation, being unable to return to their country of origin.

83. The general reform of the Aliens Act (planned for 2023–2027) offers an opportunity to systematically address the problems concerning the realisation of the rights of the child and the primacy of the best interests of the child. The government is currently amending legislation on family reunification.
84. The rights of the child should be strengthened with regard to asylum-seeking children or children who have received temporary protection for fleeing the war in Ukraine. Currently, they do not have the right to day-care unlike other children.
85. Additionally, unlike recognized refugees, the beneficiaries of subsidiary protection must provide sufficient income, despite both being international protection statuses that should be treated equally. In the recent proposal for legislative changes, this requirement is set to remain unchanged.
86. Currently, children are, under the Alien's Act, expected to have sufficient income when they are sponsors in family reunification situations. This requirement is proposed to be abolished according to the recent legislative proposal.
87. Based on a report of the Non-Discrimination Ombudsman, the best interest of the child is not always taken into account in family reunification processes as half of the decisions for families of unaccompanied children who have received international protection are negative. Negative decisions are not made based on the income requirement, as the Immigration Service often makes an exception when children are concerned but based on the fact that families should not send their children unaccompanied to Finland without individual compelling reasons.
88. Additionally, according to the Alien's Act, only children who are 12 years old or older are heard as a rule in the immigration procedure. The right to be heard should, however, not be connected to a certain age limit but be based on an individual assessment of the maturity of the child in case.

89. **RECOMMENDATIONS:**

- Ensure that the **best interest of the child** is a primary consideration in all migration decisions concerning children.
- Ensure that **family reunification** is accessible for all beneficiaries of international protection without discrimination.
- Legislate that all children seeking asylum or who have received temporary protection are entitled to participate in **day-care services**.
- Ensure that all **children are heard** in immigration procedures in accordance with their age and maturity and abolish the general age limits of 12 years on hearing.



## **VI. Disability, basic health care and welfare**

### **COVID-19 – pandemic's impact on children and young people**

90. The coronavirus pandemic has had a significant impact on the well-being and realisation of rights of children, young people and families. The crisis has increased inequalities among children and young people in many ways. The negative effects of the pandemic, such as increased poverty in families with children, often accumulate and cumulate in the everyday lives of children, young people and families.
91. Services for children, young people and families are mainly the responsibility of municipalities. Services require additional measures to combat the negative effects of the crisis. The coronavirus pandemic has weakened municipalities' finances.
92. Municipalities have had unequal opportunities, for example, to support distance education for schoolchildren and to guarantee digital teaching tools for all. Child health clinic services, support provided in early childhood education and care, student welfare services and support for learning have suffered. Students have had problems with the availability of mental health services, although the coronavirus crisis has increased mental health issues experienced by young people. It is necessary to secure sufficient resources for the implementation of the necessary services.
93. In the follow-up of the coronavirus pandemic in both the short and long term, particular attention must be paid to the realisation of equality, non-discrimination and societal justice (especially through economic, social and cultural rights) and especially with regard children and young people.
94. The restrictive measures resulting from the coronavirus pandemic have influenced the communities of children and young people and their membership in society. The crisis will have generational effects. For example, young people's access to working life has become more difficult and many have concluded their education entirely or at least partly in distant learning.
95. During the crisis, different actors have developed and introduced new cooperation practices. Digitalisation has been strengthened in many ways. Yet services that support the well-being of children, young people and families must be organised in a child-oriented, youth-oriented and family-oriented manner. By evaluating the measures targeted at children and young people, the rights and well-being of children and young people can be taken into account in decision-making. In general, the coronavirus

pandemic has highlighted the importance of social welfare, healthcare and social security reforms.

#### 96. **RECOMMENDATIONS:**

- Take effective steps to **diminish** (also geographical) **inequality** and engage specific measures to **achieve** effective **equality** for all children and young people in the management of coronavirus pandemic and related recovery measures.
- **Ensure** sufficient **resources** for and adequate **support** in the universal and targeted services, including mental health services for children and young people and services for families in the management of and recovery from the crisis.
- **Ensure** adequate **livelihood** of families with children and young adults, especially during the coronavirus pandemic and its recovery efforts.
- **Strengthen** the effective **participation** of children and young people also in the management of the coronavirus pandemic and in the planning of the recovery measures by using information systematically collected from them in decision making processes.
- Organise **services and activities** for children, young people and families in a child-oriented, youth-oriented and family-oriented manner. Develop further and implement good cooperation practices and practices introduced during the coronavirus pandemic.

#### **Self-determination in social welfare and health care**

97. An assessment is being conducted in 2022 on the recognition of the right of the child to self-determination and participation in current social welfare and health care legislation. This is a part of the legislative process on the right to self-determination of social welfare and health care customers (2022–2027). The study is, at the same time, part of the implementation of the National Child Strategy.
98. According to the preliminary findings in summer 2022, some of the main challenges regarding the rights of the child to self-determination and participation, are the authorities' reluctance to enter the family sphere (over-appreciation of family autonomy even when a child is in peril) and the tendency of authorities not to take children's own accounts of neglect or mistreatment seriously. The legislation doesn't effectively appreciate the child's rights outside the Child Welfare Act and there is no general understanding of the importance of participation to a growing child's development.

#### 99. RECOMMENDATION:

- Ensure that child's **right to self-determination** and participation are considered as a cross-cutting issue in all areas of social welfare and health care, not only in child welfare. This must include an intersectional understanding of children, considering also the needs of children with disabilities, indigenous children etc.

#### Sámi-language health and social services

100. A study shows that the availability of services for Sámi-speaking children, young people and families in their own language is not organised sufficiently. Sámi homeland also lacks many special-level services, such as disability services and disability services in special care districts.
101. According to the same study, the equality of service path for children, young people and families belonging to the Sámi community is weak. Lack of trust due to prior bad experiences and discrimination makes it difficult to access services. Also, many services are missing, e.g., mental health services for children and young people, demanding family work and family rehabilitation.
102. Furthermore, there is a lack of placement homes and the shortage of Sámi surrogate families and family workers. The lack of culturally appropriate material in Sámi-languages is feared to lead to delays in the diagnosis of children and young people, for example in speech and physiotherapy. The lack of a linguistic and cultural perspective in particularly demanding support services places a particular burden on minority groups, such as sexual minorities and people with disabilities.
103. As part of implementation of the National Child Strategy, the Ombudsman for Children will launch a study on the well-being and rights of Sámi children and young people in Finland. The report provides information on the situation of children and young people living in the Sámi area and other parts in Finland from their own perspective. The planning of the project has been done in close cooperation with the Sámi Parliament. The results will be published in 2023.

#### 104. RECOMMENDATIONS:

- Ensure that Sámi children receive health and social services in their own language, including mental health services.
- Improve the education and training of care professionals for Sámi languages and how to take culture into account in special support services.

## Child poverty and personal assistance

105. The Government states that during the reporting period, Finland's child poverty rate has been one of the lowest in comparison to other OECD states and Member States of the EU. However, close to 120.000 children live in poverty which has increased in the time of pandemic. This is alarming.
106. Families, with one or more children with disabilities were more likely to receive income support which is meant only as the last financial support method. Sometimes one of the parents, most often the mother, becomes full time caregiver for their child, which means diminished income for the family.
107. Between 2008 and 2020, the use of personal assistants by children with disabilities has risen from 73,8 per 100 000 children to 123,9 per 100 000 children. It seems that children with disabilities now have better access to personal assistants. However, there hasn't been much change since 2020.
108. Support in the day-to-day activities and gaining independence from their parents is not available to all. According to the Disability Services Act, to have the right to personal assistance, the person with a disability must have the resources to define the content of the assistance. Some children (and adults) with intellectual disabilities are not able to define the content of the assistance they need, which is not fulfilling the so-called resource-criteria, and no other service are available for children who would need support in decision-making. This leaves many without assistance and in the care of their parents only.
109. According to the municipality questionnaire from 2019, approximately 41 % of the respondent municipalities reported some or severe problems in organizing disability services for children. Most of the problems had to do with the fact that there were no services that would have been designed specifically for children with disabilities. Municipalities also reported difficulties in finding substitutes for caregivers.

### 110. RECOMMENDATIONS:

- Explore further support methods for families with disabled children to improve their **financial situation**.
- Support municipalities in developing **new services** for children with disabilities to gain independence from their parents and to support their families.

## VII. Education, leisure and cultural activities

### Inclusive education

111. Inclusive education is a state obligation and a right for children with disabilities. However, there is no comprehensive understanding of the legal basis of inclusive education, its content, and its binding nature in Finland. This situation puts the right of children with disabilities to inclusive education at risk.
112. More and more children are included in the general education, instead of studying in specialized education, which is positive as such. However, the resources and support provided are not sufficient. Only 3 % of school personnel consider the resources adequate to include the children with disabilities in general education.
113. Practical problems related to inclusive education involve inadequate support for teachers and students as well as unhelpful attitudes and a lack of competence. Simply increasing resources without changing practices and mindsets does not solve the challenges of inclusive education. An extensive and multidisciplinary change in attitudes is needed in Finland in terms of inclusive education.
114. Over 40 % of parents of disabled children feel that their child does not receive adequate support in general education. Parents of children in a specialized education were generally happier with the available support than those whose child was in general education. Some parents also reported difficulties getting their child into a general education in a nearby school instead of a specialized school.
115. Even if support was available for education, it was not necessarily available for socializing with other children during the breaks. Children also reported that it was difficult when the regular interpreter or assistant was temporarily replaced by a substitute who did not necessarily manage to assist/interpret correctly.

#### 116. **RECOMMENDATIONS:**

- Strengthen the **competence of teachers and educational staff** in inclusive education and its implementation, including needs of children in autism spectrum.
- Provide schools with **sufficient resources** so that they can take adequate support measures to organise inclusive education, and that there is as little turnover as possible.
- Ensure **support for children with disabilities** also outside classroom, so that they have the opportunity to form friendships and be included in the society.

- Raise awareness of the **UN Convention on the Rights of Persons with Disabilities** and its binding nature.

### Sign languages in education

117. In its program, the government committed to researching how the Early Education Act and the Basic Education Act should be updated to coincide with the Convention on the Rights of Persons with Disabilities and the Sign Language Act.
118. The Constitutional Law Committee has previously stated that the Sign Language Act is not adequate in guaranteeing the rights of the deaf, the hard of hearing children, and children of deaf adults (coda) to grow into their own culture. According to the study commissioned by the Ombudsman for Children in 2012, deaf and hard-of-hearing children using cochlear implants are routinely discouraged from using sign language by health care professionals and other public officials.
119. The new Early Education Act enters into force in August 2022. The new Act takes better into consideration the different support needs of children with disabilities and includes children with disabilities better into the general education (inclusive education). It does not, however secure the cultural rights of children whose first language is sign language. Due to limitations in law, coda and hard-of-hearing children do not necessarily get early education in sign language even if it is their first language, if they are able to communicate in other languages.

#### 120. RECOMMENDATION:

- Update the Early Education Act to ensure that the children whose first language is sign language have the right to receive **early education in sign language**.

### Sámi-languages and education

121. Basic education in the Sámi languages is limited by regional location to Sámi homeland. However, about 80 % of Sámi children live outside that area. By the Basic Education Act, they do not have the right to education in Sámi languages as do students in the Sámi region.
122. According to the Ministry of Education and Culture's report on educational policy, about 200 children are covered in Sámi-language early childhood education.
123. In 2020–2021, there were a total of 710 pupils in pre-primary and basic education in the Sámi language, as well as upper secondary education. More than 160 pupils and students have registered for the distance education project for Sámi languages for 2022–2023. The number has tripled since the start of the project in 2018. It provides supplementary

education two hours per week (Inari, Skolt or Northern Sámi) for students living outside Sámi homeland.

124. Responding to the special needs of children with disabilities both in the Sámi homeland and elsewhere in Finland is not systematic and the resources allocated to it are insufficient. Additionally, the professionals lack in competences to consider cultural aspects when working with children with special needs.
125. In Sámi homeland, there is a need for support in special early childhood education and in special education groups and special education units. According to the Sámi Barometer, there is no special education or schooling support in Sámi-languages for Sámi children and support materials for children with special needs are in Finnish only. For this reason, children with learning difficulties do not receive education in their mother tongue.
126. There is lack of highly educated Sámi-speaking staff in early childhood education. There are still no Sámi-speaking early childhood special education teachers. This situation will be improved when the special early childhood education teacher training in Inari, by the university of Oulu, will start.
127. The status and funding of Sámi-language nests are often uncertain. At present, language nesting activities are organized in the municipalities of the Sámi homeland and in two cities elsewhere in Finland. The position of the Sámi language nests as part of early childhood education is unclear. As the Sámi language nests are not mentioned in the Early Childhood Education Act or in the grounds of the early childhood education plan, municipalities are not obliged to organize language nesting activities as part of the early childhood education system.
128. The right of Sámi children to early education in Sámi-language has been defined differently in the Sámi Language Act and the Early Childhood Education Act, which has led to different interpretations. The Parliamentary Ombudsman has pointed out that the mother tongue in the population register alone cannot be considered a decisive factor when considering the right to early childhood education in Sámi-language and the way it is organized.
129. According to the Sámi Parliament, the use of population registry information as the basis for the municipal obligation to provide day care may endanger the realization of the basic linguistic and human rights of Sámi children. This corresponds to the problem with children whose mother tongue is not sign language in the population registry but who would need teaching in sign language, without receiving it.

#### **130. RECOMMENDATIONS:**

- Support **Sámi-language nests** also in municipalities outside of Sámi homeland.

- Enable access to **basic education in Sámi-languages** for Sámi children living outside Sámi homeland by amending the Basic Education Act.
- Allocate sufficient resources to improve the realization of the right to own language and culture also for **Sámi children with disabilities** and special needs.

## Roma children and education

131. As part of the implementation of the National Child Strategy the Ombudsman for Children, in co-operation with the Advisory Board for Roma Affairs, is conducting a study on the well-being of Roma children and young people and the realization of their rights from the perspective of children and young people themselves. The study is being carried out and the results will be published in 2023.
132. As part of the National Roma policy 2018–2022 a study was conducted about early childhood education and pre-primary education. There are no significant differences in the participation of Roma children in early childhood education compared to other children. However, the situation of Roma children in both early childhood and pre-primary education is weakened by irregular participation and absenteeism. Only 18–21 % of staff-respondents answered that their Roma pupils attended pre-school very or fairly regularly. The problems caused by this are expected to be exacerbated when children move on to basic education, and therefore efforts should be made to educate parents and guardians.
133. The majority of pre-school staff were unaware that Roma children have right to receive Roma language instruction in pre-school education (two hours per week). Only a fraction of those aware of the matter said they had tried to inform caregivers. In addition, only 9 % of the guardians said they were aware of this possibility, and 3 % said their child had been taught Roma in pre-school education. However, for the preservation of the language, the teaching of the language in pre-school education is perceived as important by guardians (76%), as not all parents know how to teach it themselves.
134. In the Roma Wellbeing study, the level of education of Roma was lower than that of the entire population. Less than half of young Roma had a post-primary education, compared with around 60% of the total population aged 15-29 in 2017.
135. According to Finnish Government Report on the Application of Language Legislation 2021, approximately one-fifth of Roma students (170–180) received state supported basic education in Roma language in 2008–2015. In 2016, the number dropped to less than a hundred. In addition, according to data from the Ministry of Education and Culture, the number of students studying Roma language has declined further during the COVID-19 pandemic. Detailed statistics are not yet available.



136. In addition to the challenges to recruit Roma students to university education, there is a lack of Roma language teachers. This is a result of their retirement and retraining to other professions.

**137. RECOMMENDATIONS:**

- Raise **awareness** of the right to receive Roma language instruction in pre-school education and the difficulties faced by Roma children in the education system (including discrimination).
- Ensure the **right to basic education** for Roma children and youth in Roma language.
- Enhance the efforts to educate and recruit **Romani language teachers**.

**Swedish in education**

138. Swedish is a national language in Finland. Therefore, children have an equal right to receive Swedish-language pre-primary, primary and secondary education in municipalities with Swedish as an official language.

139. In 2021 a study was conducted by the Ministry of Education and Culture about the special features, challenges, development and needs regarding Swedish-language education in Finland. Key observations were the critical shortage of Swedish-speaking competent educational staff generally, including e.g., school counselors, subject and special teachers, and especially early childhood education staff.

140. Furthermore, some education on the upper secondary and higher education levels are not offered in Swedish, or there is geographical inequality in provided education, despite the society's need of Swedish-speaking experts in key sectors such as education and care.

141. In addition, there is insufficient data collection and analysis regarding specifically the Swedish-speaking school sector.

**142. RECOMMENDATIONS:**

- Ensure the right to one's language for Swedish-speaking children by enhancing the efforts to educate and recruit **Swedish-speaking educational staff** and securing geographically equal education opportunities.
- Develop the **collection and analysis of data** specifically concerning Swedish-language education and consider the characteristics of Swedish-language education.

## Karelian language

143. The Government included in its recent first language police program also Karelian language. Karelian language is not mentioned in the Constitution nor is there legislation or action plans for its development. Karelian is not taught in pre—school education or schools. The Government has recognised needs to increase actions on this.

### 144. RECOMMENDATIONS:

- Raise **awareness** and take **steps to improve** the education of Karelian language at all levels of education.

## Education on human rights and civic education

145. As recommended by the Committee earlier, the general competence in fundamental and human rights must be further strengthened. Information on the rights, their legally binding nature, interpretation and impacts are needed in all sectors of society: law drafting, policy measures, authoritative activities, judicature, education, research and the media.

146. Each individual, including children, needs information about their rights, obligations and legal remedies in an accessible and understandable manner. The Convention on the rights of the child is somewhat known, as is the Universal Declaration of Human Rights, but for the rest, the knowledge and understanding of human rights is insufficient.

147. Promoting human rights education is an important part of strengthening awareness. Expertise in fundamental and human rights is particularly needed in exceptional circumstances such as the coronavirus pandemic.

148. In legislation, programs and action plans especially the educational authorities refer to human rights as a basic value that is connected to democracy and non-discrimination. They mostly fail to highlight that human rights are legally binding obligations with rights and duties, included in the Constitution of Finland in addition to international conventions. Human rights as legal basis for all actions is not acknowledged. Furthermore, the fact that human rights education is also a duty *per se*, is not taken into consideration sufficiently.

149. The general human rights education needs active support. In addition to providing education on human rights norms and mechanisms, especially equality and non-discrimination must be promoted in education to reduce ableism, discrimination against minorities, Sámi and immigrants, but also sexual and gender-based discrimination.

150. As the Government reports, the new national core curriculum for basic education includes education on fundamental and human rights. At the same time, a lack of obligatory and systematic national education programmes for teachers on fundamental and human rights persists. This makes the implementation of the core curriculum challenging and teachers feel unease tackling the issue.

151. A project on human rights and democracy education in teacher training was executed within Helsinki University (2018–2021) and e-learning materials were compiled. The Human Rights Centre supported financially the project for several years but despite continuous efforts, the educational authorities were not keen in continuing and/or supporting the project.
152. The Government stresses that teacher training institutions develop their curricula autonomously. However, by including requirements on human rights education on their funding decisions or by supporting relevant structures and modules, the clear need for knowledge could be fulfilled.
153. Specific human rights education for professionals is needed, not just on the rights of the child but for example on linguistic and cultural rights, and self-determination in health and social services.

**154. RECOMMENDATIONS:**

- **Develop and publish** accessible information on fundamental and human rights in different languages and in a manner that is compatible with different means, modes and formats of communication, also in child friendly formats.
- **Strengthen teaching** of fundamental and human rights at all levels of education. Pay attention to non-discriminatory information on indigenous people Sámi and minorities and their language and culture.
- Include fundamental and human rights education as a **mandatory subject** in teachers' pre- and in-service training and secure sufficient funding, permanent structures and staff for it.
- **Increase** fundamental and human rights **education and training**, including but not only the rights of the child, at all levels and secure sufficient training on human rights for public servants and different professionals (e.g., health care, social workers etc.).

## **VIII. Special protection measures**

### **Access to justice**

155. The delays and costs in access to justice have increased in recent years creating a persistent problem. The Government plans to accelerate criminal investigations and legal proceedings yet no tangible changes have taken place. This also affects children by way of delayed custody and other processes.
156. The core funding of the courts was recently considered insufficient by the Parliament's Legal Affairs and Finance Committees and the National Courts Administration. Also, criminal investigation and prosecution lack resources which risks lengthening proceedings when court cases have already been congested due to pandemic.

157. Additionally, difficulties exist in recognising specific crimes and identifying victims, especially in cases of human trafficking and sexual violence, where also other than child victims are vulnerable. As a result, the accelerated or prioritized criminal proceedings in these cases, as in cases of child victims, are not reality nor do the victims always receive necessary and timely assistance.

**158. RECOMMENDATION:**

- Ensure proper and timely **investigation and access to justice** by allocating adequate resources to police, prosecutors and courts and guaranteeing their possibility to prioritise cases concerning children and other vulnerable victims of crime.

## **XII. Follow-up and dissemination**

159. The Government regularly, as pointed out in their report, publishes the concluding observations in English, Finnish and Swedish and distributes them. However, they should also be translated in at least Sámi languages used in Finland.

160. Observations remain rather unknown despite the distribution efforts. To improve this, selected observations, for example those relevant to education, should be distributed to teachers and educational institutions and parties implementing rights in practise close to children. Plans to implement observations should also be made more widely known.

**161. RECOMMENDATION:**

- Ensure the widest possible **distribution and understanding** of the concluding observations in more languages, for example by providing summary analysis and using various means and modes of communications.

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