



IOK/39/2023

## Submission by the National Human Rights Institution of Finland for the List of issues in relation to the initial report of Finland to the Committee on the Rights of Persons with Disabilities

Article 7 – Children with disabilities .....	2
Proposed questions for the list of issues .....	3
Article 9 – Accessibility .....	3
Proposed questions for the list of issues .....	5
Article 11 – Situations of risk and humanitarian emergencies .....	5
Proposed questions for the list of issues .....	6
Article 12 – Equal recognition before the law / Article 14 – The right to liberty and security of persons with disabilities / .....	6
Proposed questions for the list of issues .....	7
Article 16 – Freedom from exploitation, violence and abuse .....	8
Proposed questions for the list of issues .....	9
Article 19 – Living independently and being included in the community .....	9
Proposed questions for the list of issues .....	12
Article 24 Education .....	12
Proposed questions for the list of issues .....	13
Article 25 Health .....	13
Proposed questions for the list of issues .....	14
Article 26 Rehabilitation .....	14
Proposed questions for the list of issues .....	15
Article 27 – Work and employment .....	15
Proposed questions for the list of issues .....	16
Article 28 – Adequate standard of living and social protection .....	16
Proposed questions for the list of issues .....	17

## **Article 7 – Children with disabilities**

### **Violence and bullying against young persons with disabilities.**

The Finnish Government noted in its initial report (paragraph 465) that according to the School Health Survey conducted in 2017 by the National Institute for Health and Welfare, young persons with disabilities were less likely to be satisfied with their lives and more often lonely than other young people. They considered themselves less healthy than others and suffer from moderate or severe anxiety more often. In addition, they liked school less than others, suffered from school exhaustion more often and faced discriminatory bullying, physical threat, and sexual violence more often than others. Young persons with disabilities also considered that they received less support and assistance for their well-being from student welfare professionals than others.

The situation of young persons with disabilities has further deteriorated. Between 2019 and 2020 all young people, but especially young persons with disabilities, reported worsened problems in getting the support and assistance they needed from student welfare professionals.<sup>1</sup>

According to the School Health Survey of 2021, young girls with disabilities encountered sexual harassment 1,5 times more frequently and young boys with disabilities two times more frequently than young persons in average. Young girls with disabilities encountered sexual violence twice more often and young boys three times more often than young people in average. Young girls with disabilities were bullied two times more often than other young people, young boys with disabilities up to four times more often than other young people. Especially sexual harassment and sexual violence against young girls with disabilities were significantly more common in 2021 than they were in 2019.<sup>2</sup>

### **Teaching of sign language**

The Non-Discrimination Ombudsman has investigated the teaching of sign language for deaf or hard-of-hearing babies in five university hospitals. Based on their report, the Non-Discrimination Ombudsman gave recommendations to the hearing centers of university hospitals to improve the status of sign language.

The Ombudsman reminded the hospitals that spoken and sign languages are equal and should be treated as such. A cochlear implant must not result in the child being denied the opportunity to use a language that fulfills their individual needs. If the child does not hear well enough with the aid, his linguistic stimulation will be limited. Installing a cochlear implant should therefore not be a matter of language choice, but of enabling bilingualism. The right to sign language is also a linguistic right protected by the constitution.

The focus of the work of university hospitals should be the rights and interests of each hearing-impaired child, not the adaptation of the hearing-impaired child to an environment where the dominant language is a spoken one. University hospitals should provide the child's guardians with objective and up-to-date information about the importance and possibility of the child's balanced bilingualism when planning and implementing the child's hearing

---

1

<https://www.julkari.fi/bitstream/handle/10024/145692/Suomalaisten%20hyvinvointi%202022%20verkko.pdf?sequence=4&isAllowed=y>

2

[https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163918/VNTEAS\\_2022\\_24.pdf?sequence=4&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163918/VNTEAS_2022_24.pdf?sequence=4&isAllowed=y)

rehabilitation. Hospitals should also, if necessary, consult external experts at a low threshold."<sup>3</sup>

### **Mainstreaming disability issues in policy programs regarding children**

Finland lists in its initial report several actors, projects, policy programs and legislation linked to children in general. However, it does not indicate, how and if children and youth with disabilities are included in these actions.

#### **Proposed questions for the list of issues**

1. Is the Government going to allocate resources during this governmental period to enable the schools to tackle the bullying and sexual harassment and violence young persons with disabilities experience?
2. Is the Government going to give guidance to hospitals to ensure that deaf and hard-of-hearing children are not deprived of their language?
3. What are the ways in which the government is going to make sure that children with disabilities are not excluded from national policies regarding children?

#### **Article 9 – Accessibility**

The significance of accessibility is recognised in principle in Finland. However, the legislative framework ensuring the implementation needs to be strengthened and broadened to cover all aspects of accessibility as required by Article 9. The binding provisions to ensure accessibility of the built environment is limited to new construction or full renovation or conversion of purpose, all requiring a construction permit. The scope of legislation needs to be developed specially to include measures to maintain and gradually improve accessibility in existing building stock.<sup>4</sup>

There isn't up-to-date data available to assess the current state of accessibility of built environment in Finland.<sup>5</sup> The estimate given in government initial report of 15% of housing stock as accessible is inadequate in relation to e.g., the number of older persons in need of accessible housing. The financing for measures improving accessibility of the built environment needs to be increased to meet the projected need of one million accessible apartments by 2030.<sup>6</sup>

The Government Decree on Accessibility of Buildings (241/2017) did clarify the interpretation of accessibility provisions. However, it only applies to buildings and yard areas, leaving most public open areas unregulated. Importantly, the decree does not provide any guidance on how to promote accessibility of the built environment.

#### **Accessible transport**

Para 64 of the initial report refers to EU regulation concerning bus and rail transportation, air and water transportation, regarding both passenger's rights and technical legislation on

<sup>3</sup> [https://syrjinta.fi/documents/25249352/64891090/The+Non-Discrimination+Ombudman's+annual+report+2018+\(PDF,+4471+kt\).pdf/742d3eda-118e-cd48-08c4-32213d253e72/The+Non-Discrimination+Ombudman's+annual+report+2018+\(PDF,+4471+kt\).pdf?version=1.1&t=161552448055](https://syrjinta.fi/documents/25249352/64891090/The+Non-Discrimination+Ombudman's+annual+report+2018+(PDF,+4471+kt).pdf/742d3eda-118e-cd48-08c4-32213d253e72/The+Non-Discrimination+Ombudman's+annual+report+2018+(PDF,+4471+kt).pdf?version=1.1&t=161552448055)

<sup>4</sup> [https://api.hankeikkuna.fi/asiakirjat/eedc7b72-fc05-4c75-a932-a91d16befdc0/e4776510-df56-447f-ab76-af496235d27a/RAPORTTI\\_20230419120046.PDF](https://api.hankeikkuna.fi/asiakirjat/eedc7b72-fc05-4c75-a932-a91d16befdc0/e4776510-df56-447f-ab76-af496235d27a/RAPORTTI_20230419120046.PDF)

<sup>5</sup> [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163652/VNTEAS\\_2021\\_71.pdf?sequence=4&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163652/VNTEAS_2021_71.pdf?sequence=4&isAllowed=y)

<sup>6</sup> <https://www.ohchr.org/en/documents/country-reports/ahrc5127add1-visit-finland-report-independent-expert-enjoyment-all-human>  
<https://ym.fi/ikaantyneiden-asuminen-2020-2022>

accessibility. It is notable that this regulation does not guarantee accessible public collective transport. Most of rail transport stock and stations are not accessible: requiring assistance of another person, not enabling independent mobility. Equally, the regulations on passenger rights do not cover accessibility provisions.

Awareness of the importance of accessibility, positive measures in the form of ensuring awareness raising among professionals, architects and planners are among key measures to further enhance the implementation of accessibility.

### **Accessibility in workplaces and in education facilities, incl. reasonable accommodation**

To meet the requirements of equal access and participation in the labour market, accessibility of built environment is significant. Lack of information about accessible built environment is common among employers, in terms of costs and of supports available for realisation. Similarly, employees with disabilities often are not aware of what kind of support they would be entitled to.<sup>7</sup> The process of getting reasonable accommodations in the workplace remains complex and hard to understand.

The ex-ante accessibility provisions to improve the basic level of accessibility would need to be emphasised to reduce the need for individualised reasonable accommodations. This would also contribute to the accessibility of places and services open to the public. Renewed focus on ex ante accessibility, basic level of accessibility meant not for individuals but for groups will assist in faster development than is possible through reasonable accommodations to individuals only after a request by the individual.<sup>8</sup>

Para 81 of the initial report refers to an estimate of the level of accessibility of websites. In practice, the system relies on self-reporting about accessibility features by responsible site holders<sup>9</sup> and by users.

### **Digital accessibility and access to services**

Many essential digital services require electronic authentication, for which it is necessary to have personal online banking codes. Many persons with disabilities need assistance from another to use the codes.

Legislation reform governing credit issuance institutions in 2017 had the aim of facilitating persons with disabilities access to online banking codes. According to the explanatory memorandum, banks must allow the use of personal assistant in basic banking services, including online codes, and that the assistance of another person should be allowed as a reasonable accommodation.<sup>10</sup> Notwithstanding this change, many persons with intellectual disabilities still face difficulties in acquiring banking online codes. Often banks argue that a person with a disability lacks sufficient understanding of the significance of using banking services, even in cases where the person's legal capacity to act has not been restricted or a representative has been appointed. Furthermore, banks or other credit issuance institutions are unwilling to grant online banking codes to persons who use personal assistance. The country report does not address the question of an unequal access to tools

---

<sup>7</sup> <https://julkaisut.valtioneuvosto.fi/handle/10024/160229>

<sup>8</sup> <https://valtioneuvosto.fi/hanke?tunnus=YM045:00/2022>

<sup>9</sup>

<https://www.saaavutettavuusvaatimukset.fi/saaavutettavuusvaatimusraportti/#36f6922d2a7da91a036563a948d30c7fa090c2c1f68ca4f169d1954ea9c23819>

<sup>10</sup> [https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE\\_123+2016.aspx](https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Sivut/HE_123+2016.aspx)

of electronic authentication can be solved.

Apart from technical aspects of digital accessibility, more focus should be given to issues of cognitive accessibility, such as clarity and understandability of language used. Essentially, the usability of services should be ensured, so that persons with disabilities will not be excluded from accessing digital services and information.

The principle of design for all needs to be further introduced to Finnish major operators. For example, vending machines for collective traffic in the capital were changed while the operator was fully aware of the machine being inaccessible for visually impaired users. After a decision by the Non-Discrimination and Equality Tribunal, which stated that this constituted discrimination on basis of disability, visually impaired users were given exemptions from payment.<sup>11</sup> Similarly, a major reform of electronic student services system in four universities was found by regional authorities to not be accessible. Accessibility testing had been overlooked, leading to need for retroactive changes to render the system accessible. These changes are estimated to take several years.

### Proposed questions for the list of issues

1. What measures will the Government take to survey the current state of accessibility in built environment, and to ensure that reliable data on accessibility is available?
2. In what timeframe is the Government going to adopt legislation to enhance accessibility in built environment, including attention paid to visual and auditory environment?
3. What measures is the Government taking to promote cognitive accessibility, such as clear and understandable language, ease of use of services, use of easy-to read language?

### Article 11 – Situations of risk and humanitarian emergencies

Considering the rights of persons with various disabilities during humanitarian emergencies and situations of risk in Finland is of utmost significance. The Covid-19 pandemic has highlighted the lack of disability-inclusive contingency plans, leading to a disproportionate impact on persons with disabilities, who experienced greater hardships because of the virus. The Government is planning to publish a new national preparedness plan for pandemic in 2023, but there has been a limited information available regarding the content or its developmental process.

Significant lessons have been learned from the pandemic, and various measures and tools have emerged to ensure that persons with disabilities are not overlooked during times of severe disruptions and emergencies. However, there remains a substantial amount of work yet to be accomplished. Specifically, it is crucial to ensure that persons with disabilities are actively included in the formulation of contingency plans.

The 112-text message service for emergency and rescue services was launched in December 2017. Its use requires strong authentication and periodic registration renewal (as stated in para 98 of the initial report of Finland). An emergency text message from an unregistered number will not reach the emergency center, which could potentially lead to the death of someone in need of help. The change in the mandatory registration requirement will only take place in 2025 with the implementation of the accessibility directive.

In contrast to para 277 of the initial report of Finland, the pilot for sign language emergency

---

<sup>11</sup>

[https://www.yvtltk.fi/material/attachments/ytltk/tapausselosteet/DewZI80tT/Luonnos\\_tapausselostee\\_ksi\\_HSL\\_kohtuulliset\\_mukautukset\\_21.3.2018.pdf](https://www.yvtltk.fi/material/attachments/ytltk/tapausselosteet/DewZI80tT/Luonnos_tapausselostee_ksi_HSL_kohtuulliset_mukautukset_21.3.2018.pdf)

calls only began in June 2021, and its funding will end by the end of 2023. The service is only available with limited hours during official working hours.

### Proposed questions for the list of issues

1. How has the Government ensured meaningful consultation with persons with disabilities in the development of the forthcoming national preparedness plan for a pandemic, and what disability inclusive measures exist within the plan?
2. Is the Government going to take action to ensure that emergency services are available to persons with disabilities, notably to persons using sign-language?

## Article 12 – Equal recognition before the law / Article 14 – The right to liberty and security of persons with disabilities /

### Non-consensual treatment during deprivation of liberty

In its General comment No. 1, the CRPD Committee emphasizes that the provision of health services, including mental health services, are based on free and informed consent of the person concerned. The states parties have an obligation to require all health and medical professionals (including psychiatric professionals) to obtain the free and informed consent of persons with disabilities prior to any treatment.<sup>12</sup>

The European Court of Human Rights' decision in the case of X v. Finland (34806/04), issued in 2012, was referred for enhanced supervision by the Ministerial Committee of the Council of Europe in December 2021 due to delays in its implementation. The execution has already taken more than ten years. The case was again reviewed by the Ministerial Committee in March 2023, and the next review is scheduled for 2024.

The case relates, among other things, to the involuntary medication of a patient in a psychiatric hospital and the lack of effective remedies. The administration of medication against the patient's will was based on a physician's decision, which could not be appealed, nor could its appropriateness be otherwise examined.

The implementation of the decision requires entirely new legislation to define the patient's possibilities to appeal the administration of involuntary medication.

In early autumn 2022, the Ministry of Social Affairs and Health announced that the government proposal would not be submitted during the current governmental session because of the need for further preparation caused by the feedback received during the consultation. An expert working group will continue the preparation of the matter in 2023. The most challenging question highlighted in the feedback was the form and implementation of the remedy. Several courts have opposed the conventional appeal process as slow, labor-intensive, and unsuitable for this purpose.

The ECHR also has two new pending complaints regarding involuntary medication and the lack of effective remedies, for which the government has been requested to provide responses: E.S. v. Finland (23903/20) and H.H. v. Finland (19035/21).

### The right to self-determination of older persons with memory-related disabilities in social welfare and healthcare services

Finnish legislation has few procedural provisions on the client's self-determination in social welfare services. The legislation on healthcare and social welfare also contains very few provisions on restricting the right to self-determination or restricting fundamental rights in

---

<sup>12</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>

general. Provisions on restrictive measures can be found only in the Mental Health Act (1116/1990), the Act on Welfare for Substance Abusers (41/1986), the Act on Special Care for Persons with Intellectual Disabilities (519/1977) and the Communicable Diseases Act (583/1986). For example, there are no provisions on restrictive measures concerning the health and social services of older persons with memory-related disabilities.

Under the Constitution of Finland and the European Human Rights Convention, restrictive measures must be based on an act that is sufficiently precise and contains appropriate legal remedies. The government should also keep in mind the first general principle of the article 3 of the CRPD: Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.

However, restricting fundamental and human rights in housing services units providing long-term care, especially for older persons with memory-related diseases, is common in practice. The COVID-19 pandemic both highlighted issues related to fundamental rights and their restrictions in residential care for older persons and increased and deepened them. The use of restrictive measures (e.g., ban on visits to housing services) increased and, at the same time, the understanding of what kind of rights older clients have may have become further obscured.

There have been several attempts during different governmental periods to draft legislation on the client's and the patient's right to self-determination. So far, the legislative projects have never been completed.

### **Findings of the Parliamentary Ombudsman**

Through its investigations, inspections, and statements, the Parliamentary Ombudsman has identified the need for expediting a comprehensive reform, known as the Right to Self-Determination Act. This reform aims to strengthen the right to self-determination for individuals receiving social welfare and healthcare services, while also clarifying the conditions under which restrictive measures can be employed. Currently, the lack of legislative support results in the arbitrary restriction of the right to self-determination for people who, due to an illness or an accident, become intellectually disabled in adulthood and people with dementia.

In various contexts, the The Parliamentary Ombudsman has emphasized that this comprehensive reform is essential for safeguarding individual basic and human rights and ensuring the realization of equality for social and healthcare clients and patients (AOA Dnro 699/4/16, EOAK/2555/2016, EOAK/5030/2018, and EOAK/965/2017). The Parliamentary Ombudsman reports annually on the implementation of the rights of persons with disabilities based on observations made in investigations and inspections.<sup>13</sup>

### **Proposed questions for the list of issues**

1. Please specify the actions taken and resources allocated to amend the legislation concerning lack of effective remedies in relation to involuntary medication patients in psychiatric hospitals.

---

<sup>13</sup> <https://www.oikeusasiamies.fi/documents/20184/39006/summary2021-final-web2.pdf/5db7cabe-7725-2976-c10d-5e0b25654651?t=1668780796307>  
<https://oikeusasiamies.fi/documents/20184/39006/summary2020/2de02ec5-378a-4cf3-8948-89f346b2be3a>

2. Please specify actions taken and resources allocated to introduce legislation on right to self-determination for older persons with disabilities, especially memory-related disabilities.

### **Article 16 – Freedom from exploitation, violence and abuse**

A recent study on frequency of domestic violence experienced by persons with disabilities and availability of services provides important insights to the issue at hand.<sup>14</sup> Persons with disabilities experienced violence more frequently than the general population. The difference was evident in all examined forms of violence (such as being grabbed, pushed, shoved, or slapped, threats, hit with a fist or a blunt object, kicked, choked, or threatened with a weapon, sexual harassment, rape or attempt of rape). Acts of violence were most common among individuals aged 20-49 and least common among those aged 70 and above, both in the population with disabilities and the general population. In the 20-49 age group, individuals with disabilities experienced twice the level of violence compared to those without disabilities across all types of incidents.

Gender plays a significant role in the frequency of experiencing various forms of violence. Women with disabilities tend to experience higher rates of sexual violence and harassment compared to men with disabilities. Conversely, men more frequently report being threatened with physical harm compared to women.

Violence experienced by persons with disabilities may start in childhood, and it is more common among them up to adulthood. The study suggests that when violence is normalised, it is difficult for victims and survivors to recognise the acts as violence against them and their bodily autonomy. This contributes to the underreporting of violence against persons with disabilities.

Regarding access to services and help, the study finds that persons with disabilities often felt that they received insufficient help. The results indicate that persons with disabilities face difficulties in seeking and obtaining help when encountering situations of violence. The percentage of those who experienced violence and perceived access to support as readily available remained relatively low (37-40%).

The individuals who are seeking help do not feel their experiences of violence are taken seriously by those they approach for support. Obtaining assistance can be challenging for persons with disabilities due to factors such as inadequate services, barriers in the environment and ongoing perpetrator control as they might be dependent on their perpetrator. Also, persons with disabilities might not have the knowledge about where to seek assistance in the event of experiencing violence. Persons with disabilities reported slightly more often than the general population that during the COVID-19 pandemic, fear or experience of intimate partner violence increased (6% vs. 2%).

National statistics on suspected hate crimes have been compiled and reported annually since 1998. According to the latest report on hate crimes, it reveals a notable rise in the motive behind hate crime suspicions concerning disability, which doubled in comparison to the figures from 2020.<sup>15</sup> In total, there were 61 reports, with 62 % of the suspected crimes documented in these reports being cases of verbal insults, threats, and harassment and 25% of the suspected crimes were cases of assault. In approximately 40 percent of all hate crime suspicions related to disability, the perpetrator was known to the victim.

---

<sup>14</sup> <http://urn.fi/URN:ISBN:978-952-383-016-5>

<sup>15</sup> <https://urn.fi/URN:NBN:fi-fe2022100761293>



The Act on Compensation Paid from State Funds to Shelter Service Provider sets forth regulations for both the provider and the premises. The act mandates that the provider must meet certain requirements and that the premises intended for operation must be suitable and adequate for providing shelter services. However, the Act falls short of requiring the premises to be accessible for persons with disabilities. Also, the shelters are not evenly distributed geographically and distance to the closest shelter greatly varies based on the location of the victim. This poses problems for persons with disabilities, as not all shelters are accessible.

The Section 2 of the Sterilisation Law permits the sterilisation of women with mental disabilities who have limited legal capacity or who have been deprived of their legal capacity without their consent. This enables state-sponsored violence against women with disabilities even though it seems that the Section has not been applied for some time. However, the mere existence of the Section is a gross violation of their bodily autonomy and must be repelled immediately.

As a result of ratifying the Istanbul Convention, Finland established a helpline for persons who experience violence called "Nollalinja," which operates 24/7. However, Nollalinja's chat service is only accessible during limited hours, specifically from Monday to Friday, 9am to 3pm. Furthermore, during the summer period, the chat function is closed, leaving individuals in need of text-based support or sign language services without assistance.

#### Proposed questions for the list of issues

1. How much financial resources is the Government going to allocate to combat violence against persons with disabilities?
2. How does the Government plan to ensure that persons with disabilities who have been victims of violence receive the necessary services and support in the newly established wellbeing counties?
3. Will the Government repeal Section 2 of the Sterilisation Law?

#### Article 19 – Living independently and being included in the community

The inspections conducted by the Parliamentary Ombudsman as the National Preventive Mechanism body and complaints received by the Parliamentary Ombudsman reveal a shortage of nurses and doctors, which affects the entire social and healthcare sector nationwide. The Deputy Parliamentary Ombudsman is generally concerned that services for persons with intellectual disabilities and the number of clients in a psychiatry unit for intellectual disabilities are reduced due to a shortage of workforce.

The Deputy Parliamentary Ombudsman has emphasized that an adequate number of social and healthcare professionals has immediate implications for organizing legally mandated services for persons with disabilities. Therefore, the workforce situation in social and healthcare has a practical and immediate impact on the realization of the fundamental and human rights of persons with disabilities. (EOAK/1686/2022, 4119/2022). Inspections carried out during the current year, EOAK/2324/2023 and EOAK/3513/2023, have revealed a shortage of personnel, particularly a lack of doctors.

#### CRPD/C/26/D/46/2018

The CRPD Committee published its verdict in the case CRPD/C/26/D/46/2018 in March 2022. In its verdict it stated that the State party (Finland) had failed to fulfil its obligations under article 19 (b) and article 5 (1) and (2), read alone and in conjunction with article 19 of the Convention. The Committee therefore made the following recommendations to the State party:

Concerning the author, the State party is under an obligation:

- To provide him with an effective remedy, including by reconsidering his application for personal assistance to ensure that he can exercise his right to live independently, in the light of the Committee's Views.
- To provide adequate compensation to the author for the costs incurred in filing this communication.
- To publish the present Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that its legislation on personal assistance and the manner in which it is applied by administrative institutions and domestic courts is consistent with the State party's obligations to ensure that legislation does not have the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of any right by persons with intellectual disabilities on an equal basis with persons with other types of disabilities when seeking access to personal assistance.

In particular, the Committee recommends that the State party amend the Disability Services Act to ensure that the resources criterion, under which the beneficiary is required to have the ability to determine the content of the required assistance and the modalities for providing it, is not an obstacle to independent living for persons who require support in decision-making.

Finland responded in May 2023 to the committee as follows:

The Ministry of Social Affairs and Health has instructed the author's municipality via email to reconsider their application for personal assistance. In another email, the Ministry of Social Affairs and Health has instructed that according to the law, the person is entitled to reapply for disability services; according to the Ministry, this is a sufficient legal remedy to guarantee the author the opportunity to have their case reassessed.

The Convention on the Rights of Persons with Disabilities and its Optional Protocol do not include an obligation to provide compensation to the author for the costs incurred in filing a communication.

In the process of enacting the new Disability Services Act, careful attention was paid to the recommendations of the Disability Rights Committee. The new law promotes social equality and is not dependent on diagnosis. The new law provides alternatives to personal assistance, such as special support for participation.

However, in May 2023, the author still hasn't had their case reassessed. The municipality asked the author to make a new application in Spring of 2022. However, the author was not willing to do this, for fear of initiating a same kind of long appeal process that the last time led to a verdict in the case CRPD/C/26/D/46/2018. The wellbeing services county, which took over the responsibilities of the municipality from the beginning of 2023 after the health and social services reform, has not offered the author personal assistance nor any other service that would ensure their right exercise his right to live independently.

All in all, simply reassessing a case, without any regard to the views of the CRPD committee in CRPD/C/26/D/46/2018 and without guidance from the Ministry of Social Affairs and Health

to implement the Committee decision, is not likely to change the view of the municipality on services they are willing to offer the author and, thus, is not an effective remedy for the author.

The new Disability Services Act is expected to come into force in October 2024, whereas its original implementation date was set for October 2023. However, the Government intends to postpone its enforcement. Consequently, as the implementation of the new Act is being delayed, the Government will also postpone the implementation of the CRPD decision.

According to the new act, a person with a disability has the right to receive a minimum of 30 hours of special support for participation per month, unless they apply for a lower number of hours. It doesn't seem likely that this service could help persons who are who are deemed not eligible for personal assistance to live independently.

### **The implementation of the new Disability Services Act**

The decisions of the Parliamentary Ombudsman reveal that the application practices concerning municipal disability services are inconsistent, and the application guidelines may restrict the access to statutory services. From this perspective, the transfer of responsibility for organizing disability services to broader wellbeing services counties may partially reduce the inconsistency in the application of the Disability Services Act at the national level, but it does not completely eliminate the potential problematic nature of the application guidelines.

In the reform of the Disability Services Act, two laws have been merged (the Act on Special Care for Persons with Intellectual Disabilities and the Disability Services Act), resulting in equal access to services for all disability groups. The Parliamentary Ombudsman has emphasized the need for this reform, which ensures equal access to services when disability weakens individual's functioning and consequently they require assistance and support (3414/2017).

The new Disability services Act will be implemented by the new wellbeing services counties, which took over the responsibilities of the municipalities from the beginning of 2023 following a comprehensive health and social services reform. It has become clear during the first months of the operation of the wellbeing services counties that they are severely underbudgeted and face serious problems in organizing adequate and sufficient services for their inhabitants. This causes severe pressure to cut services or to restrict the number of clients.

The new act was originally supposed to enter into force on 1 October 2023. However, according to the Government Programme of Prime Minister Petteri Orpo, the new Disability Services Act will be postponed taking effect on October 1, 2024. The Government Programme indicates that the costs of the new Act to should be limited to 100 million EUR, which implies that the Act is being developed primarily based on financial considerations rather than being grounded in a rights-based approach.<sup>16</sup>

### **Transport services**

The number of transport service clients has grown in recent years and the transport service is now the largest disability service in terms of number of clients. The growth in the number of users of transport services, and hence in costs, has led to a spiral where restrictions and

---

<sup>16</sup> <https://valtioneuvosto.fi/en/governments/government-programme#/>

centralization of disability services make it difficult for users to work and study. Similarly, the situation of working sign language users is made more difficult by problems in accessing interpreters.

### **Application of procurement law reduces the rights protected by Article 19**

The Procurement Act (paragraph 214 of Finland's initial report) applies to the provision of social and health services when the municipality, joint municipal authority or Social Insurance Institution responsible for providing the services decides to outsource the provision of services. In the case of competitive tendering, the only parties involved are the commissioner and the service provider, which means that the participation, influence and legal protection of persons with disabilities in matters concerning them is weak. Competitive tendering has led, for example, to forced displacement in tendering residential services or loss of education and employment in tendering interpretation services.

In 2018, disability organizations submitted a citizens' initiative to Parliament calling for services for persons with disabilities to be excluded from the scope of the Public Procurement Act. Parliament rejected the demand but set up a so-called Inclusion Working Group to prepare a proposal for inclusive legislation. This work, mainly done by disabled people's organizations, hasn't led to any legislative or policy changes.

Human resources for housing services have been undermined by competitive tendering, which may have led, inter alia, to increased use of restraint measures (including Article 15). In the context of tendering procedures, criteria have been set which have reduced staffing levels to a level which is not sufficient to provide quality work. In its annual report 2019, the Non-Discrimination Ombudsman has argued that the procurement procedure for life-long services for persons with disabilities, such as housing services, should not be left to the discretion of municipalities and Social Insurance Institution.

### **Proposed questions for the list of issues**

1. How is the Government going to provide the author of the case CRPD/C/26/D/46/2018 with an effective remedy, including by reconsidering his application for personal assistance to ensure that he can exercise his right to live independently?
2. How is the Government going to make sure that the welfare services counties have sufficient resources to implement the new Disability Services Act in a way that doesn't deprive persons with disabilities of their legal rights?
3. How does the Government justify capping the costs of the new Disability Services Act at 100 million euros considering the CRPD, and will it persist in maintaining this cost cap even if it means violating the provisions of the CRPD?

### **Article 24 Education**

#### **Inclusion in schools**

The government pinpointed in its initial report (paragraph 314) that according to the 2016 annual report of the Ombudsman for Children, a challenge in some municipalities has been that the local-school principle and inclusion in general teaching groups are not realised: children have been transferred to special schools or groups even though they could attend their local school or a normal class with sufficient support.

According to a survey conducted by the Finnish Disability Forum and the Human Rights

Centre in 2021<sup>17</sup>, and an inquiry conducted by the Human Rights Centre and directed to organizations of persons with disabilities in 2023, children with disabilities often face difficulties in getting the support and help they need at school. These problems are related to accessibility issues and lack of services, but also to lack of knowledge and even discrimination. The different needs of children with disabilities are not adequately addressed and they are required to adapt to the school environment, not vice versa.

The section 6 of the Finnish Basic Education Act provides that pupils are to be referred to their local school or to another school that is suitable and can offer teaching in the child's own language (Finnish, Swedish, one of the Sami languages or sign language). The concept of suitability in this context has not been defined in the Act or in the government proposal for the Act. According to the section 31 of the same act, pupil with disabilities or other special needs are entitled to services, aids, and other support they need to attend school.

The principle of inclusion is not clearly visible in the Basic Education Act and the formulation of its section 6 allows the interpretation that pupils with disabilities can be transferred away from local schools when they are not considered suitable for them.

The working group preparing measures to promote support for learning, support for children and inclusion in early childhood education and care and in pre-primary, primary and lower secondary education proposed among other things conducting a thorough investigation into the implementation of inclusive early childhood education and teaching in municipalities, as stipulated by current legislation. It also suggested assessing the Basic Education Act from the perspective of the obligations set for the state parties in the United Nations Conventions on the Rights of the Child and the Rights of Persons with Disabilities.<sup>18</sup>

#### Proposed questions for the list of issues

1. What kind of legislative measures is the government going to take to ensure inclusive education for children with disabilities in their communities?
2. What is the timeframe of implementing the recommendations of the working group preparing measures to promote support for learning, support for children and inclusion in early childhood education and care and in pre-primary, primary and lower secondary education?

#### Article 25 Health

The Non-Discrimination Ombudsman receives regularly inquiries related to healthcare and situations that patients or their close ones experience as discriminatory.

One theme in these inquiries is the disparity between public and private healthcare, specifically the question of whether our system ensures the right to the best possible healthcare only for those who can afford to pay for their own treatment in the private sector. While the available funding for public healthcare is naturally limited, the constitutional right (Section 19) to basic subsistence, care, and sufficient social and healthcare services for everyone cannot be compromised or reduced to the extent that it is not fulfilled.

Another theme in the inquiries is at what stage a person can be denied treatment based on the physician's assessment that post-treatment life would not be dignified enough. The Non-Discrimination Ombudsman has become aware of situations where the right of a disabled person to a certain curative treatment has been questioned from the perspective of whether the person, after receiving the treatment, would be able to manage independently without the assistance of another person.

---

<sup>17</sup> <https://vammaisfoorumi.fi/wp-content/uploads/2022/10/Vammaisfoorumn-koulukyselyn-raportti.pdf>

<sup>18</sup> <https://julkaisut.valtioneuvosto.fi/handle/10024/164421>

If put in practice, the requirement of being able to manage independently without the assistance of another person puts persons with disabilities in a disadvantageous position and is discriminatory. Finland, under Article 19 of the UN CRPD, is committed to recognizing the equal right of all persons with disabilities to live independently in the community, with equal opportunities for choice, and to ensuring, under Article 10, all measures to guarantee the equal right to life for disabled individuals. Disability inherently involves various functional limitations, which entail the need for and entitlement to different forms of support and assistance, such as personal assistance.

Similarly, it has come to the Non-Discrimination Ombudsman's attention that dementia has been used as a basis for treatment restrictions in cases where the person's physical health may not necessarily justify limiting treatment. The life of a person with dementia also includes an essential need for assistance and support, and that should never be used as the sole or primary reason for treatment restrictions.

### Proposed questions for the list of issues

1. Is the Government going to propose legislation or guidelines to prevent persons with disabilities from being deprived of treatment on the grounds that they need the assistance of another person?

### Article 26 Rehabilitation

The medical rehabilitation system in Finland consists of several different entities and rehabilitation is organised under a series of laws. The fragmentation of the system leads to problems in interpretation, to loopholes and inequalities. The system limits the right to rehabilitation according to age and diagnosis.

Persons with disabilities fall out of the scope of the demanding medical rehabilitation provided by the Social Insurance Institution after the age of 65. Thereafter the responsibility to provide rehabilitation falls to the public health care system which, however, does not organize the kind of demanding medical rehabilitation that would meet the needs of older persons with severe disabilities. Reduced rehabilitation services make it difficult to maintain functional capacity.

The assistive technology system is complex for the client, consisting of several separate entities funded under different laws. The initial report of Finland (paragraphs 367-384) creates the impression that persons with disabilities are provided with assistive devices appropriate to their needs. However, there are no effective legal remedies in situations when a person's request for an assistive device is declined. The legal protection of people who need an assistive device should therefore be strengthened<sup>19</sup>.

Assistive devices should be provided as medical rehabilitation aids on the basis of individual need. In reality, individual needs are not always taken into account, and decisions on assistive devices are taken following general guidelines. The Parliamentary Ombudsman has found that the categorical guidelines for the provision of assistive devices are contrary to the law.<sup>20</sup> As a result of these categorical practices, many persons with disabilities have had to purchase some or all their assistive devices themselves, even though legislation holds that they should be free of charge. under the legislation.

Maintenance and repair of assistive devices is also a problem. Even for essential mobility aids, the time taken to repair an aid is disproportionately long. Assistance centres are only open on weekdays during the day and no service is available at other times. The long

---

<sup>19</sup> Ombudsman for Children 2016.

<sup>20</sup> EOAK/2295/2019.

maintenance and replacement times for assistive devices are an obstacle to the realisation of the rights of persons with disabilities.

### Proposed questions for the list of issues

1. What steps will the Government take to enhance the compatibility between the rehabilitation service system and the associated legislation to prevent the exclusion of individuals with disabilities who require rehabilitation?
2. How does the Government plan to guarantee that access to comprehensive and effective rehabilitation services is not restricted based on age, diagnosis, or the assumption that rehabilitation cannot improve independent functioning or work capacity?

### Article 27 – Work and employment

The lack of widely available statistics on the employment rate of persons with disabilities is a concerning situation, as it hinders effective monitoring and evaluation of policies aimed at improving employment outcomes. According to the Register of Visual Impairment, the employment rate for persons with visual impairments was 40% in 2018, while the overall employment rate for the entire population was 72%. Additionally, out of the 25,000 working-age persons with intellectual disabilities, only about 3% are engaged in paid employment. These figures highlight the significant disparity in employment opportunities for persons with disabilities compared to the general population.

There are significant concerns surrounding the employment situation for persons with intellectual disabilities. Currently, a large portion of those who are capable of working are engaged in workforce participation that falls outside the realm of formal employment, with no wages or employment-related protections. Instead, they participate in non-institutional work activities that rarely lead to proper employment opportunities. The legality of these non-institutional work activities is questionable since, in practice, the nature of the work performed may meet the criteria for an employment relationship. However, due to its classification as a social welfare service, individuals do not receive a fair compensation or enjoy employment-related safeguards, such as job security or annual leave. The intention behind the framework of non-institutional work activities is to serve as an entry point, but it often results in persons with intellectual disabilities working without the necessary labor rights, leading to their exploitation.

In 2020, the Ministry of Economic Affairs and Employment published a report on structural barriers to employment of persons with disabilities.<sup>21</sup> Their report provides a comprehensive overview of the situation regarding the employment of persons with disabilities and suggests various measures for improvement. However, there has been little follow-up or commitment to ensure that the recommendations are implemented. The Government needs to go beyond conducting reports and studies and start implementing the proposed solutions.

The disability pension, an important social welfare benefit, can inadvertently push individuals with partial work ability out of the workforce. In Finland, persons with disabilities often rely on disability pensions as their primary source of income, with many receiving the pension decision at a young age, resulting in minimal pension amounts. An income limit has been implemented for disability pension recipients, where exceeding this limit leads to a suspension of pension payments. For individuals with partial work ability, increasing their income is challenging due to the strict earnings limit. This creates an incentive trap, as accepting part-time jobs would not provide as much income as the disability pension. Many have suggested adopting a linear model that gradually reduces the pension as earned

---

<sup>21</sup> <https://julkaisut.valtioneuvosto.fi/handle/10024/162325>

income exceeds a protective limit. The Government programme states that it will adopt the model.

### **The rights of professionals requiring sign language in a workplace**

Professionals requiring sign language often struggle to access statutory interpretation services, specifically due to the high turnover of interpreters. Effective interpretation in professional settings relies on interpreters with a solid grasp of field-specific terminology, enabling clear communication and fostering trust. Minimizing interpreter turnover and limiting the number of interpreters provided is crucial to ensure familiarity and build productive relationships.

The high turnover of interpreters adds stress for sign language users. In one case, a deaf professional had to work with 38 different interpreters in two months, with the worst week involving eleven interpreters. Despite some interpreters having experience, she had to teach them the specific signs relevant to her profession, leading her to resign.

In Finland, the Social Insurance Institution (Kela) manages sign language interpreting services. Recently, Kela has allowed clients to provide a list of preferred interpreters for their professional life. However, according to an interview with a deaf professional, Kela considers a list of 20 interpreters to be too limited, frequently making clients feel guilty for unsatisfactory interpretations or for requesting specific interpreters.<sup>22</sup> Additionally, Kela lacks provisions for alternative work-related contact details, resulting in work-related communication during personal time.

This creates undue pressure on deaf professionals, discouraging their inclusion in organizations alongside hearing individuals. The absence of a rights-based procedure for sign language interpretation in the workplace is a matter of concern.

### **Proposed questions for the list of issues**

1. How will the Government ensure that the persons with intellectual disabilities are not exploited within the non-institutional workplace services and what measures will the Government take to increase their formal employment?
2. Within what timeframe does the Government plan to implement the linear model aimed at increasing the employment opportunities for persons with disabilities?
3. What actions will the Government take to ensure that the sign-language interpretation in work life -matters meet the needs of the rights-holders?

### **Article 28 – Adequate standard of living and social protection**

Persons with disabilities are in higher risk of poverty and social exclusion, due to low incomes, lower levels of employment, or underemployment. Over 50 % of persons with disabilities of working age are outside the labour market.<sup>23</sup> While severe material or social deprivation is relatively rare in Finland, it is considerably more common among persons with disabilities than among the population in general (1,3 % and 6,1 %)<sup>24</sup>. While some key disability-related services and assistance are provided without costs, the compounded effect of relatively high client payments and costs borne directly by the client for medication and transport services result in major difficulties for persons with disabilities in making their ends

---

<sup>22</sup> <https://areena.yle.fi/1-63963770>

<sup>23</sup> Risk of poverty for women with disabilities is ca. 25,5 pp and for men with disabilities 23,9 pp compared to 14.3 for non-disabled women and 13.7 for non-disabled men. In CSO alternative report for Beijing +25 -review

<sup>24</sup> <https://www.stat.fi/uutinen/suomessa-147-000-toimintarajoitteista-henkiloa-koyhyiden-tai-syrjaitymisen-riskissa>



meet.

Persons with disabilities who are outside the labour market rely on disability pension or guarantee pension for income. Disability pensions are low and they do not address disability related extra costs.<sup>25</sup> Minimum levels of social protection and social assistance have been reduced through a combination of measures – consumer price index freezes, changes in eligibility criteria. These measures were active 2015-2019 and have continued until 2020 and their effect has not so far been offset by remedial increases in 2021 and 2022. The Government Programme has indicated that there will be reductions in social welfare schemes that may potentially worsen the situation for individuals with disabilities.

The level of social protection and social assistance in Finland has been under scrutiny of UN CESCR and Council of Europe Committee on Social Rights, monitoring body for the revised European Social Charter. A Finnish NGO, the Finnish Society for Social Rights, has brought a complaint before the Council of Europe Committee in 2018 concerning the levels of minimum social assistance benefits, including the guaranteed pension. The Committee in 2023 found the level of a.o. the guaranteed pension too low to meet the criteria of adequate standard of living.<sup>26</sup>

Labour market status and possibilities to access disability benefits or to combine pension with work income varies across disability groups. For some, e.g., persons with intellectual disabilities, the level of labour market participation in wage labour is low, around 3%. Some participate in social assistance activities which rarely lead to wage-paying employment. The activities are not considered employment, do not accrue other than minimal compensation, the award of which is optional, nor any earned income pension rights.

#### Proposed questions for the list of issues

1. What measures the Government is taking to ensure that cuts in social security do not disproportionately affect persons with disabilities and long-term sick people, who are more often dependent on benefits, have low minimum levels of income and have lost purchasing power because of high inflation?

---

<sup>25</sup> CESCR 2021, FIN/CO/7, CO 30

<sup>26</sup> Decision on the merits: Finnish Society of Social Rights v. Finland, Complaint No. 172/2018