



MINISTRY FOR FOREIGN  
AFFAIRS OF FINLAND

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46<sup>th</sup> Session of the Committee against Torture

Opening Statement by the Delegation of Finland  
18 May 2011

Mr Chairman,

On behalf of the delegation of Finland I would like to express our great pleasure for the opportunity, once again, to meet the Committee here on the lakeside and to continue our constructive dialogue concerning the common goal of the universal removal of torture.

Now my intention is to focus on some key issues.

#### 1. Explicit criminalization of torture in the Criminal Code

The Committee has constantly paid attention to the fact that our legislation does not include an explicit criminalization of torture, by that name. We, on our part, have always in great detail explained how our legislation through the combined effect of various criminalizations fulfils this requirement.

During our last hearing the Government gave a solemn promise to comprehensively consider the Committee's invitation to insert this explicit definition into its Criminal Code. There was a wide national debate on this issue, including the inter-ministerial working group, scholars and civil society. Finally, your Committee's desire led to respective changes in the Criminal Code. The explicit provision aims at, firstly, strengthening the absolute prohibition of torture within the meaning of the Constitution of Finland and international law, including the Convention, secondly, expressing the particularly serious nature of this type of offence and, thirdly, underlining the fact that Finland supports an absolute prohibition of torture under all circumstances. The new provision is included in Chapter 11 of the Criminal Code concerning war crimes and crimes against humanity. Under this provision, which entered into force on 1 January 2010, no violation has been reported.

In addition, the provisions concerning war crimes and crimes against humanity have been amended so that they reflect more closely the provisions of the Rome Statute on the International Criminal Court. Torture is now mentioned as a specific crime against humanity and as an element of a war crime.

#### 2. Centre for Human Rights

As of the beginning of 2012, under the auspices of the Office of the Parliamentary Ombudsman, an independent Centre for Human Rights will be established.

The Centre promotes the dissemination of information, education, training and research related to fundamental and human rights. It will prepare proposals for the implementation, launch initiatives and issue opinions for the purpose of advancing these rights. The Centre also follows the implementation of human rights conventions.

The Centre will include a multi-stakeholder Human Rights Board to promote coordination of fundamental and human rights issues and serve as a shared channel for the exchange of information and as an organ for cooperation.

The tasks specified for the Centre and its Board are based on the Paris Principles.

### 3. The Optional Protocol to the UN Convention against Torture (OPCAT)

As regards the ratification of the Optional Protocol, the inter-ministerial working group has submitted its report in March 2011. There it has been proposed among that, as regards Finland, the international Sub-committee and the national mechanism will be given necessary powers referred to in the Protocol and that the Parliamentary Ombudsman would function as a national mechanism. The intention is to submit the Government proposal to the Parliament in the autumn 2011.

### 4. Total reform of the legislation concerning the pre-trial investigation, coercive measures and the police

In the spring of 2011, Parliament passed an extensive set of laws that concerned the Pre-Trial Investigation Act and the Coercive Measures Act and the Police Act. The reform reinforces fundamental and human rights and improves judicial control in the use of coercive measures.

The suspect's right to have the legality of the actions taken by police reviewed by a court of law will be expanded. Also the legality of a search of premises can be referred for judicial review afterwards. A special house search may only be conducted with court permission. It refers to the search of the premises of a person prohibited from giving evidence, such as an attorney-at-law.

The legal protection of a suspect remanded in custody is improved through supplementing regulations concerning the restrictions of communications. A person in pre-trial custody may require them to be reviewed in court.

The use of travel ban as an alternative for pre-trial detention is increased.

According to the fundamental principle of the Police Act, the police must respect fundamental and human rights and, in the exercise of its powers, select the course of action from the realistic options available that best promotes the realisation of these rights.

The Police Act aims at improving protection from crime and disturbance. A police officer could protect a person or defend a place in order to prevent or stop a crime against life, health, freedom, domestic peace or property.

These Acts are planned to be enforced in the beginning of 2014.

## 5. Provisions on petty assault

From the beginning of 2011, petty assaults are offences subject to public prosecution when the victim is a minor, a person close to the perpetrator or a person performing his or her work duties.

Accordingly, petty assaults on a marital spouse or co-habitant or registered civil partners as well as on parents, grandparents and siblings are now subject to public prosecution. A relationship may be deemed intimate even if the parties are already separated.

Thus, the commencement of pre-trial investigation and bringing the perpetrator to justice no longer depends on the will of the victim. The police are required to determine the course of events in greater detail, for example in connection with domestic incidents.

## 6. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the EU Directive

Finland is currently in the process of ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Parliament adopted the legislative amendments necessary for its ratification. Among other things, the Criminal Code will be amended to criminalise child grooming. At the same time, the levels of penalties will be raised in case of sexual offences against children.

The European Union, for its part, is preparing a new directive for combating the sexual abuse and exploitation of children and child pornography. While the proposed directive being reviewed is, to a great extent, based on the said Convention, its objective is to impose on the Member State more stringent obligations to protect children from sexual abuse and exploitation than the provisions of the Convention.

In March 2011, Parliament passed a legal reform under which - in addition to the body responsible for social services in the municipality -, persons identified in the Child Welfare Act such as people working in social welfare, health care and other similar professions, are required to report suspicions of sexual abuse to the police.

## 7. Prison administration

In 2010 the average number of prisoners diminished by 200 per day and the total figure of prisoners was 3291. It is one of the lowest in Europe.

Finland has succeeded in reducing the number of prisoners through legislative amendments. Firstly, the possibility of probationary liberty under supervision was introduced in 2006, and at present, there is an average of 100 prisoners under this system. Secondly, restrictions on the possibility to convert unpaid fines into imprisonment were imposed in 2008 through several legislative amendments. As a result, the number of default prisoners has decreased to around 60. The introduction of monitoring sentence will further reduce the daily number of prisoners by about 110 persons once this new punishment system reaches its fullest extent.

Even though the total number of prisoners has fallen, that of remand, female and foreign prisoners, their relative share of all the prisoners have increased.

Because of the uneven regional distribution of the prison facilities, as to the male prisoners, overcrowding occurs in a few prisons. Facilities intended for female prisoners have not been overcrowded in recent years.

In April 2011, 222 prison cells in three different prisons had no toilet facilities. In one of these prisons the said problem will disappear next summer.

However, there is access to regular toilets from all the prison units during all hours. The relevant authorities have underlined the importance of this issue in a circular letter sent to all prisons in February 2011.

The laws regulating the care and placement of children whose parents are serving a prison sentence have been renewed. This has greatly improved the rights and conditions of children of imprisoned parents. A family ward was established in the Vanaja Prison on 1 March 2010, and as of 2011, it operated under the auspices of the National Institute of Health and Welfare. The family ward includes a small parent-and-baby unit in the Hämeenlinna Prison for pre-trial detainees.

As a support measure in open care, a child under two years may be placed in the family ward with a parent held in pre-trial custody or serving a prison sentence. If this is considered to be in the best interest of the child, he or she may be transferred to a family ward. The decision on the placement of a child in a prison is made by the child welfare authorities following consultations with the Criminal Sanctions Agency.

The decision on the placement of an imprisoned parent in the family ward is made by an Assessment Centre of the said Agency. The parent's main occupation is to look after and care for the child. Social welfare and health care professionals will be present in the ward from the early morning till late evening on a daily basis.

The number of prisoners under 18 years of age is extremely low in Finland. In March 2011, there were only four such prisoners.

The Parliamentary Ombudsman initiated a survey of the placement and conditions of juvenile prisoners, and requested the prison administration by the end of June 2011 report which measures it has taken to ameliorate the situation of under-aged/minor prisoners. One option to be considered is the possibility of placing more of those serving a prison sentence in facilities outside the prison which is permitted under the Imprisonment Act subject to certain pre-conditions.

In the autumn of 2010, the Internal Auditing Unit of the Criminal Sanctions Agency initiated a study on prisoners fearing other inmates. Based on the information to be submitted by prisons, the Agency will plan long-term measures to address this issue.

Concerning the Roma prisoners, in 20 facilities all of them live in regular wards together with the other inmates. In six prisons, some of them are quartered in closed wards. All in all, 19 Roma prisoners were accommodated in closed wards, which is equivalent to about 10 percent of all

Roma convicts. Prisoners have been assigned to closed wards for several reasons, the most common being conflicts between Roma families. Other reasons include isolation ordered by a court of law because of a criminal investigation, threatening or otherwise disruptive behaviour, and fear of other prisoners based mostly on trafficking of drugs in the prison.

In November 2010 the working group by the Ministry of Justice submitted its report on the placement and treatment of remand prisoners. It proposed a legislative amendment to allow remand prisoners to be moved more quickly than presently from the police stations to regular prisons. This would increase the number of remand prisoners in regular prisons about 30 on a daily basis.

## 8. Monitoring sentence

A new form of punishment – monitoring sentence – will be introduced in Finland on 1 November 2011. It is a sanction between community service and unconditional imprisonment. A monitoring sentence can be imposed instead of up to six months' unconditional imprisonment, if the offender is presumed to manage its enforcement and community service is not regarded as possible.

A necessary prerequisite is that the sanction is deemed justified in order to support the offender's skills and capabilities. A monitoring sentence can only be imposed with the offender's consent.

Enforcement involves the obligation to comply with a daily schedule specifying an obligation to take part in activities and with the restrictions of freedom of movement imposed in connection with sentencing.

While the sentence is served outside prison, the offender is monitored during enforcement through both technical and other means of supervision.

It is estimated that monitoring sentences will be handed down to 650 persons annually.

The Criminal Sanctions Authority is preparing a survey (prison barometer) for inmates and prison personnel. It will include questions concerning the conditions in the facility, treatment as well as the activities organised in the prison. The first pilot survey was already conducted at four prisons. The findings are currently being analysed. By the end of 2012 the plan is to carry out a more extensive survey by the end of 2012 targeting prisoners in all prisons, and afterwards at regular intervals. The objective is to use the results of the survey as a basis for improving the prisoners' conditions and the quality of prison life.

## 9. Prevention of violence against women

On 11 June 2010 the programme on the prevention of violence against women was adopted by the Ministers responsible for internal security.

The aim of the action plan is to tackle violence proactively by influencing attitudes and models of behaviour, 1) to prevent re-victimisation violence, 2) to improve the position of victims of sexual violence and the crisis assistance and support provided for them, 3) to develop methods to identify and intervene in violence experienced by vulnerable persons, and 4) to increase the

authorities' knowledge and competence in the prevention of violence against women and in helping the victims of violence. The action plan, the implementation of which has already started, consists of a total of 60 concrete measures, which will be taken during five years.

Immigrant women have been singled out in the said programme as a special group in a vulnerable position. An important role in the efforts to reduce violence against vulnerable groups is played by the training provided for the authorities and other parties working with ethnic minorities and immigrants, in order to help them identify the violence faced by immigrant women and to improve capabilities for intervention. At the same time, provision of low-threshold advice and guidance in the use of the available services is being developed and formalised.

Intimate partner and domestic violence, including the violence faced by immigrant women, can be prevented and combated through integration measures. A new Act on the Promotion of Integration, which will enter into force on 1 September 2011, is to ensure that greater consideration is given to the individual needs of the immigrants in view of integration and employment.

On 11 May 2011 Finland has signed among the 13 other first signatory States the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

A working group established by the Ministry of Social Affairs and Health examines the right of self-determination of clients of social welfare and health care services. Its mandate will expire on 31 December 2011. The aim is to reform the provisions restricting the right of self-determination of clients/patients of social welfare and health care services, with the exception of provisions on child welfare and the prevention of contagious diseases. Separate legislation would also be enacted concerning the treatment and examination of patients of forensic psychiatry. In addition, the aim is to strengthen multi-professional cooperation, to improve the availability of services and to reinforce their development so as to reduce the need to resort to restrictions of the right of self-determination.

In 2007 Finland has signed the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention.

Mr. Chairman,

Finland greatly appreciates the efforts by the Committee to improve its working methods and to explore new innovative ways to enhance periodic reporting. This new reporting method based on the list of issues prior to the reporting contributes to focusing our national dialogue on the most important issues, and accordingly, is apt to sharpen the fruitful dialogue with the Committee. Our delegation is ready to give further information to the Committee on any of the issues raised or any other matters relating to the implementation of the Convention.

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