**Draft General Comment on Article 4.3 and 33.3:**

**Participation in the Implementation and Monitoring of the Convention**

**Comments by the Government of Finland**

**15 May 2018**

The Government of Finland welcomes this opportunity to contribute to the preparation of General Comment on Article 4.3 and 33.3 (participation with persons with disabilities in the implementation and monitoring of the Convention) of the Convention on the Rights of Persons with Disabilities.

The Government supports the draft General Comment and its aim to clarify the obligations of States parties in relation to the participation with persons with disabilities in the implementation and monitoring of the Convention as enshrined in Article 4.3 and 33.3 of the Convention.

The Government considers the General Comments adopted by the UN Treaty Bodies as useful additional tools for developing the implementation of human rights treaties. The General Comments provide new perspectives on the implementation, for responding to challenges of today. In this connection, the Government refers to Rule 47 of the Committee’s Rules of Procedure concerning General Comments. According to Rule 47, the General Comments are prepared with a view to promote further the implementation of the Convention and to assist the State Parties in fulfilling their reporting obligations.

The draft general comment pays attention to an issue that is highly relevant from the perspective of the Convention.

The Government finds it particularly positive that the general comment discusses how to ensure the participation of women and children. The text also highlights other groups whose participation needs particular attention.

The draft general comment largely focuses on participation in national decision-making. In the Government's view, attention should also be paid to the realisation of participation at regional and local levels and in close communities.

**Introduction**: Because the draft general comment is rather long, it may be difficult to use it as an effective tool in practice. The text repeats itself many times. In the follow-up work it might be useful to consider condensing the text. For instance, the draft analyses in many paragraphs the opportunities of participation of persons with different impairments. It is, indeed, very important to highlight this issue, but the Government proposes considering whether the general comment, right at beginning, could list all the factors to be ensured in different contexts in order to achieve real participation.

The draft general comment pays particular attention to children and women with disabilities and, among others, those persons with disabilities who are immigrants or asylum-seekers or live in rural areas. The Government proposes considering whether the general comment, again right at the beginning, could list the groups whose participation needs particular attention.

**Paragraphs 3, 36, 53, 66 and 75 (c):** The Government welcomes the specific mentioning of Indigenous Peoples in the draft. However, the language regarding Indigenous Peoples should be uniform throughout the general comment and be consistent with the development of international human rights law, in particular with regard to the status and rights of Indigenous Peoples as set out in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Government emphasizes the need to ensure the consistent use of terminology “Indigenous Peoples” instead of “indigenous communities” or “indigenous population” throughout the text. Furthermore, UNDRIP refers to “indigenous individuals” not to “indigenous persons” except when particularly referring to “indigenous persons with disabilities”

**Paragraph 14:** For promoting equality, it is essential to identify multiple discrimination and especially to raise awareness of the different forms of multiple discrimination. An active role of non-governmental organizations in reporting multiple discrimination contributes to increased attention to the problem. From this perspective, the Government proposes that the aspects of *age, sexual orientation* and *gender identity*, all of them representing diversity, be added to paragraph 14, subparagraph (a), indent (ii). Moreover, children's and young people's own organizations could be included in paragraph 14, subparagraph (e).

**Paragraphs 21, 31 and 63:** Access to information in one's own language (in Finland e.g. Saami but also Finnish and Swedish) is important in this context. The Finnish Sign Language Act (359/2015) aims to promote the use of sign language in public authorities' activities, e.g. by ensuring interpretation. Considerations of easy-to-read language, especially in the context of social welfare and health care services, are highlighted also in the Report of the Government on the application of language legislation 2017 (Government publications 8/2017, p. 94–95).

In Finland the Ministry of Justice maintains an online opinions service, *Lausuntopalvelu.fi*, based on an application that performs the opinion procedure of public authorities in an electronic form. The service is intended to make the opinion procedure more efficient by providing citizens, organizations and public authorities with a uniform web service for publishing requests for opinions, issuing opinions and dealing with them. The service aims to facilitate the opinion procedure, citizens’ influence and access to information, and to improve the transparency and quality of preparatory work and the opinion procedure. The service is free of charge for the users.

The process of issuing an opinion in the *Lausuntopalvelu.fi* service is technically accessible, but the language used in the service does not fulfil the criteria of easy-to-read language or, in some cases, even those of clear language. The *Otakantaa.fi* service of the Ministry of Justice, which is an online consultation tool also for an earlier stage, fulfils the criteria of taking account of accessibility. All web services maintained by the Ministry of Justice will be reviewed from the perspective of the EU Web Accessibility Directive (directive 2016/2102 of the European Parliament and of the Council) as soon as the obligations set by the Directive are finally known.

The Government further states that although all the web services are technically accessible, it has been noticed in practice that technical accessibility alone does not suffice for ensuring the accessibility of the services. Persons with disabilities are a very heterogeneous population group, and active measures by public authorities are still needed to put the operating models into practice.

**Paragraph 22:** The different sections of the draft general commentmention children with disabilities very comprehensively. The draft could also include a reference to the article of the Convention concerning children with disabilities, which contains a separate paragraph on the expression of children’s views and on giving due weight to the views. Considering its content, for instance paragraph 22 of the general comment might be the right place forsuch a reference.

**Paragraphs 48, 49 and 75 (j)(k):** Paragraph 75, subparagraphs (j) and (k) and also paragraphs 48 and 49 present an idea about establishing new kinds of mechanisms *(formal mechanism/strong enforcement mechanism)*. The Government does not support this idea. Article 33 of the Convention provides for the implementation and monitoring of the Convention and the necessary structures.

However, the Government notes that paragraph 34 describes the participation process after actual consultations very well: *“States parties decision-making actors should take into account the results of such consultations and reflect them in the decisions adopted, and duly informing them [DPOs / OPDs] of the outcome of the process and explicitly explaining, in the findings, considerations or reasoning of decisions, how their views were considered and why.”*

**Section IV (paragraphs 50 – 74):** Because article 4.3 is a cross-cutting article, section IV contains a lot of repetition. The section repeats the same participation obligations in respect of many articles.

**Paragraph 60:** It is positive that the draft general comment comprehensively elucidates factors, including reasonable accommodation, that make possible the participation of persons with different impairments. The Government notes that, in this context, supported decision-making could be emphasised as a factor of real participation opportunities even more generally than in respect of article 12 only.

**Paragraph 75 (r):** The Government notes that the views of persons with disabilities and the organisations that represent them will be taken into account as extensively as possible when forming Finland's policies regarding international cooperation. Hearings will be held within the framework of the International coordination working group for disability policy led by the Ministry for Foreign Affairs, for instance. The International coordination working group has members from the Ministry for Foreign Affairs, Ministry for Social Affairs and Health, main DPOs and the “Special Representative of the Ministry for Foreign Affairs on Disability”, and other experts. It meets 3-4 times per year and more often if needed.

**Paragraph 75 (s):** The Ministry for Foreign Affairs and the Ministry of Social Affairs and Health are the national focal points for the implementation of the UNCRPD in Finland. The Ministry of Social Affairs and Health has established a national coordination system, the Advisory Board for the Rights of Persons with Disabilities. The role of the Advisory Board is to ease national implementation of the Convention within central government. The Advisory Board consists of representatives of ministries, persons with disabilities and their close relatives, labour market organisations as well as representatives from municipalities, counties, and research. One third of the members of the coordination mechanism represent persons with disabilities. The Advisory Board has designated from among itself a representative of DPO’s to participate in the activities of the focal point.

The national human rights institution, consisting of the Human Rights Centre, its Human Rights Delegation and the Parliamentary Ombudsman, is an autonomous and independent structure that works to promote, protect and monitor the national implementation of the Convention. In June 2016 a human rights committee of persons with disabilities was established as a permanent division under the Human Rights Delegation for the inclusion and participation of persons with disabilities and their representative organisations.

**Good practices:** As there are several good practices regarding the participation of persons with disabilities in the implementation and monitoring of the Convention in many member states, the Government notes that it would be useful to collect and share more of these practices.