## RE : Questionnaire on “disability-inclusive policies”

Mandate of the Special Rapporteur on

the Rights of Persons with Disabilities IOK/14/2016 23/05/2016
Office of the United Nations High Commissioner

for Human Rights

BY EMAIL to sr.disability@ohchr.org

**Diary number**

**Date**

**Contribution from the Finnish NHRI/Human Rights Centre**

The Human Rights Centre (HRC) would like to thank the Special Rapporteur on the rights of persons with disabilities for the possibility to provide information on disability-inclusive policies.

The Human Rights Centre, its Delegation and the Office of the Parliamentary Ombudsman together form Finland’s National Human Rights Institution. The institution was accredited with the highest A-status by the International Coordinating Committee of National Human Rights Institutions in December 2014. According to 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 generally represents the Finnish NHRI in international NHRI cooperation

We hope that you will find our response useful for your purposes.

On behalf of the Finnish NHRI/Human Rights Centre,

Sirpa Rautio

Director

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1. *Please provide information on how your country is considering the rights of persons with disabilities in their* ***policies aimed at******implementing and monitoring the Sustainable Development Goals****, including:*
* *Existing national strategies and action plans,*
* *Budget allocation for their implementation,*
* *Existing mechanisms or frameworks to monitor their implementation,*
* *How do these strategies/plans take into consideration the situation of women and girls with disabilities, and of children and older persons with disabilities?*
* *How is the participation of persons with disabilities and their representative organizations ensured in the development and implementation of such strategies/plans?*

In November 2015, the Government of Finland appointed a **National Commission on Sustainable Development** for 2016–2019. The Commission is chaired by Prime Minister Juha Sipilä. In addition to the Government, the Commission has representatives from Parliament, ministries, business, municipalities and regions, trade unions, the church, science and research, and civil society organisations. The mandate of the National Commission on Sustainable Development is to ensure that the international objectives of sustainable development will be included in national policies. The main task of the Commission is to integrate the global 2030 Agenda for Sustainable Development into national efforts. Another aim is to promote the implementation of the society's commitment to sustainability. The CEO of the Finnish Federation of the Visually Impaired (FFVI) is a member of the Commission, representing the Finnish Federation for Social Affairs and Health. No other disabled people’s organisations are represented in the Commission.

Sustainable development goals are integrated into the international development cooperation policy of the Government. The goal of Finland’s development policy is the eradication of poverty and inequality and the promotion of sustainable development. The Ministry of Foreign Affairs has a **Coordination Group for International Disability Policy**, which has multiple members from DPOs. The Human Rights Centre is a member of the coordination group. The unofficial group discusses topical matters in the international sphere related to the rights of persons with disabilities. The Sustainable Development Goals and their impact on persons with disabilities were discussed in the group’s meeting in March 2016.

1. *Please provide information on the* ***legislative and policy framework in place in your country concerning non-discrimination****, including:*
* *Whether “disability” is specifically mentioned as a prohibited ground of discrimination,*
* *The existence of any budgetary mechanism to ensure the provision of reasonable accommodation by public entities,*
* *Whether the denial of provision of reasonable accommodation amounts to discrimination,*
* *The existence of any affirmative action measures for persons with disabilities,*
* *The existence of any legal, administrative or other effective remedies available for persons who have been subject of discrimination on the basis of disability (including denial of reasonable accommodation),*
* *The establishment of governmental agencies or other similar institutions to guarantee to persons with disabilities equal and effective protection against discrimination.*

Finland’s ratification of the **UN Convention on the Rights of Persons with Disabilities** will enter into force on 10 June 2016.

According to the **Constitution of Finland**[[1]](#footnote-1) (731/1999), everyone is equal before the law and no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.

According to the **Non-Discrimination Act**[[2]](#footnote-2) (1325/2014, entered into force on 1 January 2015), protection against discrimination is equal regardless of whether the discrimination is based on ethnic origin, age, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. The Act is applied to all public and private activities, excluding private life, family life and practice of religion. In addition to direct and indirect discrimination, harassment, and an instruction or order to discriminate, **the denial of reasonable accommodations also constitutes discrimination**. The Act allows for positive differential treatment. However, unequal treatment is still allowed in certain situations, for example if it has acceptable grounds and an objective based on fundamental and human rights and if the means to achieve the objective are proportionate.

According to **Section 15 of the Non-Discrimination Act**, “(1) An authority, education provider, employer or provider of goods and services has to make due and appropriate adjustments necessary in each situation for a person with disabilities to be able, equally with others, to deal with the authorities and gain access to education, work and generally available goods and services, as well as to manage their work tasks and to advance their career. (2) In assessing the reasonableness of the adjustments, attention shall also be devoted, in addition to the needs of the person with disabilities, to the size, financial position, nature and extent of the operations of an actor [--] as well as the estimated costs of the adjustments and the support available for the adjustments. (3) On request, the employer shall promptly provide a written report on the grounds of its procedures to a person with disabilities, who considers that they have been discriminated against as a result of the denial of reasonable adjustments in applying for employment or public service employment or in an employment relationship or in an employment relationship under public law.”

**The Criminal Code**[[3]](#footnote-3) (39/1889) criminalises discrimination and work discrimination based on disability. The maximum sentence for both crimes is six months of imprisonment.

Compliance with the provisions of the Non-Discrimination Act is supervised by the Non-Discrimination Ombudsman, the National Non-Discrimination and Equality Tribunal, and the occupational safety and health authorities.

**The Non-Discrimination Ombudsman**[[4]](#footnote-4) provides assistance to the victims of discrimination in pursuing their complaints concerning discrimination, assists authorities, education providers and employers in their duties to promote equality, gives general recommendations to prevent discrimination and to promote equality, and takes action to reconcile matters pertaining to compliance with the Non-Discrimination Act. In 2015, out of 496 complaints received by the Non-Discrimination Ombudsman, 90 cases dealt with discrimination on the basis of disability, the second largest amount after cases concerning discrimination based on origin.

**The National Non-Discrimination and Equality Tribunal**[[5]](#footnote-5) is an impartial and independent judicial body appointed by the Government, which supervises compliance with the Non-Discrimination Act and the Act on Equality between Women and Men. In 2016, the Tribunal has made several landmark decisions concerning reasonable accommodations. In a case concerning the availability of toilet facilities for the disabled in a restaurant, the Tribunal saw that a restaurant had violated the Non-Discrimination Act by not providing adequate toilet facilities for the disabled. In another case, the Tribunal concluded that a bank had discriminated against visually impaired persons when it had not granted online banking user IDs to the visually impaired.

The aim of **Finland’s Disability Policy Programme VAMPO 2010–2015**[[6]](#footnote-6) was to safeguard a just position in the society for persons with disability and to draw up the development paths with which to reach for sustainable and responsible disability policy. According to the final report on VAMPO’s implementation (2016)[[7]](#footnote-7), most of the 122 measures introduced in the programme had been realised in line with the programme by the end of 2015. The report concluded that a clear positive development had taken place, for example in the areas of culture and sports services, education and international cooperation in the field of disability. In the field of non-discrimination, the Ministry of the Interior developed, for example, guidance for non-discrimination planning, including a general guidebook as well as targeted guidebooks for civil society organisations and education establishments. In addition, a guide on non-discrimination impact assessment in the legislative process was published in 2014.

1. *Please provide information on the* ***legislative and policy framework in place in your country concerning******accessibility for persons with disabilities*** *in relation to the physical environment, transportation, information and communications, and to other facilities and services; including:*
* *The existence of national standards, guidelines, and regulations on accessibility and universal design, including access to Information and Communication Technologies,*
* *The existence of time bound action plans to make public and private facilities and services accessible for persons with disabilities,*
* *The existence of accessibility requirements for public procurement,*
* *The existence of any enforcement mechanism of accessibility standards,*
* *The provision of training on accessibility issues for State officials and other actors.*

**Provisions on accessibility are laid down in several acts and government decrees** concerning the use of land, construction, disability services and support, occupational safety, health protection, electronic communications services, and road transport. Multiple municipalities have their own accessibility programmes.

One of the objectives of **Finland’s Disability Policy Programme VAMPO 2010–2015**[[8]](#footnote-8)was to strengthen and increase accessibility in society. During the VAMPO programme period, the Government promoted accessibility in subsidised housing construction and subsidised the instalment of elevators in old buildings. In addition, several measures promoted the accessibility of transportation services.

In 2011, the Ministry of Transport and Communications prepared an Action Progamme for 2011–2015 called “**Towards a Barrier-free Information Society**” [[9]](#footnote-9), which identified barriers that prevent equal participation of citizens in the information society and sought to decrease the number of those barriers. The aim of the Action Programme was to improve accessibility of the information society for all citizens.

In 2015, the Ministry of Transport and Communications published a **report on the accessibility of the transport system**[[10]](#footnote-10). The report contained a summary of existing legislation, regulations and planning guidelines as well as identified development challenges. According to the report, improvements are needed in the accessibility of road environments (such as pedestrian road safety and mobility aids for the visually impaired), railway transport as well as availability and accessibility of passenger information.

Many municipalities in Finland have local **accessibility representatives** (*esteettömyysasiamies*) who promote the accessibility of the built environment and services in their municipality.

**The Accessibility Centre ESKE**[[11]](#footnote-11) of the Finnish Association of People with Physical Disabilities (FPD) does advocacy work, distributes information, produces materials, arranges events and seminars as well as provides training, guidance and consultation on accessibility. ESKE also engages in cooperation with stakeholders and coordinates a network of accessibility actors. In addition, ESKE maintains a register of qualified accessibility auditors of the built environment.

Disabled people’s organisations (DPOs) have expressed concerns over indications that **the Government is planning to ease accessibility regulations**. According to the Government Programme of PM Juha Sipilä’s Government, which began its term in office in May 2015, in the future full accessibility will only be required for a certain number of flats on new housing sites.

**In the autumn of 2015, the Human Rights Centre conducted a survey on disabled people’s access to rights in Finland. The survey included a broad round of interviews with the lawyers and other advisory employees of organisations representing persons with disabilities. According to DPOs, accessibility is a major issue in the everyday lives of disabled persons. Shortcomings concern, for example, interpretation services provided to persons with disabilities, the accessibility of information and electronic services as well as access to information. Availability of transportation services is a common problem and disabled persons do not get sufficient transportation services according to their needs. In addition, there are problems with the accessibility of public transport. DPOs saw that accessibility of the built environment should be further promoted with legislation.**

1. *Please provide information on the* ***legislative and policy framework in place in your country concerning support services for persons with disabilities****, including:*
* *The diversity and coverage of services available (e.g., services for supported decision-making, communication, mobility, personal support, housing and living arrangements, access to general services such as education, employment, justice and health; and other community services),*
* *The availability of certified sign language interpreters,*
* *The types of service delivery arrangements (e.g. direct provision, public-private partnerships, partnerships with community-based or non-government organizations, contracting out, privatization),*
* *The financial mechanisms to ensure affordability of support services for all, persons with disabilities,*
* *How services enable direct choice and control of users with disabilities?*

**Disability services** are laid down in the Social Welfare Act (1301/2014) Services and Assistance for the Disabled Act (380/1987), the Act on Special Care for Persons with Intellectual Disabilities (519/1977) and the Act on Interpretation Services for Persons with Disabilities (133/2010). The Ministry of Social Affairs and Health coordinates disability policy, and the implementation of disability policy is the responsibility of all administrative sectors.

**Municipalities are responsible for providing social and health services for disabled persons**. Each individual is provided with a personal service plan on services and support provided to them. Services can consist of rehabilitation services, transportation services, personal assistance, home renovations, support for informal care, family care, service accommodation and institutional care for persons with severe disabilities, financial support and disability benefits, interpretation services, employment support services as well as adaptation training and rehabilitation guidance. Special care services for people with intellectual disabilities include housing services, work and day activities, family care or institutional care.

Municipalities have to ensure that the extent and quality of services and support for disabled persons is arranged according to the needs that exist in the municipality. Municipalities can arrange services themselves or buy services from local authorities or other service providers. Competitive biddings are regulated by the Act on Public Contracts. With regard to personal assistance, municipalities reimburse a person with disabilities for wages paid to a personal assistant. The disabled individual, or his or her guardian or carer, acts as the employer of the personal assistant.

The Services and Assistance for the Disabled Act(380/1987) states that **authorities need to take into account the opinions and wishes of disabled persons when deciding on their personal assistance services**. The Act on the Status and Rights of Social Welfare Clients (812/2000) and the Act on the Status and Rights of Patients (785/1992) include provisions on the rights of customers and patients to good social and health care and to good treatment in care without discrimination. The legislation guarantees the individual’s right to be heard and to participate in the decision-making concerning their services and care. Authorities have to take into account the wishes and opinions of social welfare clients and respect their right to self-determination. The dignity, privacy and convictions of customers and patients have to be respected. Their individual needs, mother tongue and cultural background have to be taken into consideration.

**The reform of legislation concerning disability services** is currently underway. The aim of the reform is to combine the Services and Assistance for the Disabled Act and the Act on Special Care for Persons with Intellectual Disabilities. The starting points of the reform are the participation and equality of persons with disabilities as well as strengthening of decision-making that is based on the needs of the individual. The new legislation will be drafted in a participatory process. The new Act is intended to enter into force in 2019.

**Finland’s Disability Policy Programme VAMPO 2010–2015**[[12]](#footnote-12) laid out specific measures on the improvement of the socio-economic position of persons with disabilities and on ensuring the availability and quality of special services and support measures in different parts of the country. It is currently unclear whether the Government will initiate a follow-up programme for VAMPO in the coming years. According to representatives of several DPOs, the Government should draft a comprehensive national disability policy action plan for the implementation of the UN Convention on the Rights of Persons with Disabilities, whose ratification process was finalised in May 2016.

**In the Human Rights Centre’s recent survey on disabled people’s access to rights (see also answer to question 3), DPOs expressed several concerns regarding the subjecting of services to competitive tendering and the privatisation of services, the pressure of austerity in public finances, and the implementation of the municipalities’ obligation to provide advice.**

**According to DPOs interviewed for the HRC’s survey, the trend towards privatisation and outsourcing of public services causes concerns for the quality and sustainability of services, as the service provider can change every few years due to periodic competition rounds for service providers. In addition, different services for an individual can be provided by different providers, preventing a holistic approach to services.**

**In the HRC’s survey, DPOs also noted that communication barriers often complicate interactions with the personnel of social and health services. In addition, digitalisation of services causes increasing difficulties for disabled persons and older persons who need assistance and guidance on the use of digital services. Moreover, disabled people face attitudinal barriers: disabled people’s inclusion, individual needs and ability to influence decisions affecting their own lives are not currently implemented and taken into account in a manner that would enable them to fully participate in society.**

*Sign language and interpretation services:*

The **Sign Language Act** (359/2015)[[13]](#footnote-13) clarifies and strengthens the linguistic rights of sign language users and increases awareness among the authorities about sign language users as a linguistic and cultural minority. The Act obliges the authorities to promote the possibilities of sign language users to use their own language and receive information in sign language. The Act reiterates rights of sign language users guaranteed in special legislation, such as the right to education in sign language and the right to interpretation services. Both Finnish Sign Language and Finnish-Swedish Sign Language are recognised in the Act.

The Ministry of Justice has established **a sign language cooperation group** which deals with current issues concerning sign language and aims to ensure information sharing between stakeholders. The members of the group include representatives from ministries, the Finnish Association of the Deaf and the Finnish-Swedish Sign Language Users (Finlandssvenska teckenspråkiga rf).

People with severe hearing, hearing and sight, and speech disabilities are entitled to receive **free interpretation services**. The Social Insurance Institution of Finland is responsible for arranging interpretation services for disabled persons.

**With regard to interpretation services, the HRC’s survey revealed that the deaf and the deaf-blind often face problems with inexperienced and incompetent interpreters. For example, interpreters might not be familiar with certain professional language and terms or different styles and tones of language. Representatives of DPOs saw that persons should be able to choose their interpreters more freely.**

**The Finnish-Swedish Sign Language** is a highly endangered language: research conducted by Finnish-Swedish Sign Language Users in 2015 estimated that the language is spoken by only 90 persons, most of whom are over 55 years old, and there is a severe lack of teachers and interpreters of the language. According to a report on the situation of Finnish-Swedish Sign Language published by the Ministry of Justice in January 2016, there is a need for a comprehensive revival programme for the language.

1. *Please provide any* ***other relevant information*** *(including information from surveys, censuses, and administrative data – statistics, reports, and studies),**in relation to the* ***implementation of existing disability-inclusive policies and action plans in your country****.*

The Parliamentary Ombudsman has recognised shortcomings in the guarantee of the rights of persons with disabilities and policies limiting the right to self-determination at institutions as two of the ten main fundamental and human rights issues in Finland. For more information, see the Ombudsman’s Annual Report 2014 (2015 to be published in due course), available in English at

<http://www.oikeusasiamies.fi/Resource.phx/eoa/english/publications/annual.htx>.

Finland’s Disability Policy Programme VAMPO 2010–2015 is available in English at <http://www.vane.to/images/stories/vampo2012/vampo2012_english.pdf>

Statistical information on welfare and health in Finland can be found in [https://www.sotkanet.fi/sotkanet/en/index?](https://www.sotkanet.fi/sotkanet/en/index)

1. Unofficial English translation: <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf> [↑](#footnote-ref-1)
2. Unofficial English translation: <https://www.finlex.fi/fi/laki/kaannokset/2014/en20141325.pdf> [↑](#footnote-ref-2)
3. Unofficial English translation: <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf> [↑](#footnote-ref-3)
4. <http://www.syrjinta.fi/web/en/frontpage> [↑](#footnote-ref-4)
5. <http://yvtltk.fi/en/index.html> [↑](#footnote-ref-5)
6. <http://www.vane.to/images/stories/vampo2012/vampo2012_english.pdf> [↑](#footnote-ref-6)
7. Available in Finnish at <https://www.julkari.fi/bitstream/handle/10024/130234/Rap%20ja%20mui_2016-14_verkkoversio%20100316.pdf?sequence=1>. An English summary is included on page 4. [↑](#footnote-ref-7)
8. Unofficial English translation: <http://www.vane.to/images/stories/vampo2012/vampo2012_english.pdf> [↑](#footnote-ref-8)
9. <http://www.lvm.fi/en/-/towards-a-barrier-free-information-society-action-programme-2011-2015-814975> [↑](#footnote-ref-9)
10. Available in Finnish at [http://www.lvm.fi/documents/20181/514467/Julkaisuja+16-2015/a4a7e224-6dbb-4d8d-8f32-dadef037cc70?version=1.0](http://www.lvm.fi/documents/20181/514467/Julkaisuja%2B16-2015/a4a7e224-6dbb-4d8d-8f32-dadef037cc70?version=1.0). An English summary is included on page 6. [↑](#footnote-ref-10)
11. <http://www.esteeton.fi/portal/en/the_accessibility_centre_eske/> [↑](#footnote-ref-11)
12. <http://www.vane.to/images/stories/vampo2012/vampo2012_english.pdf> [↑](#footnote-ref-12)
13. <http://www.finlex.fi/fi/laki/kaannokset/2015/en20150359.pdf> [↑](#footnote-ref-13)