



MINISTRY FOR FOREIGN  
AFFAIRS OF FINLAND

## Submission to the UN Treaty Body Strengthening Process by Finland

3 February 2012

Finland welcomes the invitation made by the United Nations High Commissioner for Human Rights to provide suggestions to enhance the efficiency, effectiveness and impact of the treaty body system and provides the following observations and proposals:

### Working methods

Finland encourages the treaty bodies to reform their practices internally, independently and impartially. Although the efforts to harmonize different practices have already produced good results, e.g. the harmonized guidelines on reporting, there are still room for developing and harmonizing some practices. Harmonized working methods would further strengthen the treaty body system and facilitate the cooperation between the States parties and the treaty bodies. However, the working methods must remain sufficiently flexible in order that individual treaty bodies may develop and assess new practices and share their experience of them with the other treaty bodies.

### Documents

According to the recommendation of the treaty bodies to the UN General Assembly (A/65/190), the reports of States parties should be written in a clear and precise manner and the number of their pages must be limited (*common core document 60-80 pages, initial report max 60 pages, periodic reports max 40 pages; one page is equal to 530 words*). Finland supports this objective. Excessively long reports should be returned to the State parties in question for condensing and resubmission. In this respect, UPR reporting constitutes a good practice.

The number of documents handled within the treaty body system is substantial. Finland proposes that the treaty bodies change over completely to electronic document management and cease to produce hard copies. Although converting all material into an electronic format will require a major lump-sum investment, investing for this purpose will be cost-efficient in the long-run. In the electronic transmission of documents, sufficient attention must be paid to data security considerations.

### Working languages

Interpretation and translations of documents into the working languages of the treaty bodies amount to a substantial item of expenditure. The bodies should consider the possibility of limiting their working languages into one language or the two languages used by the UN in Geneva (English and French).

## Lists of issues

In traditional periodic reporting, long lists of issues are sent to the States parties with a relatively short notice. The bodies often request supplementary information in the form of statistics. In practice, replying to the lists of issues amounts to a new report and unreasonably increases the workload of both the UN system and the States parties. Finland proposes that the lists of issues be abandoned even in cases where a review of the report is considerably delayed. Instead, the treaty bodies should update the information during the dialogue, when necessary.

## Lists of issues prior to reporting (LOIPR)

Finland has agreed to report to the Committee against Torture in accordance with the new practice based on a list of issues prior to reporting (LOIPR). The Committee considered the first LOIPR report of Finland in 2011. The new reporting practice provided a positive experience by facilitating and speeding up the reporting process. Moreover, the dialogue between the Committee and Finland was more precisely targeted. Still, the dialogue did not only deal with the issues discussed in the LOIPR report but covered the entire scope of the Convention. This was also positively reflected in the concluding observations. The new practice helped Finland to deepen its constructive dialogue with the Committee, also because the report contained more detailed information than before. In this new system the LOIPR report was processed more rapidly after its submission than the previous reports.

Finland invites all treaty bodies to consider changing over to the new practice with a list of issues prior to reporting and offer this voluntary practice to the States parties.

In addition, Finland proposes that the above-mentioned recommendation on the absolute maximum length of reports be applied to LOIPR reports, too.

## Review in the absence of a report

Finland considers valuable the technical support provided by the OHCHR to those States parties which have insufficient capacity for periodic reporting to treaty bodies. However, the number of delayed periodic reports gives rise to concern, regarding especially those States which have not yet submitted even initial reports. This has a serious impact on the workload of the treaty bodies and undermines the opportunities to plan and forecast their activities.

If the State party has not submitted its overdue report particularly requested by the treaty body, it is reasonable to review the implementation of a human rights treaty in the absence of a report. Finland appreciates the treaty bodies' efforts to conduct a constructive dialogue with non-reporting States, too.

## Concluding observations

In recent years the number of the concluding observations adopted by treaty bodies has increased, and they have become more detailed. However, Finland's experience is that this change has not been entirely positive. The observations and especially the recommendations made in them should be targeted more specifically, and they should prioritize key issues in a realistic manner.

Finland proposes that the treaty bodies reform the current format of their concluding observations by issuing clearly 3–5 recommendations that require immediate measures, and if necessary a reasonable

number (max 10–15) of recommendations for a longer term. The treaty bodies should intensively follow up the recommendations calling for immediate measures, including by requesting the State party to provide its views on the adequate implementation measures.

The concluding observations could be supplemented with a descriptive introduction describing those issues which are currently discussed in the concluding observations. Such an introduction would give an overall picture of the implementation situation, and the recommendations themselves would highlight the real problems to be addressed either immediately or in a longer term.

### Constructive dialogue

The constructive dialogue with the treaty bodies is a key element of the monitoring procedures. Finland considers it important to continue this dialogue throughout the reporting cycle. The dialogue conducted during the session of a treaty body, attended by a delegation from the State party in question, enhances the mutual understanding of the commitments and measures required for the realization of the human rights in question.

Since the implementation of human rights treaties is monitored in a constructive dialogue between the States parties and the treaty bodies, the bodies should better ensure that the concluding observations really raise those points on which the State party in question has had an opportunity to express its views during the hearing. This is one of the basic criteria for equal and fair proceedings.

If financial reasons prevent a State party from attending the session of a treaty body, the dialogue could be conducted by video conferencing. Country offices of the UN, or regional or country offices of the OHCHR, could provide technical support in these cases.

### Follow-up

Finland has positive experience of the follow-up to the implementation of concluding observations on the initiative by the treaty bodies themselves. The follow-up practices of the treaty bodies should be harmonized, and the information produced by the follow-up should be shared among all treaty bodies.

### General comments

Finland considers the general comments adopted by the treaty bodies as a useful additional tool for developing the implementation of human rights treaties. General comments provide new perspectives on the implementation, for responding to challenges of today.

Finland encourages the treaty bodies to prepare jointly thematic general comments and to harmonize their style and structure.

### Individual communications

Finland considers individual communications as an important contribution to the monitoring of the implementation of human rights and as a useful tool for improving human rights at national level. However, the processing of individual communications should be developed further in respect of processing delays and reasoning for the decisions.

In urgent cases, where a treaty body is compelled to order an interim measure, the time periods reserved for the States parties for submitting their observations on the admissibility and the merits of the cases are too long. The treaty bodies should prioritize urgent cases and process them in an accelerated procedure.

During the processing of the communications, the State party concerned should be given an opportunity to comment on the substance of the complainant's response to the Government's observations during the so-called second round.

The reasoning for the decisions of the treaty bodies is sometimes too general or imprecise. More detailed reasoning would facilitate the State party's consideration of implementation measures required by the decision, and also thereby promote consistent interpretation. To the extent possible, the reasoning should also contain cross-references to corresponding case-law of other treaty bodies. More logical references to the case-law of regional human rights courts should also be considered.

A user-friendly legal database of decisions and case-law should be introduced in order to permit searches for both up-to-date and historical information by different search criteria.

## Resources

The core human rights treaties of the UN and the related treaty bodies form the basis of the UN human rights system. The States parties are obliged to cooperate with the treaty bodies and to participate in periodic review. The States have decided to establish the treaty body system and must bear the responsibility for their decisions.

Finland supports the proposal made in the report of the Secretary-General (A/66/344) that the workload and resources of the treaty bodies should be reviewed periodically. The need to ensure sufficient resources and funding is connected with the obligation of the States parties to bear their responsibility, and they must get up-to-date information about the situation of the treaty bodies. A comparable example is the European Court of Human Rights, whose resources are being monitored regularly.

The treaty bodies, too, are responsible for working cost-efficiently. They must prioritize and deprioritize their tasks and look for more efficient practices. Active efforts are needed for finding new ways to save costs, and practices must be re-examined for their improvement. For instance, sessions arranged in New York may be justifiable if they deal with reports from States parties located closer to New York than Geneva.

Some of the measures to improve the efficiency of the treaty body system, also those proposed by Finland, require additional resources (e.g. webcasting).

The principle in funding the treaty body system must be that the funds come from the regular budget of the UN. The repeated *ad hoc* proposals of the treaty bodies for extra sessions in recent years cannot solve the problem sustainably. Discussions on resources must be conducted within the competent body, i.e. Committee V of the General Assembly.

Finland invites the OHCHR to consider the prioritization of the treaty bodies in the allocation of its resources.

## Webcasting

Finland supports the initiative to broadcast the sessions of the treaty bodies through the Internet (webcasting). The dialogue with each State party in connection with the review of its periodic reports is a public event, but participating in the dialogue may be difficult because of long distances and the ensuing costs. Webcasting enables all authorities of the State party under review to follow the dialogue in real time, for financial reasons often impose restrictions on the size of the national delegation sent to the meetings. Webcasting also permits civil society to follow the review process and to get a clearer overall picture of the dialogue leading to the concluding observations.

The Centre for Civil and Political Rights has successfully and at reasonable cost facilitated the visibility of the Human Rights Committee by means of webcasting.

## Membership

The credibility of the treaty bodies depends on the quality of their work. This quality, in turn, is influenced by motivated and competent members of the bodies. It is crucial that the members act independently, in their personal capacity. In addition to these criteria, an equal geographical and gender distribution must be underlined in proposing and selecting candidates. Furthermore, the need to ensure the representation of different legal systems must be taken into account in this context. Legally binding treaties naturally require legal expertise of the treaty bodies, but the participation of experts in other fields relevant to the scope of the treaties enriches the interpretation work of the treaty bodies.

Finland regards as positive the decision of the chairpersons of the treaty bodies to prepare a guidance document on eligibility and independence of the members, and wishes visibility for the document.

## Intimidation, threats and reprisals

In the context of the treaty bodies, intimidation, threats and reprisals against human rights defenders, victims and witnesses must be taken up. Finland supports the proposal made in *the Pretoria statement on the strengthening and reform of the UN human rights treaty body system* to designate in each treaty body a focal point responsible for conveying information about such alleged acts.

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