**Questionnaire in relation to the General Assembly resolution 68/268**

**Response by the Government of Finland**

**30 April 2019**

The Government of Finland welcomes the invitation made by the United Nations High Commissioner for Human Rights to provide comments on the state of the human rights treaty body system in view of the upcoming review by 9 April 2020, of the effectiveness of the measures in order to ensure their sustainability, and, on any further action to strengthen and enhance the effective functioning of the treaty body system.

The Government commends the Office for its long-term work in implementing the General Assembly resolution 68/268, and in particular for increasing the visibility of the treaty bodies.

In this regard, Finland is also pleased to be one of the main sponsors[[1]](#footnote-1) of the General Assembly resolution 73/162 on the human rights treaty body system, placing emphasis on the need for continued efforts to strengthen the monitoring system.

Despite the implementation of the resolution 68/268 and the results in the right direction, continued efforts to strengthen and enhance the treaty body system are still urgently needed.

**A. Comments on the implementation of the General Assembly resolution 68/268**

As regards the implementation of the resolution 68/268, the Government of Finland would like to report of the following developments:

***Simplified reporting procedure***

The Government of Finland has accepted the simplified reporting procedure with respect to its periodic reports to be submitted to the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee against Torture. So far the Government has submitted two periodic reports to the Committee against Torture under this new procedure and the Committee has considered them both.

As regards other core human rights treaties, the Government will positively consider accepting the simplified reporting procedure when offered.

The Government of Finland has had many positive experiences of the simplified reporting procedure. It facilitates and speeds up the reporting process. The reports submitted to the Committee against Torture were processed more rapidly after their submission than previously submitted periodic reports.

Moreover, during the simplified reporting procedure, the constructive dialogue between the Government of Finland and the Committee against Torture became precisely targeted, both because of the specified questions and because the report contained more detailed information than before.

The Government welcomes the established word limits for State parties’ reports. This facilitates the preparation of more concise periodic reports, and is also more cost-effective.

***Follow-up to the concluding observations***

Finland’s second National Action Plan on Fundamental and Human Rights 2017-2019 was adopted on 16 February 2017. The objective of the Action Plan is to promote the constitutional obligation of the public authority to guarantee the observance of fundamental and human rights. The measures taken under the Action Plan are designed to act on identified problems with fundamental and human rights and to complement the work being carried out in various policy sectors to promote fundamental and human rights.

The priorities of the Action Plan include fundamental and human rights education and training, equality, the right to self-determination and fundamental rights and digitalisation. The Action Plan includes a total of 43 projects which are spread across the administrative branches of all ministries. The recommendations of the treaty bodies have been used as the legal basis for the projects.

Domestically, the Network of Contact Persons for Fundamental Rights and Human Rights with representatives from all ministries provides for more systematic monitoring of the fundamental and human rights situation in Finland and expedites information flows within the ministries. The Network, *inter alia*, follows the Government's periodic reporting and the implementation of the concluding observations within the respective ministries. Representatives of the Supreme Guardians of the Law (Chancellor of Justice and Parliamentary Ombudsman) and the Human Rights Centre, as part of the national human rights institution, attend the meetings of the Network.

A well-functioning civil society is an essential part of the infrastructure for implementing fundamental and human rights. The Government aims consistently at promoting an open dialogue with civil society. The Government encourages non-governmental organisations to contribute directly to the work of the treaty bodies.

***Reprisals***

As regards the serious issue of reprisals, the Ministry for Foreign Affairs has published Guidelines on the protection and support of human rights defenders in November 2014. The Guidelines provide practical tools for the Ministry and its Missions abroad to cooperate with human rights defenders. The Guidelines are based on the EU Guidelines on Human Rights Defenders and on the Ministry's Human Rights Strategy.

The most important objective of the Guidelines is to encourage all actors within the Ministry all over the world to support human rights defenders and to engage in an active dialogue with them. The Guidelines refer, *inter alia*, to the access and participation of human rights defenders in international organisations, including their interaction with the treaty bodies that monitor the implementation of the UN’s human rights treaties.

The Ministry actively promotes the use of the Guidelines. The Ministry commissioned an independent evaluation of the implementation of the Guidelines in 2017. A study on human rights defenders' work, *Human rights defenders are facing increasing intimidation* - *How should Finland's support for human rights defenders be developed?*, published in November 2017, provides conclusions and recommendations to further enhance the protection of human rights defenders.

The Government welcomes the adoption of the Guidelines against Intimidation or Reprisals, so called “San José Guidelines”.

***Technical cooperation***

In its resolution, the General Assembly encouraged all Member States to contribute to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights. The Government of Finland will make a non-earmarked contribution of EUR 800 000 to the Voluntary Fund in 2019.

**B. Comments on the state of the human rights treaty body system**

***Strengthening process***

The overall aim of the strengthening process should be to achieve better implementation of human rights obligations by duty-bearers and the full enjoyment of all human rights by rights-holders. The opportunity of the 2020 review must be availed to enhance the effectiveness and independence of the treaty bodies. The perspectives and needs of rights-holders and victims of human rights violations are critical to the effective functioning of treaty bodies.

The review of the strengthening process should be an inclusive and transparent procedure open to all stakeholders. In addition to the views of the States parties, it is essential to consult and get a genuine input from the treaty bodies, civil society organisations, national human rights institutions and academia. The actual review of the strengthening process would benefit from a so-called stakeholder segment.

***Harmonisation of working methods and coordination***

Finland encourages all treaty bodies to continue reforming their practices internally. The Government emphasises that the treaty bodies have competence to develop their working methods within the framework of their respective mandates. In recent years, the most significant and successful changes have been initiated by the Committees themselves. Therefore, it is of utmost importance that the Committees continue to decide their own Rules of Procedure and working methods, naturally coordinating with each other. The Committees’ capacity to pursue initiatives to further harmonise their working methods and make the monitoring system more effective must be strengthened. Regarding the harmonisation of working methods, it is essential that the Committees share their good practices and engage in regular dialogue.

Finland is proud to be the first State party which has received lists of issues prior to reporting coordinated by two Committees, namely the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, in April 2019. These lists display the benefits of co-ordination: they cover many topical human rights issues and avoid unnecessary repetition. The Government encourages the Committees to continue this practice and to step up coordination.

Although the efforts to harmonise different practices have already produced good results, e.g. the harmonised guidelines on reporting, there are still room for developing and harmonising some practices, for example regarding the individual communications, dialogue with the States parties under review, consultation with civil society organisations, the format of the concluding observations and follow-up to the implementation of the recommendations. These are just a few examples that differ from one Committee to another. Harmonised working methods would further strengthen the treaty body system and facilitate the cooperation between the States parties and the treaty bodies as well as with other stakeholders.

Developing the annual meetings of the Chairpersons would be one way of promoting dialogue between the Committees and thus developing working methods and coordination.

Furthermore, a joint working group of the Committees on the Rules of Procedure and working methods could address the issue of duplication, lack of coherence and fragmentation.

***Simplified reporting procedure***

Finland strongly supports the use of the simplified reporting procedure. This procedure improves and speeds up reporting and saves resources at ground level. The Government 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 all States parties.

***Reporting calendar***

A comprehensive reporting calendar for all treaties would improve reporting, its planning, coordination at the country level as well as help all stakeholders participate in the monitoring process.

***Review of the reports***

The long waiting time between the submission of the periodic report and its review at the Committee wastes the scarce resources of all parties. The periodic report should be reviewed as soon as possible after it is issued.

Constructive dialogue with the Committee is a valuable and important part of the monitoring procedure. It should definitely be preserved. In order to enhance the effectiveness and quality of the dialogue between the Committee and the State party, the Government encourages using a smaller and more flexible composition of the Committee. It is not necessary that all the members of the Committee, e.g. 23 or 18 members, participate in a dialogue with the State party. By careful preparation, a smaller reporting group of the Committee, e.g. three or four members, could engage in dialogue. This would be a lighter model than the chamber model, which has already been tested by a few Committees. However, decision-making would still take place in the plenary of the Committee in the presence of all members.

Finland commends the Committee against Torture for very effective time management during the dialogue. The progress of the dialogue and the timetable were clearly explained to the State party at the beginning of the review. This further enhanced the dialogue.

Finland commends the Committee on the Elimination of Racial Discrimination for its good practice of giving voice to the national human rights institution during the dialogue with the State party. The same practice should also be considered in all other Committees.

***Concluding observations***

In recent years, the number of the concluding observations adopted by the treaty bodies has increased, and they have become more detailed. However, Finland's experience is that this change has not been entirely positive. The number of treaty body recommendations is so high that the effective implementation of them is hampered. The uneven content and quality of the recommendations is also a challenge for their implementation. The observations and especially the recommendations made in them should be targeted more specifically, and they should prioritise key issues in a realistic manner.

Finland proposes that the treaty bodies reform the current format of their concluding observations by clearly identifying from three to five recommendations that require immediate measures, and, if necessary, including a reasonable number (max. 10–15) of recommendations for a longer term.

***Follow-up***

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.

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

The State party should be requested to report one or two years after the adoption of the concluding observations on the implementation of recommendations requiring immediate action. The Committees should have a consistent assessment of the state of implementation.

***Petitions***

Finland is concerned about the current handling of individual communications. The procedure is neither predictable nor certain and varies by the Committee. The Committees’ varying interpretations of rights and varying admissibility criteria lead to forum shopping.

The Government acknowledges that the Office has very limited resources for handling communications that have increased rapidly. The processing of communications should be urgently developed further in respect of processing delays and documentation and reasoning for the decisions. As the number of communications increases and content becomes more complex, more in-depth legal expertise and efficient process management are needed. Consistent and coherent jurisprudence of the Committees is a prerequisite for the credibility of the entire communications procedure. However, we note with particular concern that the resources at the Petitions Unit have not been adapted to meet the increase in the number of individual complaints.

One of the challenges is that no one leads the process and that unlimited written observations can be submitted. The observations and comments are often communicated with an unreasonably long delay, e.g. one year. Clearer and stricter Rules of Procedure, among other things, would solve this problem. Finland commends the Human Rights Committee for amending the Rules of Procedure on individual communications. The amended Rules aim at setting limits to the number of written observations.

Finland proposes the following measures for consideration:

* Creation of a user-friendly website for applicants providing information on how to make a valid communication and how to lodge it, including all relevant documentation on the communications procedure;
* As proposed by Sweden, introduction of an obligatory complaint form for individual complaints;
* Establishment of an electronic communication system to allow the State party to securely send documents to, and receive documents from, the Petitions Unit;
* Development of new tools and solutions for the effective case management at the Petitions Unit;
* Provision of a uniform acknowledgment of receipt of all documents submitted by the parties within a specific time-frame;
* Prioritisation of urgent cases and processing them in an accelerated procedure;
* Provision of a practical guide/guides on admissibility criteria;
* Establishment of a new, permanent mechanism for the assessment of the admissibility of communications to ensure that communications that clearly do not meet the criteria for admissibility would not be communicated to the State party for its observations.
* As regards the admissibility of communications, consideration of “split requests” (admissibility and merits) and standardisation of working methods regarding “split requests” for the sake of legal certainty;
* Feasibility of introducing hearings into the individual complaint procedure;
* Establishment of a joint treaty body working group on communications to address the consistency of jurisprudence and the quality of legal analysis; to the extent possible, the thoroughly substantiated reasoning should also contain cross-references to corresponding case-law of other treaty bodies;
* Fact sheets on the jurisprudence/case-law guides;
* A user-friendly 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; and
* Allocation of adequate resources to the Petitions Unit.

Finland encourages the treaty bodies to seek interaction with the regional human rights mechanisms, including the European Court of Human Rights. Judicial dialogue would contribute to the mutual transfer of knowledge concerning relevant jurisprudence and may thereby foster greater understanding for the other institutions’ approach to certain common problems. Judicial dialogue is a useful tool for avoiding the fragmentation of international law.

***Resources***

The treaty bodies must be provided with sufficient regular funding and resources to carry out their functions. Finland invites the Office to consider the prioritisation of the treaty bodies in the internal allocation of its resources.

***Accessibility***

Given the importance of monitoring the implementation of human rights obligations, the work and contributions of the treaty bodies to human rights protection are little known. All treaty bodies must be fully accessible for rights-holders, including persons with disabilities. The accessibility of the treaty bodies, including through the use of new technologies, webcasting and databases, should be enhanced.

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1. Together with Denmark, Iceland, Norway, Slovenia, Sweden and Belgium. [↑](#footnote-ref-1)