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Issue Call for inputs – Finland – 2019 – NHRI

This is the submission of inputs of the Finnish Human Rights Centre (HRC)/NHRI for the thematic focus areas of the eleventh session ("Right to work and access to the labour market" and "Access to justice") and the normative framework for the thematic focus areas discussed at the tenth session ("Education, training, life-long learning and capacity building" and "Social protection and social security, including social protection floors).

Should you have any questions, feel free to contact us.

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This document is electronically approved and has no signature.

The Finnish Human Rights Center (HRC) is an autonomous and independent expert institution whose task is to promote and monitor the implementation of fundamental and human rights in Finland as well as to increase cooperation and exchange of information between various actors in the field. According to its founding 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 represents the Finnish NHRI in international NHRI cooperation. The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 39-member Human Rights Delegation and the Parliamentary Ombudsman.

The National Human Rights Institution in Finland was established by law in 2012, and received **A-status in 2014.**

A review of the status is pending.

Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group: Education, Training, Life-long Learning and Capacity-building

Definition

1. *What are the definitions of the rights to older persons to education, training, life-long learning and capacity-building in the national legislation of your country?*

Vocational rehabilitation is available for persons who have not yet reached retirement age.

Scope of the right

2. *What are the key normative elements of the rights of older persons to education, training, life-long learning and capacity building, including such elements as availability, accessibility, acceptability and adaptability? Please provide references to existing standards where applicable.*

See answer to question one on vocational training.

The Act on Adult Education Centres mentions lifelong learning as its goal. However, there aren't any provisions in the act that would take into account the special needs of older population.

State obligations

3. *What are the measures that should be undertaken by the State to respect, protect and fulfill the rights of older persons to education, training, life-long learning and capacity building, regarding the normative elements as provided above?*

Right to accessibility, as well physical as digital accessibility, should be one of the priorities when the right to education and capacity building for older people are considered. Right now the accessibility norms are scattered and do not cover all areas (for example digital accessibility in private education services or physical accessibility in old buildings).

Special considerations

4. *What special measures and specific considerations should be considered in developing the normative content of the rights of older persons to education, training, life-long learning and capacity building?*
5. *How should the responsibilities of non-State parties such as private sector be defined in the context of the rights of older persons to education, training, life-long learning and capacity-building?*

According to the Section 22 - Protection of basic rights and liberties - of the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights. When a public task is delegated to non-public actors, they are in the same way responsible for observing basic rights and liberties and human rights.

Implementation

6. *What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on education, training, life-long learning and capacity building for older persons*

Guiding Questions for Defining the Normative Content of the Issues Examined at the Tenth Working Session of the Open-ended Working Group: Social Protection and Social Security (including social protection floors)

Definition

1. *What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?*

The section 19 of the Constitution of Finland offers the right to social security. Everyone shall be guaranteed by an Act the right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as at the birth of a child or the loss of a provider.

The public authorities shall guarantee for everyone, as provided in more detail by

an Act, adequate social, health and medical services and promote the health of the population.

These rights are further specified in the Social Welfare Act and the Act on Supporting the Functional Capacity of the Older Population and on Social and Health Services for Older Persons

Scope of the right

2. *What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below, as well as any additional elements:*

a) *Availability of contributory and non-contributory schemes for older persons*

There are in Finland both contributory and non-contributory pensions. The Finnish earnings-related pensions are mainly financed by pension insurance contributions paid by employers, employees and self-employed persons. In addition, the government provides some support for the financing of pensions. National pensions and guarantee pensions are meant for those pensioners who have no earnings-related pension or whose pension is very small.

b) *Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care*

In its conclusions to Finland's report in 2017, the European Committee of Social Rights has found the following situations of non-conformity:

► Article 12§1 Right to social security – Existence of a social security system
- The minimum level of sickness benefits is inadequate;

► Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need
- The amount of social assistance, consisting of basic assistance and any additional benefits that may apply is not adequate;
- The granting of social assistance to nationals of other States Parties is subject to a length of residence requirement of four years.

The Committee has been unable to assess compliance with the following rights and has invited the Finnish Government to provide more information in the next report in respect of the following provisions:

Thematic group 2 « Health, social security and social protection » ► Article 13§4 - Conclusions 2017 ► Article 23 - Conclusions 2017.

c) *Accessibility, including older person's coverage by social security systems eligibility criteria and affordability of contributions*

d) *Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situation*

e) *Participation of older persons in the design and administration of the social security system*

According to the Act on Supporting the Functional Capacity of the Older Population and on Social and Health Services for Older Persons, local authorities

must draw up a plan on measures to support the wellbeing, health, functional capacity and independent living of the older population as well as to organize and develop the services and informal care needed by older persons. The plan must underpin living in the own home and measures to promote rehabilitation. The plan must be drawn up as a part of the strategic planning of local authorities. The local council approves the plan, and it has to be updated every term of office of the council. In addition, the decision-making body responsible for social welfare in the municipality must annually evaluate the adequacy and quality of social services needed by older persons in its area.

The local authorities must establish a council for older people to ensure the older population's opportunities to participate and exert influence as well as see to it that the council has the prerequisites for its operation.

The council for older people must be included in the preparation of the above-mentioned plan and evaluation. The council must, in addition to these tasks, be provided an opportunity to influence the planning, preparation and monitoring of actions in the different spheres of responsibility of the municipality in regard to matters that are of significance for the wellbeing, health, inclusion, living environment, housing, mobility and daily activities of older persons or for the services needed by the older population.

In the design of new legislation regarding services for older people the Ministry of Social Affairs and Health hears their organizations.

State obligations

3. *What are the measures that should be undertaken by the State to respect, protect and fulfill the right to social security and social protection for older persons, regarding the normative elements as provided above?*

Special considerations

4. *What special measures and specific considerations should be considered in developing the normative content on the right of older persons to social protection and social security?*

Specific areas of concern in Finland are the affordability and availability of care, especially long-term care, for older persons.

Access to justice is one problem in social and health services. Social or health services for older people do not constitute a subjective right and there is not always an effective legal remedy available when their rights are not met.

Prime Minister Antti Rinne's Government is, according to its programme, going to try to amend the situation. The government is going to improve the quality and effectiveness of services, by amending the Act on Care Services for Older Persons comprehensively, and by enacting a statutory minimum staffing level of 0.7 for care personnel in units providing 24-hour care. Care intensity will be used as the main criterion for determining appropriate staffing levels. An office of an ombudsperson on older people's rights will be established. The government also plans to develop the quality and resourcing of home care and develop informal care.

5. *How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security?*

According to the *Section 22 - Protection of basic rights and liberties* - of the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights. When a public task is delegated to non-public actors, they are in the same way responsible for observing basic rights and liberties and human rights.

Guiding Questions for Focus Area: Right to Work and Access to the Labor Market

National legal and policy framework

The Programme of Prime Minister Antti Rinne's Government 2019 states the following:

A working capacity programme for people with partial work capacity will be implemented to ease access to employment. Pilot projects for the deployment of effective services and schemes will be launched as part of this programme. The rehabilitation system will be redesigned based on the proposals of the rehabilitation committee.

Career and guidance services will be improved not only for unemployed persons, but also particularly for those returning from extended family leave and for older employees. Working career guidance will also be increased for employees, entrepreneurs and the self-employed.