

FINLAND

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?
Fully satisfactory ☐ Adequate ☒ Insufficient ☐ Absent ☐

Please explain your reply.

Based on the Recommendation, and bearing in mind that the rights of LGBTI-people are defined in the Government Report to Parliament on the Human Rights Policy of Finland (2009) as one of the priorities of Finland's human rights policy, the Ministry for Foreign Affairs of Finland has set up a cross-sectoral working group on LGBTI-issues. The task of the working group has been to consider which measures the report and the recommendation would call for, to promote and monitor these measures and to inform about issues related to this minority. The working group also coordinates the work done in different fields of the administration. This working group has also prepared the answers to this questionnaire. The working group was led by the Unit for Human Rights Policy of Ministry for Foreign Affairs and it has had representatives from relevant ministries and authorities as well as from two Finnish LGBTI-organizations (The members of the working group represent Ministry of Justice, Ministry of the Interior, Ministry of Defence, Ministry of Education and Culture, Ministry of Employment and the Economy, Ministry for Social Affairs and Health, National Police Board, Office of the Ombudsman for Equality, the Defence Command, NGOs Seta and Trasek, and Ministry for Foreign Affairs.

The working group has assessed the relevant national legislation and practices and discussed possible ways to promote the implementation of the Recommendation.

In the current national legislation there are especially two acts that regulate equality – the Non-Discrimination Act (*yhdenvertaisuuslaki*), which covers inter alia sexual orientation, and the Act on Equality between Women and Men (further on the Gender Equality Act, *laki naisten ja miesten välisestä tasa-arvosta, tasa-arvolaki*), which regulates issues related to gender equality. There are legislative reviews under way regarding both of these acts (see below). Although these reviews were initiated before the Recommendation was given, it influences these legislative projects.

The current Non-Discrimination Act (*yhdenvertaisuuslaki*) 6 § prohibits discrimination on the basis of sexual orientation. Section 9 stipulates that a supplier of work, property, services, education or benefits who discriminates someone on the basis of sexual orientation shall pay a compensation up to 15.000 euro to the injured party.

The Non-Discrimination Act is currently in the process of being revised. The intention is to extend the protection against discrimination so that all grounds of discrimination, including discrimination on sexual orientation, would be covered by equal means for legal protection and compensation.

The scope of the law is expected to cover all public and private activities, including the social and health sector as well as housing. Compliance with the Act in working life would most likely be supervised by the Occupational Safety and Health Authorities. Compliance with the Act in other spheres of life would be supervised by the Ombudsman for Equal Treatment and the Equality Tribunal. The Ombudsman for Equal Treatment would replace the current Ombudsman for Minorities and the Equality Tribunal would replace the current Discrimination Tribunal and the (Gender) Equality Board.

The Gender Equality Act regulates matters related to gender equality. The scope of application of the act is general. Outside the scope are actions relating to religious practices of religious communities and relationships that belong to the area of private life. The Gender Equality Act covers discrimination inter alia in employment, education and provision of goods and services.

The Gender Equality Act also sets out remedies in relation to gender discrimination. Essential remedies are supervision, instruction and counselling by the Ombudsman for Equality, and the Equality Board, which under penalty of a fine, can ban inter alia employers from continuing or renewing a discriminatory action. Also the victim of discrimination can plead his or her case before a district court (as a first instance) demanding compensation.

The Parliamentary Committee on Employment and Equality stated in its report (TyVM3/2005 vp) that the regulations in the Gender Equality Act have to be interpreted consistently with the opinion by the EU court, so that it covers also discrimination based on gender reassignment. According to the instructions given by the Ombudsman for Equality, the scope of application of the Act is even wider, including all trans and intersex persons, until this issue is clearly defined in legislation.

The parliament has required that the government prepares a proposition on the amendment of the Gender Equality Act so that inter alia the protection of trans and intersex persons will be included in the Act. The reform of the law is currently under way and it will cover broadly discrimination based on gender identity and gender expression. Discrimination based on sexual orientation will continue to be covered in the Non-Discrimination Act (*yhdenvertaisuuslaki*).

The Conscription Act (*asevelvollisuuslaki*) 56§ prohibits discrimination on age, origin, language, religion or conviction, opinion, state of health, disability, gender, sexual orientation or on other grounds related to an individual.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?
- a. ☐ b. x c. ☐ d. ☐ e. ☐

Please explain and, if appropriate, provide examples of any such measures found:

The Office of the Ombudsman for Equality has published a report on the rights of trans and intersex persons. The Ombudsman for Equality wanted to investigate how trans and intersex persons find themselves in a worse position than others especially in terms of provisions pertaining to various sectors of life and their application. Various authorities and organizations representing trans and intersex persons were interviewed for the report. The report highlights not only the general lack of awareness and factual information but also several problems faced by trans and intersex persons, including discrimination.

The cross-sectoral working group on LGBTI-issues mentioned in answer 1 has reviewed mainly existing legislation and to some extent also other measures which could directly or indirectly result in discrimination based on sexual orientation or gender identity.

Are there measures in place to redress any such discrimination?

a. x b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices :

There are measures, but their scope varies. For further details see answers 1 and 5. There are legislative reviews under way regarding both the Gender Equality Act and the Non-Discrimination Act.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?

a. x b. ☐ c. ☐ d. ☐ e. ☐

If appropriate, please provide examples of measures adopted or in preparation.

The National Action Plan on Fundamental and Human Rights was adopted by the Finnish Government in 2012. The Action Plan notes the need for formal coordination mechanism for LGBTI-issues. It also states i.e. that in the reform of the Gender Equality Act one of the aims is to include provisions on the protection of trans and intersex persons.

The Ombudsman for Equality has commissioned a report on the status of trans and intersex persons, laying the groundwork for the development of gender equality policy from the perspective of trans and intersex persons. According to the Government Action Plan for Gender Equality 2012 - 2015 the status of trans and intersex persons and the need to improve it will be further explored (by the Ministry of Social Affairs and Health).

Based on the Recommendation the Ministry for Foreign Affairs set up a cross-sectoral working group tasked to follow and promote the implementation of the recommendations nationally. The working group has also prepared Finland's answers to this questionnaire. For further details, see answer 1.

The reviews of two acts, the Non-Discrimination Act (*yhdenvertaisuuslaki*) and the Gender Equality Act (*tasa-arvolaki*) are under way. The review processes started already before the recommendation was given, but the recommendations will be taken note of in the review processes.

In the revision process of the Non-Discrimination Act (*yhdenvertaisuuslaki*) the intention is to extend the means for legal protection to cover all grounds for discrimination on an equal footing. The Ombudsman for Equal Treatment would replace the current Ombudsman for Minorities and the mandate of the Ombudsman would be broadened to cover also sexual orientation. A new Equality Tribunal would replace the current Discrimination Tribunal and its mandate would be broadened to cover all discrimination grounds, including sexual orientation.

In the revision process of the Gender Equality Act (*tasa-arvolaki*) provisions will be added to protect trans and intersex persons against discrimination and to promote their equality.

For further details see answers 1 and 5.

The provision regarding aggravating circumstances when issuing punishments of the Finnish Criminal Code was revised in 2011. The provision now explicitly mentions sexual orientation. For further details see answer 10.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?
- a. ☐ b. x c. ☐ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

- a. ☐ b. x c. ☐ d. ☐ e. ☐

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

Statistics on judgments on hate oriented-crimes are compiled by the Legal register centre. These crimes are discrimination, incitement to discrimination and war crimes. In these crimes sexual orientation is mentioned as one of the constituent hate-element of an offence. The statistics cover however only the crimes in question and don't specify the eventual motives.

There is a follow-up process through which data-acquisition is developed in order to make it possible to assess discrimination experienced by LGBTI-persons. Also so called YES-project (see answer 33) has analyzed to what extent LHBTI-youth have experienced discrimination.

At the beginning of 2008 the Ministry of the Interior established a Discrimination Monitoring project to gather information on the realization of non-discrimination in various population groups. The Finnish Action Plan for Monitoring of Discrimination 2010–2013 was published by Monitoring Group for monitoring of Discrimination in January 2010. The purpose of the system is to provide current, objective information on the prevalence, nature, basis and consequences of discrimination in Finland. Discrimination is being monitored over the period from 2010 to 2013 through annual discrimination studies analyzing various areas of life and covering all grounds for discrimination (including LGBTI-groups). The Discrimination in Education and Leisure Time -study, which was part of the national discrimination monitoring and published in 2010 focused especially on the discrimination experienced by young people belonging to sexual and gender minorities during secondary education.

The national non-discrimination project YES – Equality is a Priority has also published studies with LGBT-focus. The study called *Yhteiset kentät* (shared fields) brought new evidence on homophobia in the field of sports in year 2012 and the study *Kuka ei kuule joukkoon* gathered the experiences of youngsters with LGBT-background in year 2010.

The Police College of Finland publishes a yearly report that reviews suspected hate crimes reported to the police in Finland. For the purpose of the statistics, hate crime has been defined as a crime

against person, group, property or institution motivated by prejudice or hostility towards the victim's ethnic or national origin, religion, sexual orientation or disability. The statistical report looks into the potential motives of the crimes (e.g. sexual orientation). The results of the research of the Police College related to hate crimes have been used for example in the planning of different kinds of actions against hate motivated crimes. Events and education in order to advance equality of LGBTI persons have also been organized. The police has also developed compilation of statistics on hate crimes. Instructions on classification of hate crimes in the police data system was given in 2012. The classification also takes into account LGBTI persons.

The Defense Forces follows discrimination on the basis of sexual orientation based on an equality survey. In the survey the repliers are asked whether they have s experienced discrimination based on sexual orientation. The survey was for carried out the first time in the summer of 2011 as part of a broader study on equality, the final report of the study was finished June 2012. In the future surveys will be carried out every three years. There is also a separate equality survey for conscripts, which is carried out on a regular basis. The obligation to interfere in cases of discrimination is regulated in a norm; (Preventing and dealing with inappropriate people of employed personnel in the defence force, *Palkatun henkilöstön epäasiallisen kohtelun ehkäisy ja käsittely puolustusvoimien työpaikoilla*) covers employed personnel. There is a separate directive related to conscripts about preventing bullying. Instructions and advice about what to do is given both to supervisors and the people that have been discriminated against or bullied.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?
- a. ☐ b. x c. ☐ d. ☐ e. ☐

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

- a. ☐ b. ☐ c. x d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See answers 1 and 3 for further information of the available compensation for victims and the review processes that are under way.

In the review of the Non-Discrimination Act the intention is to broaden the scope of application of the compensation and widen the mandate of the Ombudsman and the Tribunal. Compensation for discrimination could be sought from public authorities, provider of work or education or from provider of goods and services in relation to all discrimination grounds prohibited in the Act. In addition, the upper limit for maximum compensation would be removed. The mandate of the current Minority Ombudsman and the current Discrimination Tribunal would be broadened to cover all discrimination grounds prohibited in the Act, including sexual orientation. This would mean improving the legal remedies available for persons belonging to sexual minorities since the current mandate of the Ombudsman and the Tribunal cover only discrimination on ethnic origin.

Ongoing research project which is part of the national discrimination monitoring systems collects the data on access to justice and evaluates the legal remedies available for victims of discrimination in practice. This study will bring new information also on the use of legal remedies within the LGBTI-community in Finland.

In the revision process of the Gender Equality Act (tasa-arvolaki) provisions will be added to protect trans and intersex persons against discrimination and to promote their equality. This amendment would clarify that the legal remedies of the Act cover also discrimination based on gender identity and gender expression. Essential remedies are supervision, instruction and counselling by the Ombudsman for Equality, and the Equality Board, which under penalty of a fine, can ban inter alia employers from continuing or renewing a discriminatory action. Also the victim of discrimination can plead his or her case before a district court (as a first instance) demanding compensation.

Criminal Code includes a general provision on discrimination. According to this section a person can be held liable for discrimination if he or she in his or her trade or profession, service of the general public, exercise of official authority or other public function or in the arrangement of a public amusement or meeting, without a justified reason refuses someone service in accordance with the generally applicable conditions, refuses someone entry to the amusement or meeting or ejects him or her or places someone in a clearly unequal or otherwise essentially inferior position owing to his or her race, national or ethnic origin, skin colour, language, sex, age, family ties, sexual orientation, inheritance, disability or state of health, or religion, political orientation, political or industrial activity or another comparable circumstance. The punishment is a fine or a maximum penalty of six months imprisonment. Sexual preference is specifically mentioned in the provision. Gender identity however is not mentioned as such but it could fall under the comparison clause "or other comparable circumstance" (see also answer 10 regarding the Criminal Code provision on aggravating circumstances). Criminal Code includes also a specific provision on discrimination in Employment in which sexual orientation is specifically mentioned but not gender identity. In provision gender identity could fall under the comparison clause "or other comparable circumstance".

Furthermore, the Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime has been adopted 2012 and Member State have three years to adopt the necessary national provision. A working group will be established to adopt the necessary measures and the possible impacts, including impacts on sexual minorities will be assessed.

Generally speaking no substantive active measures have been taken to raise awareness and facilitate access of victims to the remedies available. The working group on LGBTI-issues is also trying to find solutions to this issue.

Trans and intersex persons have, however, been in contact with the Office of the Ombudsman for Equality, so it seems that they are becoming more and more aware of this possibility. In courts the Gender Equality Act has been applied at least once in a case related to discrimination based on gender reassignment.

An information bulletin published by the Defence Forces which is part of a nationwide equality scheme informs the personnel and conscripts about all available legal remedies related to different kind of cases of discrimination.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

Several ministries and authorities are responsible for different parts of the recommendation, so coordination is a challenge. The working group mentioned in answer 1 has been led by the Ministry for Foreign Affairs. The MFA is however not one of the ministries with the main responsibility for the

implementation of the Recommendation. The lack of a formal coordination mechanism for these issues has been noted in the Finnish National Action Plan on Fundamental and Human Rights published in 2012 and the matter will be discussed further by a cross-ministerial network for coordination of Human rights issues set up through the action plan.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?
a. x b. ☐ c. ☐ d. ☐ e. ☐

The Recommendation has been translated into Finnish. The Recommendation has also been translated into Swedish by Sweden.

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The Ministry for Foreign Affairs has translated the Recommendation into Finnish. Sweden has translated the Recommendation into Swedish, so at least at this point Finland has not translated the recommendation into Swedish. There are however some term differences in Swedish spoken in Finland and in Sweden.

Every ministry has the responsibility to inform the public in its own field. The Recommendation is available on the MFA web page in Finnish. On the web page there's also a link to the Government of Sweden's translation of the Recommendation in Swedish. MFA has also distributed material at Helsinki Pride.

The working group mentioned in answer 1 has also been a platform where different means of active information sharing have been discussed. The Ombudsman for Equality organized a seminar in 2011 about the equality and human rights of trans and intersex persons. The Ombudsman has drafted a report (also available on the internet) on the situation of gender minorities and the Recommendation is attached to the report. Furthermore, the Ministry for Foreign Affairs arranged a seminar in 2012 in order to raise awareness about LGBTI-issues, including the Recommendation.

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?
a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Finnish national legislation does not define the term *hate crime*. These crimes, however, include for example agitation against a specific group, including in an aggravated form, discrimination in the Criminal Code and employment discrimination.

There are no specific measures in place to ensure effective, prompt and impartial investigation into these specific crimes and other incidents, but there are general measures in place to ensure effective, prompt and impartial investigation in all crimes. Nevertheless, when specifically

investigating hate crimes (including crimes, where the motive is related to sexual orientation or gender identity), the target group and special characteristics related to these crimes are taken into account.

If there is a suspicion that a public authority, e.g. a police officer, has behaved inappropriately or failed to fulfil his duties, a complaint can be filed to the Parliamentary Ombudsman or Chancellor of Justice of the Government. They are supreme guardians of law and exercise oversight in order to ensure that public authorities and officials observe the law in the line of duty. The police also has its own system of oversight, and in case there is suspicion of a crime committed by a police officer, criminal procedures can be started and a public prosecutor will be in charge of the investigation.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?
a. x b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?
a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In certain cases The Finnish Criminal Code recognizes aggravating circumstances when issuing punishments. The provision addressing aggravated circumstances was revised in 2011. It mentions the following possible aggravated circumstances relating to the motive of the crime; race, colour, descent, ethnic or national origin, religion or conviction, sexual orientation, disability, or other corresponding grounds. Gender identity is not specifically mentioned in the section. However, in the Government Bill in which the content of this section is described in detail it is stated that gender minorities, such as transgender persons, can be seen as falling under the comparison clause "or other comparable grounds". Already under the previous Criminal code, which didn't specifically mention sexual orientation as an aggravating circumstance, the Helsinki District Court considered it as one in a case regarding Gay Pride in Helsinki 2010.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?
a. ☐ b. ☐ c. x d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are no specific measure related to victims and witnesses of sexual orientation- or gender identity-related crimes and incidents. Authorities, such as police officers that meet the victims in different phases of the investigation, play a crucial role in encouraging the victims to report crimes, so educating the authorities, including the police, is a core question (see answer 12).
There is information available on the police web page about hate crimes and what to do when one encounters hate speech or wants to report a hate crime. Within the police there are specific internet police officers, who can be contacted through internet, in order to make the first contact easier. Their mandate is broad and not limited to or specifically targeted to hate crimes. Within the police there is net tips system in the internet. People can inform police through "net tips" pages about e.g hate crimes.

It is possible to report a crime anonymously, but litigants or witnesses cannot stay anonymous in pre-trial investigation.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?

a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The police is given both basic and advanced training. This includes training on human rights issues. Partly the training on LGBTI issues has been given in cooperation with representatives from LGBTI organizations. There is a yearly seminar on police and human rights, the agenda of which includes inter alia hate crimes. Special attention is given to encountering vulnerable groups in all police action and investigating crimes related to them.

There are no special units or contact persons for specific groups. There is, nevertheless, a person in charge of this issue placed in the National Police Board.

In the education of judges the equality of all parties is highlighted. Judges are instructed in how to support victims and witnesses during the process, regardless of the offense. There is specific education available about sex crimes and in which also sexual and gender minorities are dealt with.

The education of the personnel of Criminal Sanctions Agency (*rikosseuraamuslaitos*) is based on the Imprisonment Act which regulates enforcement of sentences. According the Act all prisoners shall be treated equally (also sexual orientation is mentioned as a ground for discrimination). The basic 13 month education of the personnel covers takes fundamental and human rights, as well as the ethical principles of the Criminal Sanctions Agency. This education also covers specific questions relating to the treatment of prisoners belonging to different kinds of minorities as well as the dynamics in the prison community. Practical education about how to behave in different kinds of difficult situations is included in the education.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

a. ☐ b. ☐ c. x d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See answer 12. The issue of how to deal with prisoners belonging to specific groups is taken up in the education of prison officials. The Safety and dignity of all prisoners or people who in other ways are deprived of their liberty, is a core value in criminal sanctions field. Also the principle of discretion is exercised for example in relation to body search or physical examination. The background and situation in life of a convicted offender is analyzed by an assessment centre of criminal sanctions agency before the imprisonment. The prisoners are placed in different institutions and assigned to different activities based on this evaluation and individual sentence plan prepared by the assessment unit. The convicted offender is heard during the process. If he/she takes up his/her sexual orientation during the process, it will be taken into account when in the prison. Prisoners are placed to institutions based on their personal identity code, which includes

information of gender. However, when prisoners are placed in different units in prison the external habitus and prisoners' own requests are carefully taken into account.

There are different kinds of measures in place in order to prevent violence in prisons. They are mainly related to locating the prisoners so that they won't be in contact with one another, if this could endanger their security. Violence in prisons is registered and handled in prison and taken to the police for further investigation in accordance with the law. Also health care personnel in the institutions compile statistics on violence. There are several independent systems available for a prisoner who has become a victim of inappropriate behaviour or an offense to take his case forward, should the offender be a member of the personnel or a fellow prisoner.

14. Have appropriate measures been taken to combat all forms of "hate speech" against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

- a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

As mentioned in earlier answers, Finnish national legislation does not define a *hate crime* or *hate speech*. An example of *Hate speech* is nevertheless agitation against a specific group, which is punishable by up to 2 years' (4 years, when occurring in an aggravated form) imprisonment. In the definition of the crime of agitation, sexual orientation is explicitly mentioned. The definition includes the notion of "*similar kind of grounds*", which can be seen as also covering gender identity. In fact, in the Government Bill, in which the content of this provision is described in detail, it is stated that gender minorities, such as transgender persons, can be seen as falling under comparison clause "other comparable ground". There is, however, no case law available about this question.

The police starts an investigation, when there is reason to suspect that a crime has been committed. The crime of agitation against a group is prohibited in all media, including the internet. At least one judgement has been rendered (in 2011) where a person was convicted of agitation against homosexuals on the internet.

The police has been involved in developing rules of conduct for internet service providers. Legislation also gives certain possibilities to remove content from the internet, and in this regard also hate speech is covered.

All authorities are obliged to make a plan concerning ethnic equality. The Ministry of the Interior gives further recommendations on the plans. In the current recommendations it states that a plan will be more useful should it also cover other grounds, such as sexual orientation. The equality plan of the Defence Forces e.g. prohibits hate speech and obliges supervisors to interfere, should this occur. There are specific instructions for victims and supervisors on how to solve the issues.

II. Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

There are no exceptions or limitations in this regard. In Finland all associations have the right to register in the register for associations governed by the National Board of Patents and Registration of Finland. All associations are treated equally and the extract from the register for association does not mention the purpose of the association. Anyone dissatisfied with a decision taken by the Board of Appeal may appeal against it to the Supreme Administrative Court by filing a written appeal within 60 days of receipt of service.

LGBT-organizations are eligible to receive public funding from Finland's Slot Machine Association (*Raha-automaattiyhdistys*) without discrimination. This public funding for charity purposes has long traditions. For example the NGO Seta receives yearly over 500.000 € for different activities from FSMA. The funding includes both general funding, project funding, and funding for *Transtukipiste* (Trans support centre) which gives guidance for transgender and intersex people and their intimates. In addition another NGO Trasek receives annually less than 5000 € from FSMA. This general funding is channelled through an umbrella organisation the Finnish Union of Patients (Suomen potilasliitto).

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?
- a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are no specific measures for protecting explicitly the defenders of human rights of LGBTI-persons. See answers 9 and 36 about oversight. The existing mechanisms to oversee the activities of all authorities give a safeguard to everyone should e.g. a police officer be reluctant towards investigating a crime, or an authority be suspected of committing a crime.

In the education of judges specific attention is paid to ensuring the equality of all parties involved in criminal proceedings. Already under the previous Criminal Code, which didn't specifically mention sexual orientation as an aggravating circumstance (which it now does), The Helsinki District Court applied it its verdict in a case regarding an attack at Gay Pride in Helsinki 2010.

As regards the Finnish representations abroad and visa-practices, the MFA has taken note of the EU LGBT toolkit and the Guidelines concerning Human Rights Defenders, which recommend inter alia visiting prisons and following trials. The MFA shall find out to which extent the recommendations are applied, and consider whether there is a possibility to grant fast visas.

Granting Schengen visas is rather rapid always, so there is seldom need for expedited processes. So far there have been no cases regarding LGBT human rights defenders, where it would have been necessary to differ from the normal process.

17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?
- a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

All ministries are responsible for conducting consultations with NGO:s on their own fields of action. LGBT-organizations have been involved in the preparation of the government policy against discrimination. Participation has been enhanced for example by adopting an NGO strategy. LGBT-organizations have been involved also in working groups, such as the LGBTI working group mentioned in answer 1. Some of the working groups also prepare legislation. The organizations have inter alia been heard officially in the preparation of legislation which has an impact on the human rights of LGBTI-people, such as in the preparation of the reforms of Gender Equality Act and Non-Discrimination Act and in the preparation of the Act on Confirmation of the Gender of a Transsexual (*laki transseksuaalin sukupuolen vahvistamisesta*) from year 2002. An LGBT-organization has been involved in the advisory board for international human rights, which is an advisory organ for the Ministry for Foreign Affairs.

III. Freedom of expression and peaceful assembly

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?
- a. x b. ☐ c. ☐ d. ☐ e. ☐
- Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

The organiser of a public meeting, such as a demonstration, has to notify the police before the meeting, but no permission is required. There are no limitations on the purpose of a peaceful assembly. There are no exceptions related to freedom of expression or assembly dealing with sexual orientation or gender identity; the same rules apply for everyone. See answers 9 and 36 about oversight (inter alia the police).

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The police is obliged by law to ensure the right to peaceful assembly. The police aims to prevent infringements of the right to peaceful assembly by cooperating with the organizers of an event beforehand, and interferes if there are infringements during the event itself.

When there has been reason to suspect that a crime has been committed, the police has investigated the issue. For example the attack on Helsinki Pride 2010 was investigated and three offenders were convicted in court.

IV. Right to respect for private and family life

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Same-sex sexual activity is not criminalized in Finland. The age of consent defined in the Criminal Code is gender neutral and it applies to everyone regardless of gender, sexual orientation or gender identity. The same applies to other sections in chapter 20 of the Criminal Code which regulates sex offences.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples of exceptions to this principle, if any:

Measures in place:

The Constitution of Finland (*perustuslaki*) guarantees everyone's right to private life. The Personal Data Act (*henkilötietolaki*) stipulates the protection of personal data in detail, including general prerequisites for processing of personal data, the purpose limitation, the conditions for collecting personal data (f.ex. *necessity requirement*) and the rights of data subject.

The processing of sensitive data is prohibited by the Act (e.g. sexual orientation and sexual behaviour are defined as sensitive data). Exceptions to prohibition to process sensitive data are explicitly laid down in the Act, for example a health care unit or a health care professional may process such data collected in the course of their operations and relating to the treatment or other measures directed at the data subject. According to the Act sensitive data shall be erased from the data file immediately when there no longer is a reason for its processing.

The Act on the Status and Rights of Patients (*potilaslaki*) and the Ministerial Decree on Patient Records stipulate that data regarding a patient's sexual orientation or gender identity can be collected and stored when it is relevant information for the treatment of the patient (such as gender reassignment treatment).

The Population Information Act (*lakiväestötietojärjestelmästä ja väestörekisterikeskuksen varmennepalveluista*) stipulates in detail in which limited situations information about gender reassignment or previous first names and previous personal identity code can be disclosed.

The Data Protection Ombudsman (*tietosuojavaltuutettu*) and the Data Protection Board (*tietosuojalautakunta*) are the independent authorities responsible for supervising the use of personal data. The Office of the Data Protection Ombudsman is not aware (through requests or otherwise) of personal data mentioned in Paragraph 19 of the appendix to the Recommendation having been collected, stored, used by the authorities in a way contrary to the law.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. ☐ b. x c. ☐ d. ☐ e. ☐

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The relevant requirements for legal recognition of a gender reassignment are currently the following: he or she

1) provides medical clarifications that he or she permanently feels that he or she belongs to the opposite gender and lives in the corresponding gender role as well as that he or she has been sterilised or is for some other reason incapable of reproducing; 2) is above 18 years of age; 3) is not married or in a civil partnership; and 4) is a Finnish citizen or has residence in Finland. Section 2 of the same Act provides for exceptions from the marital status requirement. A marriage or a civil partnership does not prevent the confirmation of gender if the spouse or the partner personally gives his or her consent to it before a local Register Office. When belonging to the opposite gender is confirmed, a marriage is turned *ex lege* into a civil partnership and a civil partnership into a marriage. This modification shall be noted in the population register.

The Ministry of Social Affairs and Health is going to start a working group in order to examine, whether there is need to review the Act on Confirmation of the Gender of a Transsexual (*laki transseksuaalin sukupuolen vahvistamisesta*). The Office of the Ombudsman for Equality has published a report on the rights of trans and intersex persons. The recommendations made in the publication are being considered by the Ministry.

The Ombudsman for Equality and authorities related to occupational health and safety have given a common recommendation that employers would give new letters of reference to people who have gone through gender reassignment, with new personal data.

The Ministry of Education and Culture has recommended in a letter that study certificates should be given under new name and personal identity code, when necessary due to gender reassignment. The Ministry is currently renewing this recommendation.

The Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, stated in his report following his visit to Finland June 2012 that the practice of stipulating infertility and non-marriage as requirements for the official recognition of gender reassignment should be abolished.

The legal provisions relating to the legal recognition of gender reassignment (Population Information System, personal identity code, changing one's name, obtaining a new personal health insurance card) are clear. Nevertheless, for example in a case when a person is married or in a civil partnership and the spouse or partner does not give his or her consent, the situation is more complex. The European Court of Human Rights gave a judgment in case H. v. Finland (37359/09) in November 2012 relating to this kind of a situation, where the court nevertheless ruled that there had been no violation of Articles 8 or 14 of the Convention.

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

After gender reassignment has been completed and legally recognised, he or she is covered by the same rules as a person born male/female and has the same right to marry a person of the sex opposite to theirs.

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?
- a. ☐ b. x c. ☐ d. ☐ e. ☐

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples:

In Finland national legislation recognises registered same-sex partnerships. Generally speaking the registration of partnership shall have the same legal effects as the conclusion of marriage. The exceptions to this rule are mentioned in Article 9 of the Act on Registered Partnerships. The exceptions concern e.g. establishment of paternity on the basis of marriage and provisions of the Names Act on the family name of a spouse. Provisions of the Adoption Act relating to conditions concerning spouses are not applied to registered partnerships. However, a partner can adopt the child of the other partner and the adoption is governed by the rules of the Adoption Act that concern conditions and legal effects of adoption when the adoptee is a child of the other spouse.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In all decisions and other measures concerning the parental responsibility and adoption of a child the best interest of the child is the paramount consideration. This is also stipulated by the relevant legislation.

Unmarried persons can adopt children individually regardless of gender identity or sexual orientation of the adopter.

V. Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

a. x b. ☐ c. ☐ d. ☐ e. ☐

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

a. x b. x c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

i) Access to employment

a. x b. ☐ c. ☐ d. ☐ e. ☐

ii) Promotion, dismissals, pay and other working conditions

a. x b. ☐ c. ☐ d. ☐ e. ☐

iii) Prevention and punishment of harassment

a. x b. ☐ c. ☐ d. ☐ e. ☐

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See answers 1, 3 and 5 about the scope, measures and review processes of Non-Discrimination Act (*yhdenvertaisuuslaki*) and the Act on Equality between Women and Men (further on the Gender Equality Act, *tasa-arvolaki*).

In the Non-Discrimination Act both direct and indirect discrimination, harassment, and incitement to discriminate are prohibited. The Non-Discrimination Act is applied to public and private matters when relating to employment, work conditions, terms of employment, personnel training or career advancement.

Further prohibitions concerning discrimination are included in legislation such as the acts on employment and civil service relationships, which apply alongside the provisions of the Non-Discrimination Act.

State Civil Servants Act 11 § regulates of non-discrimination in the public sector (central government). The employer is not allowed, without due course, to put civil servants in different positions due to descent, ethnic origin, nationality, gender, sexual orientation, religion, conviction, disability, age, trade union activity or any other factor equivalent to these.

Furthermore, there are specific regulations on discrimination regarding local government, as well as maritime work.

The Employment Contracts Act (55/2001) contains a provision including prohibition of discrimination and equal treatment in Chapter 2 Section 2: "The employer shall not exercise any unjustified discrimination against employees on the basis of age, health, national or ethnic origin, nationality, sexual orientation, language, religion, opinion, belief, family ties, trade union activity, political activity or any other comparable circumstance.

The Occupational Safety and Health Authorities oversee the compliance of the Non-Discrimination Act and the Contracts of Employment Act. The Ministry of Social Affairs and Health's labour protection unit has issued instructions to labour protection authorities concerning the supervision of work related discrimination. Instructions aim at clarifying and streamlining of supervision methods.

The Gender Equality Act (8 §) covers discrimination inter alia in employment, salary, other terms of contract, supervision, assignment, dismissal, transfer, lay-off, or other working conditions. It is possible to claim compensation. It is also discrimination, if an employer doesn't take measures in order to remove harassment, when he or she finds about it. The Ombudsman for Equality has stated that the scope of application of the act includes people belonging to gender minorities, until this issue is clearly defined in legislation (see the interpretation in detail in answer 2).

For example the Finnish defence forces' national plan for equality and non-discrimination (*tasa-arvo- ja yhdenvertaisuussuunnitelma*), published in 2007, prohibits all kinds of discrimination and discriminative behaviour. The plan obliges all work places within the armed forces to evaluate possible issues relating to discrimination and to draw up local plans with instructions on how to resolve problems which may occur. Information material for employees and conscripts about training has been made, taking into account the principles of equality and non-discrimination. Guidelines, pertaining to paid staff, to eliminate discrimination and other inappropriate treatment are laid down in a norm (*Palkatun henkilöstön epäasiallisen kohtelun ehkäisy ja käsittely puolustusvoimien työpaikoilla*). Guidelines to prevent bullying of conscripts are also included. In both cases recommendations for courses of action are given to staff supervisors and to persons experiencing bullying. Principles for non-discrimination are also written into the general service regulation (*palveluohjesääntö*) which is the main code regulating behaviour in military service.

VI. Education

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

a. ☐ b. x c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids

a. ☐ b. x c. ☐ d. ☐ e. ☐

- ii) Information, protection and support for pupils and students

a. ☐ b. x c. ☐ d. ☐ e. ☐

- iii) Objective information on sexual orientation and gender identity in school curricula?

a. ☐ b. ☐ c. x d. ☐ e. ☐

- iv) School equality and safety policies and action plans

a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Non-Discrimination Act and the Gender Equality Act obligate authorities to promote equality and non-discrimination systematically. According to the Gender Equality Act, all schools/educational

institutions excluding basic education are required to draft an equality plan that aims at improving the school's/educational institutions' functions. Some higher education institutions have made combined equality and non-discrimination plans in which LGBT issues are explicitly taken into account.

The Gender Equality Act prohibits discrimination in education (8b §) . It is possible to seek compensation for discrimination. Also sexual harassment or harassment based on gender is prohibited. The specific provision (8b §) is not applied in basic education, but the general provision prohibiting discrimination (7 §) mentioned above is.

Several projects have been arranged in different levels of education as well as teachers' education relating to LGBTI-issues. Good examples of this are e.g. project SUMO about gender neutral methods in teachers' education, a project on sexual and gender minorities in primary health care , and TASUKO project (Equality and gender awareness in teacher education).

The laws guarantee a safe learning environment, which covers bullying in schools (Basic Education Act 628/1998, Secondary Academic Education Act 629/1998 and Secondary Vocational Education Act 630/1998.)

The national core curriculum for basic education is being renewed. It will come into force in 2016 and will include LGBTI people better than the current one.

The Ministry of Education and Culture has recommended in a letter that study certificates should be given under new name and personal identity code, when necessary due to gender reassignment. The Ministry is currently renewing this recommendation.

VII. Health

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?
- a. ☒ b. ☒ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

On the basis of the constitution, the Health Care Act (*terveydenhuoltolaki*) and the Act on the Status and Rights of Patients (*potilaslaki*) health care services are non-discriminatory. The Act on the Status and Rights of Patients states that health care services are given in consensus with the patient. The Ministry of Social Affairs and Health has published an action plan for 2007-2011 concerning the promotion of sexual health and reproductive health (*Seksuaali- ja lisääntymisterveyden edistämisen toimintaohjelma 2007-2011*).

The action plan aims to ensure that adequate knowledge on sexuality, sexual health and reproductive health are included in the basic degrees' (including matriculation examination) of professionals working in the field of social and health care services. It further ensures that students studying for professions in this field are given the advanced knowledge on sexual and reproductive health, and that they are trained to provide sexual consulting.

Sexual health in health care education curricula, especially in tertiary education, has been developed and is included in the required courses. Sexual diversity is taken into account in tertiary level polytechnics' (*ammattikorkeakoulu*) courses and in the minimum requirements relating to medical education.

It is noted in the midterm evaluation measures to strengthen professionals' understanding and considering of specific themes relating to LGBTI-issues. In order to achieve the above-said, broad and systematic education and high-quality study materials are needed. Study materials have been produced by NGOs (for example HIV Foundation). SETA has produced material to improve knowledge about diversity of gender and sexual orientation.

The action plan states that sexual counseling is integrated into regular health care services. Counseling is done in an equal manner based on person's need regardless of his/her gender, age, cultural background or other personal qualities. Every health centre has at its disposal at least one employee who has received further training on sexual counseling and has the ability to counsel specific groups such as sexual minority groups and gender minority groups.

In sexual consultation services the needs of minority groups are taken into account so that persons belonging to sexual minority or gender minority have the possibility to receive consultation within their local social and health care services. Furthermore it is ensured that employees of social and health care services and municipal services are able to direct persons belonging to sexual minority or gender minority to services provided by different organizations.

Government's decree school and student health care (338/2011) states that services promoting sexual health (including the support for sexual and gender orientation) are part of health care provided to students (*opiskeluterveydenhuolto*).

On the basis of Government's decree on psychiatric and endocrinological examinations, the initiation of treatment and genital surgery (excluding the removal of womb and ovaries) are done at Helsinki University Hospital. Psychiatric and endocrinological examinations and medical treatment are also done at Tampere University Hospital. This arrangement is there to ensure that the national medical expertise can be utilized in an optimal manner. Examinations and treatments are available and these are included in the national statutory care guarantee (*hoitotakuu*).

29. Has homosexuality been removed from the national classification of diseases?

a. x b. ☐ c. ☐ d. ☐ e. ☐

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

a. x b. ☐ c. ☐ d. ☐ e. ☐

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

The health insurance scheme does not involve any particular restrictions regarding gender reassignments but the general provisions all people are applied to them. The decisions on reimbursement are based on medical evaluation of the necessity of the treatment. Treatments that are deemed necessary will be reimbursed. In regard to hormonal treatment the entitlement to reimbursement starts after the person has been provided with a new personal identity code

consistent with his or her new gender. Surgical operations that are purely esthetic surgery are not reimbursable under the health insurance scheme, and therefore esthetic surgery operations performed after a gender reassignment surgery are not reimbursable under health insurance.

VIII. Housing

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property, ?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

On the basis of Non-Discrimination Act it is possible to take action in cases of discrimination in housing. The Act covers all publicly available housing units excluding those juridical acts which belong to the sphere of private life and domesticity. Thus, regarding publicly available apartments, it covers all government subsidized rented apartments, apartments owned and rented by municipalities and other communities, and some of the privately owned rented apartments.

In general issues relating to housing belong to the administrative authority of the Ministry of the Environment. However in cases where there is also need for special services, or the lack of residence threatens social well-being or one needs special support in obtaining a residence, the administrative authority belongs to the Ministry of Social Affairs and Health. The Act on Social Welfare (*sosiaalihuoltolaki*) states that municipalities must provide social services to deal with the above-mentioned issues. The premise for social services is the best interest of the customer and the need for service. The personnel in social services have also gotten training in this issue. Due to lack of resources some municipalities are not always able to meet the demand of services.

All applicants are treated equally when they apply for apartments granted on social grounds, i.e. government subsidized rental apartments. Factors that are taken into account in the selection process are the assessed need for an apartment, household income and other assets. Even though income limits have been removed from the selection process, the above-mentioned factors are used in the resident selection process. Ministry of the Environment has not been informed of discrimination cases based on either sexual orientation or gender identity in government subsidized rented apartments.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?
- a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In housing services targeted to the homeless people discrimination based on sexual minority status has not appeared as a problem. One contributing factor to this is Finland's effort to cease using shared accommodation, such as hostels and shelters, as a form of temporary accommodation, and instead providing an individual room for all homeless persons also in case of temporary accommodation.

IX. Sports

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

a. ☐ b. x c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

One purpose of the Sports Act (*liikuntalaki*) is to promote equality and tolerance through sports. The state and the municipalities are responsible for providing the general premises for sports. The organizing of sports is primarily done by sports organizations.

The Ministry of Education and Culture annually hands out government grants to sports organizations. The Sports Act obliges the Ministry to take into consideration the way the organization takes into account the ethical principles of sport in its activities.

Finnish Sports Federation (FSF) (*Suomen Liikunta ja Urheilu*) is the umbrella organization for sport organizations. It receives annual state funding. It has defined the ethical principles for sport in its Fair Play (*Reilu Peli*) document. Fair Play covers the ethical ideals and goals for sports and physical activities to which the FSF and its 130 member organizations are committed to. According to Fair Play everyone has the equal right to sports and physical activities regardless of e.g. ethnicity, gender, age, disability or sexual orientation. Homophobic and transphobic yelling is in itself against sport's Fair Play code.

The FSF published a guidebook on sexual minorities and gender minorities ("*Lupa kuulua, lupa näkyä*", transl. "*Right to be heard, right to be seen*") in 2005. A broad group of sport and LGBT-organization experts took part in the making of the guidebook. The guide highlights the questions pertaining to sexual minorities and gender minorities in sport and physical activity and offers information and action models to possible problem situations (e.g. discrimination situations). The guide is intended to everyone operating in the field of sport (e.g. coaches, board members, athletes or parents) and is downloadable without charge from the internet. The guide has been used in the training of sports club personnel and it includes a separate material for educators and instructors.

In 2009 FSF, supported by EU's Youth in Action program, was a main partner in organizing a campaign called Uskalla (transl. "Dare"). Directed against homophobia, the campaign offered information on sexual minorities and gender minorities and gave support through different stories, which were all put to the campaign's web site. Sexual minorities and gender minorities were also made visible for example through a poster and post card campaign which was carried out in different sport and physical activity sites. The campaign's patron was the President Tarja Halonen.

A good example of the appreciation of the work of FSF was, when its president Timo Laitinen was nominated to Good Will Person (*hyvän tahdon lähettiläs*) on the International Day against Homophobia 2011.

Finland has ratified the European Convention on Spectator Violence and Misbehaviour at Sports Events. Finland enforces the convention and participates actively in the monitoring e.g. through reports.

Sport unions are asked to take into account in their rules of competition International Olympic Committee's policies (2004) regarding the terms for participation in sport events of persons who have undergone gender reassignment.

Ministry of Education and Culture has participated actively to EU's YES projects which are carried out in national context. One example, which was done within these projects, was the guide of equal functions of associations which was directed at sports and youth associations. Ministry has also funded the research project Discrimination of Sexual and Gender Minorities in Sports and Exercise. Information from the research will be used when defining sport policy.

X. Right to seek asylum

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

LGBTI applicants with well-founded fear of persecution are considered to belong to a particular social group according to the definition in 1951 Convention relating to the Status of Refugees. We follow the UNHCR Guidelines on these issues. The Supreme Administrative Court has on its decision 23 dated on 13.1.2012 followed the reasoning in HJ (Iran) and HT (Cameroon) v. Secretary of State for the Home Department (2010 UKC31, United Kingdom; Supreme Court, 7 July 2010) Finnish Immigration Service follows that guidance in its decision making.

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

a. x b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Credible LGBTI applicants whose life or freedom are threatened in their home country because of their sexual orientation or gender identity will be granted asylum. They are not at risk of being sent back to their country of origin.

XI. National Human Rights Structures

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. ☐ b. ☐ c. x d. ☐ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. ☐ b. x c. ☐ d. ☐ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

Parliamentary Ombudsman Act states that the Parliamentary Ombudsman oversees the constitution of Finland, courts of law, other authorities, officials, employees of public bodies and

also other parties performing public tasks. In addition the Ombudsman shall oversee the legality of the decisions and actions of the Government, the Ministers and the President of the Republic.

A Human Rights Center, founded by law, operates in connection with the office of the Parliamentary Ombudsman. According to the Parliamentary Ombudsman Act the tasks of the Human Rights Centre are:

- 1) to promote information, education, training and research concerning fundamental and human rights as well as cooperation relating to them;
- 2) to draft reports on implementation of fundamental and human rights;
- 3) to present initiatives and issue statements in order to promote and implement fundamental and human rights;
- 4) to participate in European and international cooperation associated with promoting and safeguarding fundamental and human rights;
- 5) to take care of other comparable tasks associated with promoting and implementing fundamental and human rights.

The Chancellor of Justice supervises the legality of the official actions of the Government and the President of the Republic (*valtioneuvoston oikeuskanslerista annettu laki*). The Chancellor of Justice also supervises the official actions of the courts of law, other authorities and other persons or bodies assigned to perform public tasks.

Reform of the Non-Discrimination Act is being prepared by the Ministry of Justice. In the reform supervisory authorities' (Ombudsman for Minorities, board) jurisdiction is reviewed in the manner explained in the answer to question (see answer 2 for further details).

The Ombudsman for Equality monitors the observance of the Gender Equality Act and promotes the purpose of the Act by making initiatives, giving advice and instructions. The Ombudsman for Equality does not settle individual complaints relating to discrimination; however the Ombudsman can issue a statement regarding the application of the law in an individual case or refer a case to the Equality Board (*tasa-arvolautakunta*). The Ombudsman also supervises the legal protection of trans and intersex persons against discrimination and has issued statements concerning discrimination cases against trans and intersex persons and has taken a stand on issues relating to equal treatment of trans and intersex persons. In legal praxis the Gender Equality Act has been applied once in a case concerning discrimination on the basis of gender reassignment. The ongoing reform of the Act aims at expanding the sphere of the law so that discrimination based on gender identity and gender expression would be included in an unequivocal manner in the Act. This amendment would also clarify the Ombudsman's mandate over discrimination cases of trans and intersex persons.

The current reform of equal treatment legislation aims at clarifying the cases pertaining to discrimination on multiple grounds and the legal supervision of them.

XII. Discrimination on multiple grounds

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

a. ☐ b. ☐ c. x d. ☐ e. ☐

Section III - Follow-up

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

The LGBTI issues must be mainstreamed within the Council of Europe's system and be an integral part of the organisation's work in the field of human rights in general and of non-discrimination in particular. Visible and strong support from the Secretary General, the Council of Ministers and the Commissioner for Human Rights as well as from other bodies and mechanisms within the organisation is of crucial importance in this regard.

The Government of Finland is very pleased with the pro-active role taken by the Council of Europe's LGBT Issues Unit, in spite of its very limited resources. Finland proposes that the Council of Europe take further measures to strengthen the Unit by allocating adequate and sustained financial resources and maximizing the utilization of available personnel resources to achieve the goals of the Unit. As part of its continuing support for the Council of Europe, Finland pledges to fund the secondment of an expert to the LGBT Unit for a fixed-term appointment.

The Government of Finland would like to propose for the consideration of the Council of Europe that it identifies, promotes and exchanges views on good practices related to legislative, judicial, administrative and other measures to combat discrimination on grounds of sexual orientation or gender identity and, in this regard, prepares a compilation of good practices based on the information submitted by Member States to the CDDH's questionnaire. National human rights institutions and civil society organizations should also be invited to contribute to the compilation of good practices.

The Commissioner for Human Rights has pointed out that there is too little objective data and information available to conduct a well-informed discussion on the LGBTI issues. Therefore it is important that the Council of Europe compiles, analyses and publishes data on the socio-legal position of LGBTI persons. In this context the role of ECRI could also be explored.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

The Recommendation provides a concrete tool to address discrimination against LGBTI persons on grounds of their sexual orientation and gender identity in all Member States. However, it is apparent that Member States need guidance for the realization of human rights of LGBTI persons. The Government of Finland proposes that the Council of Europe set up a systematic examination system for the implementation of the Recommendation by sending periodic (e.g. every four years) questionnaires. The periodic examination would provide up-dated information on the socio-legal position of LGBTI persons at regular intervals as well as enhance opportunities for sharing experiences, good practices, knowledge and lessons learnt between Member States.

The examination should preferably cover the whole scope of the Recommendation.

The Council of Europe should invite national human rights institutions and non-governmental organizations to contribute to the examination of the implementation.

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

The Recommendation provides an important, versatile tool for combating all forms of discrimination on grounds of sexual orientation or gender identity. The Government of Finland is of the view that the concrete implementation of the Recommendation will expand its scope of application and further improve its content. For example, in Finland the Recommendation is already interpreted expansively so that it also covers discrimination on grounds of gender expression and intersex even though these are not explicitly mentioned in the Recommendation.

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January 21, 2013

To the Council of Europe STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

Questionnaire on the implementation of the Committee of Ministers' Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity

NGO statement on the implementation of the recommendation in Finland

Attachment to the submission by the Government of Finland

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General remarks

This statement represents the views of two civil society organisations / NGOs: Seta ry – LGBTI Rights in Finland and Trasek ry.

The organisations appreciate the cooperation with the ministries within the LGBTI working group as well as the possibility to present their views in connection of the review of the Recommendation together with the government's views. The organisations comment only insofar as the government's answers require further points of view.

The authors

Trasek is a volunteer-based human rights NGO established in 1984. Trasek gives counseling and practical advice to trans and intersex persons seeking justice. Trasek is contacted for more than 70 times a year about trans and intersex persons' access to justice or access to health care.

Trasek receives indirectly minimal financial support from Finland's Slot Machine Association (RAY) a public institution distributing gambling revenues to various NGOs.

Seta is a national human rights NGO established in 1974. Seta's goal is a society where everyone can live equally, free of discrimination based on sexual orientation, gender identity or gender expression. Seta is the umbrella organization for 21 LGBTI associations all over Finland. Seta runs a Trans support center that provides individual and family counselling and peer group activities for trans and intersex persons. Seta's work is economically supported by Finland's Slot Machine Association (RAY).

Policies to advance the human rights of LGBTI people in Finland

In recent years, progress has been made in Finland regarding the inclusion of sexual orientation in some legislation and government programs. Especially the ministries of Foreign Affairs and Home Affairs have been active in advancing the mainstreaming of LGBTI policies.

However, there remains a lot to do in all sectors of government and the society. Gender identity is included only to a very limited extent in any sector. The situation of intersex persons has hardly been addressed at all by governmental programs. Local municipalities are seldom active in formulating LGBTI policies.

The answers by the Finnish ministries and authorities on the implementation of the Recommendation give generally too positive a picture on the legal situation, administrative rights and social equality of LGBTI people in Finland, especially regarding trans and intersex persons. Numerous problems remain in the implementation of the recommendation and in the human rights situation of LGBTI people in Finland at large.

In the Finnish government's response it is stated that general anti-discrimination legislation as well as the Constitution protect LGBTI people. In practice, however, it has been proven difficult especially for trans persons to access their rights based on a non-explicit legislation. An example of this is the requirements of the legislation for gender reassignment and the sometimes very broad application of the requirements especially within health care.

Another problem is the lack of explicit mandate and resources for ombudspersons to advance equality related to gender identity and sexual orientation.

The authorities often confuse gender identity or gender expression with sexual orientation. Also in the interpretation of legislation, sexual orientation is often claimed to cover gender identity although they are two different things. For example in the criminal law, bias motive related to sexual orientation is mentioned explicitly as an aggravating circumstance whereas gender identity is not.

Ignorance by authorities, employers and professionals in different fields often leads to marginalisation of both trans and intersex persons and also lesbian, gay and bisexual persons , as well as the exclusion of their families.

The questionnaire

Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?

Insufficient

No attempt has been made by the government to put together a comprehensive lgbti policy: neither in the format of a practical implementation plan for the recommendation nor in other formats. There is an inter-ministerial working group for LGBTI issues but it has concentrated on a review of the current situation rather than proactive measures. Lgbti issues are on the agenda of some ministries but there is a lack of comprehensive policy. There are few officials within ministries or local municipalities that are explicitly responsible for lgbti issues.

In 2012, the government adopted the first National Plan of Action for Human Rights. Lgbti issues were omitted almost altogether from the action plan.

In the current government's programme there are no explicit references to lgbti issues even as several ministries are to some extent working on lgbti.

Trans and intersex issues are regularly ignored or dealt with great ignorance by authorities and public alike. This can be seen in legislation and government instructions as well as in public debates. A positive exception is the Ombudsperson for Equality. She has opened dialogue with transgender organizations and drawn attention to several injustices faced by trans persons, including sterility as a requirement for legal gender recognition, among others in her annual report. The ombudsperson for Equality has also organised a seminar about the human rights situation of transgender people and has published a comprehensive report on the issue.

2 Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?

B

Please explain and, if appropriate, provide examples of any such measures found:

There is not enough information about discrimination experienced by LGBTI people in the different sectors. There are some reports on discrimination but no comprehensive and/or systematic / repeated analyses. The existing information does usually not cover all of the

authorities' actions and policies, except for the equality ombudsperson's report on the Status of Gender Minorities.

According to the experience of NGOs, legislative and other discrimination is common especially regarding trans and intersex persons' rights in general, family rights, education, healthcare and employment. This holds true also related to sexual orientation even if to a slightly lesser extent.

Are there measures in place to redress any such discrimination?

B

Please indicate the measures and, if appropriate, provide examples of good practices:

For sexual orientation, one of the most pressing problems regarding access to justice is the lack of an ombudsperson that would have a mandate to act in cases of sexual orientation discrimination, or advance the equality of lesbian, gay and bisexual persons in general.

As for gender identity, a good practice is that the ombudsperson for gender equality has proactively interpreted all trans and intersex persons to fall under the scope of her mandate.

3 Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?

Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?

B

If appropriate, please provide examples of measures adopted or in preparation.

LGBTI issues are mentioned in the government's gender equality plan (trans and intersex persons' protection against discrimination) and in the national plan of action for human rights (trans and intersex persons' protection against discrimination and the need to create national coordination for lgbti issues) as well as in the government's plan for developing child and youth policy. A comprehensive and specific action plan is lacking, though, as are resources.

The government should adopt a cross-sectoral, comprehensive LGBTI action plan that would include measures for both national and local levels. As long as such a programme and resources for its implementation are absent, the measures are insufficient. All measures taken after the Recommendation was adopted, with the exception of the founding of an inter-ministerial LGBTI working group, have been made irrespective of the Recommendation.

4 Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?

a. b. x c. d. e.

Effective anti-discrimination policy can only be based on adequate information on discrimination in society. In Finland, lack of information is significant and often related to the lack of sufficient support systems and prevention programmes.

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

a. b. ☒ c. d. e.

See above.

In many equality and non-discrimination surveys, for example those conducted in the military, gender identity has not been addressed. Sexual orientation has often been addressed insufficiently, and there are few specific measures within any institution or authority to actively advance equality and non-discrimination with regard to gender identity and sexual orientation.

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. b. ☒ c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

5 Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

a. b. c. ☒ d. e.

There is very little relevant case law. Regarding sexual orientation, the current equality act only covers a limited number of fields. Regarding gender identity, the current legislation is not explicit and the potential for remedies is rather theoretical.

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

a. b. c. ☒ d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The gender equality ombudsperson gives advice to trans and intersex persons. The resources of the ombudsperson for proactive and broad dissemination of information are very limited.

As for sexual orientation discrimination, within employment there are authorities responsible but they hardly do dissemination.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

Lack of resources explicitly targeted at LGBTI work within the ministries and lack of coordination for LGBTI issues both within and between the ministries are the biggest bureaucratic obstacles. Other obstacles are lack of information about the Recommendation and about LGBTI issues in general, especially related to diversity of gender.

A big obstacle is also political opposition to advancing LGBTI people's human rights. Some of this opposition comes from within the government which lead to a lack of explicit LGBTI references in the government's political programme.

8 Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The Recommendation should be visible within every ministry, for example on the web pages of each ministry instead of only being available on the webpage of the MFA.

In the recommendations of the ministry of internal affairs for equality planning, both sexual orientation and gender identity are included. This is very positive.

Section II – Implementation of the specific provisions in the Appendix

1. Right to life, security and protection from violence

9 Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. b. x c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The police does not always take seriously reports by LGBTI people about bias-motivated incidents. For example, a trans person did not get his case investigated when she reported a public outing that should have been considered as a libel case under the current legislation.

10 Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. x b. c. d. e.

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. b. x c. d. e.

NGOs demanded that gender identity-based motive should have been explicitly included in the list of aggravating circumstances in 2010 but it was omitted. The list is non-exhaustive but there is little if any case law to support the effective inclusion of gender identity.

11 Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is no proactive action from the part of the authorities to increase reporting. The willingness of victims to report cases is low partly due to mistrust towards police and other authorities.

12 Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?

a. x b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Training of police, prison staff, court staff and staff of the military is insufficient and non-systematic regarding both sexual orientation and gender identity.

There is no systematic follow up on how hate crime cases related to sexual orientation, gender identity or gender expression are dealt with by the prosecutors or decided by courts. Moreover, there are no guidelines or instructions on how police, prosecutors or courts should handle hate crimes or other criminal offences against sexual or gender minorities. The authorities have not fully utilized the training possibilities supplied by OSCE or the best practices provided by the governments of United Kingdom, the Netherlands or Sweden.

13 Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There are few specific measures. A trans person's placement in prison should be based on the self-perceived gender identity rather than the legal gender.

14 Have appropriate measures been taken to combat all forms of "hate speech" against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?

a. b. x c. d. e.

It's a problem that it is allowed to publish information about a trans person's background without sanctions. There is at least one case where the police has not investigated such a case. This causes a lot of suffering and fear and makes it possible to blackmail trans persons who are not publicly out.

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

a. b. x c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is some public debate about the issue, even if public discussion around hate speech tends to be more about racism.

Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. b. x c. d. e.

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

Personal information about board members of NGOs is public information, available from the National Board of Patents and Registration. This may lead to outing as well as increased risk of persecution of persons who have trust positions within LGBTI organisations.

Some LGBTI organisations get reasonable amounts of public funding whereas Trasek get very little and its activities are thus at the moment completely based on voluntary work.

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. b. x c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

No specific measures but it seems that in acute situations the police and other actors effectively come to the help of lgbti human rights defenders (for example in some recent cases of attacks and threats to Pride events).

17 Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. b. c. ☒ d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Even if LGBTI NGOs have been consulted in a number of policy procedures there are still a lot of procedures where some or all of the central LGBTI NGOs are either left out of consultations or their points of view have not had an effect on the outcome. Especially trans and intersex persons' own organisations, like Trasek, have only been heard in a limited range of issues. This leads to a gap between the everyday reality of trans people and to the actions by the government and other authorities. The response of the government to this questionnaire is thus also too optimistic regarding the hearing of LGBTI people.

One aspect of the problem is that lgbti people, especially trans and intersex persons, are not represented and consulted in local or regional councils and other institutions.

LGBTI NGOs are currently mostly only heard in procedures explicitly targeting so/gi issues, or if they are consulted in other issues, their points of view don't show in the result. There are no systematic procedures in place to ensure that LGBTI points of view are taken into account in all relevant legislative procedures. The ministry for home affairs is preparing guidelines for ministries for equality measurement in the preparation of all legislation which is very positive.

III. Freedom of expression and peaceful assembly

18 Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. c. d. e.

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. c. d. e.

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

There are no threats or limitations to this right from the part of the government but in recent years, several attacks by individual perpetrators and organised extreme right-wing actors have been made against Pride events and other activities by lgbti activists and NGOs.

19 Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

IV. Right to respect for private and family life

20 Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

21 Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

a. ☐ b. ☐ c. ☐ d. ☒ e. ☐

Please provide examples of exceptions to this principle, if any:

The privacy of transgender people is still commonly violated. There have been problems in acquiring new certificates from schools or employers after confirmation of the new gender marker.

The population information act, reformed in 2010, rules that the previous legal gender of the person shows in the data system and the person is earmarked as transsexual in the same system. There is no clear regulation about in which cases this is disclosed and to whom. NGOs are very worried about this. Similar earmarking is not used for any other group.

Regarding patient information in health care it is common knowledge among LGBTI people that the sexual orientation and/or gender identity of the patient are recorded and stored also in many cases where it has no direct relevance to the health status of the patient. Oftentimes personal information is available also for other staff members than care personnel. Regarding trans persons this may mean that information on the person's old name and old person number are visible for people that should not have access to this information.

Also companies such as teleoperators and big market chains store information about the earlier identity of a person. This is not regulated in the current legislation which makes it very hard to

achieve changes in the systems of private companies. This is also the case regarding health care. This is why there are practically no complaints to officials about data protection.

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. b. x c. d. e.

There have been problems in trans persons' access to fertility treatments and some other areas of medical care.

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. b. x c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is no government-led review about this issue. The ombudsperson for gender equality has published a report about the situation of trans and intersex persons and states that the infertility requirement, among others, constitutes a serious breach of the human rights of people seeking legal gender recognition.

The current requirements for legal gender reassignment constitute human rights violations. Infertility requirement, marriage requirement, requirement of a psychiatric diagnosis and the requirement of "living in the preferred gender" breach the rights of an individual to self-determination and private life.

For the confirmation of a new legal gender a person must have a medical certificate verifying sterilization. This is a form of forced sterilization. Council of Europe Commissioner for Human Rights has taken a strong stand against sterilization as a prerequisite for gender reassignment. The Commissioner gave in 2012 Finland a specific recommendation to change the prerequisites of gender reassignment in accordance of human rights. In 2012 Finland also got a recommendation in the UPR process of the United Nations Human Rights Council to undertake legislative and administrative activities to improve the rights of trans and intersex persons to bodily integrity, family life and security.

If a person demanding legal gender reassignment is married or in registered partnership, consent of the spouse is required as a prerequisite so that the marriage can be altered to registered partnership and vice versa; otherwise change of the legal gender is not possible. This violates a person's right to privacy and self-determination. The non-marriage requirement has been condemned by the Council of Europe Commissioner for Human Rights.

23 Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. x b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

24 Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

a. b. x c. d. e.

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. b. c. d. e.

Please provide examples:

Same-sex couples are excluded from marriage and external adoption rights. This constitutes an unacceptable hierarchy of partnerships.

Finnish law grants specific, partly salaried, parental leaves. This right, however, is not quite fulfilled for families of LGBTI people. The spouses of biological mothers or fathers are only entitled to the so called paternity leave after second-parent adoption has been approved, which may take more than half a year since the birth of the child. Legal fathers living in a separate household from the legal mother are not entitled to full rights or compensations, although they may be very involved in the care of the children.

Same-sex cohabiting couples are for the most part not recognized by legislation which leads to discrimination in benefits.

The current adoption system discriminates based on sexual orientation as same-sex couples are not allowed to be tried for adoption together.

Second-parent adoption is allowed but the process is lengthy and varies between different parts of the country which leads to difficult situation for the child for example in cases where one of the parents dies before second-parent adoption has been confirmed, as well as related to parental leave entitlements.

In the ongoing review of the paternity act, all parenthood situations of LGBTI people should be included and the act should be renamed Parenthood Act. LGBTI NGOs have been submitted statements during the preparatory phase but it is unclear whether their points of view will be included in the reform. Trasek was not invited to be heard by the ministry even if the paternity act is relevant to the legal parenthood of trans persons.

A revision of legislation concerning surrogacy is being considered at the moment. If surrogacy is to be legalised this should be done without discrimination due to family status, sexual orientation or gender identity.

In fertility treatments, LGBTI people are treated unequally. Treatment of same-sex couples (as well as single women) is not covered by public funds and not given in public hospitals. There are cases where trans people have been refused fertility treatment altogether.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The system in itself is discriminatory as the option to apply for external adoption is only available for married couples and individual persons.

Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

a. x b. c. d. e.

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

a. b. c. x d. e.

If so, are there measures in place concerning in particular:

i) Access to employment

a. b. c. d. e.

ii) Promotion, dismissals, pay and other working conditions

a. b. c. d. e.

iii) Prevention and punishment of harassment

a. b. c. d. e.

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is little concrete action by employers to enhance the equality in employment of lgbti people. So far, sexual orientation protection is explicitly covered in employment and gender identity is not. The legislation is under review. The data protection act does not recognise gender identity.

Employment discrimination of lgbti people is common. There have been several cases of discrimination against transgender people in the media recently. Also cases of discrimination based on sexual orientation have come to the knowledge of NGOs. It can be assumed that few people experiencing employment discrimination due to sexual orientation or gender identity take their case further due to fear of further discrimination in the workplace and being "outed"

in one's social environment. The lack of an ombudsman with a mandate to investigate LGB discrimination cases in the work life is another reason for the lack of known cases.

VI. Education

27 Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

a. b. x c. d. e.

If so, are there measures in place concerning in particular:

i) Anti-discrimination training or support and teaching aids

a. b. c. x d. e.

ii) Information, protection and support for pupils and students

a. b. c. x d. e.

Children and youth of various gender identities suffer from the predominant gender normativity in schools and from the lack of proper and sensitive support systems.

A study by the ministry of home affairs in 2011 revealed that some 36 percent of the young respondents of the survey had been target of bullying in schools because their belonging to sexual or gender minorities. Similarly, according to another study only 12 percent of teachers believed that a student's openness about sexual orientation in school would be accepted by her mates. Harassment and uncertainty of acceptance as well as invisibility in school life and curricula may furthermore significantly raise the risk of suicides among children and youths belonging to sexual and gender minorities. There have been plans to amend legislation and some special programs by the education authorities to fight discrimination and violence in schools, but they don't include references to sexual orientation or gender identity.

iii) Objective information on sexual orientation and gender identity in school curricula ?

a. b. c. x d. e.

iv) School equality and safety policies and action plans

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Sexual orientation and gender identity are not explicitly covered in most curricula. Thus the implementation of anti-discrimination and anti-bullying content that would specifically address lgbti issues is up to the individual teacher or school. There are materials, produced mainly by NGOs but to some extent also by the government, to address equality and non-discrimination issues and safety at school.

One problem is that school books are produced by private companies and they typically try to please a wide audience, thus omitting information on lgbti issues or other aspects of diversity.

VII. Health

28 Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Sometimes health professionals mix their private beliefs about sexual orientation and gender identity into care, for example blaming the patient's sexual orientation for mental problems, or seeing trans identity as a mental problem. So called conversion therapies are not banned. Access to hormone or surgical treatments is often complicated even when a diagnosis has been established according to the requirements of the current legislation in Finland and, particularly, there have been problems in compensation or reimbursement of the costs by the Social Insurance Institution of Finland (Kela).

In addition, considerable local variation is found in the level and quality of treatment and support for transgender people, especially gender variant children and transgender teenagers. Thus these young people do not have equal access to essential health care services. They are often treated by professionals who do not have sufficient knowledge on gender variance. The services should be equally efficient and of high quality throughout the country, but no state authority has currently taken adequate responsibility for ensuring that this is the case. Trans youth have also been denied referral to proper professional guidance and treatment preparing for gender reassignment even as the law on gender reassignment includes no age limit for access to investigation and treatment. The access of young people to gender identity investigation was discussed in 2011 by the National Ethical Board of Social and Health Sector, ETENE. It stated that young people should have access to proper support and treatment by experts in accordance to current legislation.

Intersex children have been exposed to non-medically based surgery, which may cause in later life serious mental or physical complications. There is also only very limited support or counseling to the parents of intersex children. So far no comprehensive, high-quality data on the experiences of intersex persons of the treatment has been gathered.

29 Has homosexuality been removed from the national classification of diseases?

a. x b. c. d. e.

With the exception "sexual orientation that disturbs oneself".

The National Institute for Health and Welfare amended in 2010 the ICD-10 classification of diseases and health problems as applied in Finland and excluded classes on transvestism (F64.1 & F65.1), but maintained transsexualism as a mental disorder, contrary to, e.g., the standpoint of the European Parliament and of the Council of Europe Commissioner for Human Rights.

30 Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

a. b. c. d. e.

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

There are problems and variations in access to reimbursements from the national health insurance system (KELA) for hormonal therapy and surgical procedures.

Filing complaints is difficult for trans persons because it may often compromise the person's privacy as the documents are public.

It is also sometimes difficult especially for young people to access gender reassignment procedure even as it is stipulated in the law that everyone wishing so should be sent to specialist investigation.

VIII. Housing

31 Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property?

a. b. x c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is a lack of data regarding LGBTI and housing. In the private housing market, discrimination is prevalent. It is difficult for LGBTI people to get apartments in a very competed market. There are no governmental measures to combat this problem specifically from LGBTI equality point of view. The reform of the non-discrimination act is believed to give tools to address cases of discrimination in housing.

32 With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?

a. b. c. x d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:
There are no lgbti specific measures to address the issue.

IX. Sports

33 Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The local municipalities are responsible for a big number of sports facilities. However, it is rare that the municipalities would have proactive measures to combat LGBTI discrimination in sports. There are cases of direct discrimination by authorities, for example exclusion of trans persons from gender-specific facilities such as swimming hall dressing rooms. It is demanded of Olympic sportspeople that they undergo genital surgery in order to be able to compete in the self-identified gender category, even if the legal gender reassignment has been completed. This is a breach of bodily integrity and right to privacy.

X. Right to seek asylum

34 In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?

a. x b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Finland recognizes in principle sexual orientation and gender identity as grounds for granting residence permit on the basis of subsidiary or humanitarian reasons. There are no official statistics of the applications or decisions, neither positive nor negative, based on sexual orientation or gender identity, but they may be at least dozens. In some instances which have got public attention, the authorities have decided to expulse persons to countries where LGBTI people are strongly discriminated and persecuted and where homosexuality is illegal. There are also indications that in some cases the expulsion decisions have been based on a discretion requirement.

There is evidence that at least in some cases Finnish Immigration Service has not followed the guidelines of the UN High Commissioner of Refugees, e.g. the interrogators have no expertise on sexual orientation or gender identity and the amending of statement by a refugee has been considered as evidence of untrustworthiness.

MIGRI has sought training from the LGBTI NGO Seta and has received so far one training in 2012.

35 Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The highest administrative court has returned several negative asylum decisions to the MIGRI based on that MIGRI has underestimated the threat that the applicant would face in the country of origin if open about sexual orientation. In several cases, asylum has been granted, sometimes on secondary protection base.

XI. National Human Rights Structures

36 Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. ☐ b. ☒ c. ☐ d. ☐ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

There is no ombudsperson at the moment with a mandate to tackle discrimination based on sexual orientation. For gender identity and expression, the ombudsperson for gender equality has herself interpreted her mandate to cover all gender identity and gender expression related discrimination as well as intersex persons.

Currently the legislation is vague concerning multiple discrimination.

XII. Discrimination on multiple grounds

37 Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

a. b. c. x d. e.

Currently the legislation is very vague concerning multiple discrimination, especially if one of the grounds is regulated under the gender equality act and the other(s) in the non-discrimination act.

Section III - Follow-up

38 Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

The CoE should target enough resources in its regular budget to regular monitoring of the implementation of the Recommendation and to advancing the protection of LGBTI people's human rights in general in the member states. Allocate more resources to the European Commission against Racism and Intolerance (ECRI) to enable it to undertake effective monitoring of the relevant human rights standards in member states.

It is important that the CoE produces data, such as the Commissioner for Human rights' report on discrimination based on so/gi, about discrimination and non-equality of LGBTI people. LGBTI issues should be highlighted in reports from field visits when applicable. The recent survey by the EU's Fundamental Rights Agency into the real situation of LGBTI persons in EU should be extended member states to Council of Europe member states outside the EU.

The CoE should have permanent staff with expertise in LGBTI issues. The Finnish NGOs warmly welcome the secondment of an expert by Finland to the LGBT unit.

39 Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

The examination should preferably cover the whole scope of the recommendation. If specific focus is to be taken, it should include looking into trans and intersex persons's rights in the different areas of rights.

40 Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

There is no necessity to extend the wording of the Recommendation as long as the Recommendation is being interpreted as including intersex and gender expression, as is being done in Finland.

The role of local authorities should be emphasized and looked into more specifically in the monitoring and implementation of the Recommendation.

Finally

Seta and Trasek see the Recommendation as a highly important tool in improving the access of LGBTI people to their basic human rights guaranteed in international human rights law. We hope that a procedure will be set up to ensure the continuous monitoring of the

implementation of the Recommendation in all member states. It is important for the legitimacy of the monitoring to give civil society organisations possibilities to make their voice heard in the monitoring process.

As Finnish CSOs we will be monitoring the implementation of the Recommendation in Finland also in the coming years. We are ready to give our points of view also in the future both to the Finnish government and to Council of Europe bodies.

Your sincerely

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