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**UN; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Concluding observations on the seventh periodic report of Finland, follow-up**

Finland submitted its seventh periodic report (CAT/C/FIN/7) on the implementation on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Secretary-General in June 2015. The Committee against Torture discussed Finland's report and published its concluding observations concerning the report (CAT/C/FIN/CO/7) in December 2016.

Paragraphs 14 and 15 of the Committee's report include observations on the national preventive mechanism. The Committee was concerned that, while the Parliamentary Ombudsman has been entrusted with the task of serving as the national preventive mechanism, insufficient financial or human resources have been allocated to the Ombudsman and that the mechanism may not have the human resources necessary to carry out its mandate (para. 14). The Committee stated that the State party should strengthen the national preventive mechanism by providing it with sufficient financial and human resources to enable it to carry out its mandate independently and effectively, in accordance with the guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It should also consider the possibility of establishing the national preventive mechanism as a separate entity under the Parliamentary Ombudsman, with budgetary and staffing autonomy (para. 15).

The Committee requested the State party to provide, by 7 December 2017, information on follow-up to the Committee's recommendations, inter alia, on the national preventive mechanism (para. 15).

In its role as the National Preventive Mechanism (NPM) under the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Ministry for Foreign Affairs afforded the Parliamentary Ombudsman the opportunity to give a statement on the duties of the NPM, especially concerning its financial and personnel resources, as well as on the implementation of other concluding observations and recommendations where relevant.

In my statement, I will only focus on the concluding observations and recommendations concerning the duties of the NPM. My statement is as follows:

### *Resources*

The OPCAT requires the States Parties to make available the necessary resources for the functioning of the NPM. The Government proposal concerning the adoption of the OPCAT (HE 182/2012 vp) notes that in the interest of effective performance of obligations under the OPCAT, the personnel resources at the Office of the Parliamentary Ombudsman should be increased.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended, along with CAT, in the report on its visit to Finland in 2014, that steps be taken to increase significantly the financial and human resources made available to the Finnish Parliamentary Ombudsman in his role as the NPM. CPT also suggested that consideration be given to setting up a separate unit or department within the Office of the Parliamentary Ombudsman to be responsible for the NPM functions.

So far no additional personnel resources have been granted for the Ombudsman to perform the duties of the NPM. However, it must be born in mind that according to Ombudsman Act carrying out inspections in closed institutions to oversee the treatment of inmates has been a special duty of the Ombudsman in Finland for a very long time before the NPM mandate. Therefore, the Ombudsman has had resources for these activities already before the task of serving as the NPM.

In his budget proposal for 2014, the Ombudsman requested that funding for one new post focusing on supervisory tasks be added to the Office's operating appropriation. No such addition was made. To save costs, according to the parliament's policy, the Ombudsman did not propose a new post of a legal advisor in his budget proposal for 2015. In the budget proposal for 2016, the Ombudsman has again

requested funding for establishing one post of a legal advisor to discharge the duties of the NPM. No additional funding was allocated for this purpose. The Ombudsman did not propose a new post of a legal advisor in his budget proposal for 2017 because according to the parliament's policy it was not allowed to establish new posts. Instead, it was proposed that the Ombudsman be given increased funding for the performance of duties such as for the use of experts. The memorandum of reasons states that there are thousands of locations in total that the NPM must inspect and that the successful performance of NPM functions will require the expansion of the Parliamentary Ombudsman's inspections, the development of the content of inspections and the use of external experts. Its task as the NPM has brought with it new reporting obligations and increased the international cooperation the Parliamentary Ombudsman's Office takes part in. For this reason, while acting as the NPM, the Office's international duties will continue to increase and cause new expenses for their part.

While the Office of the Parliamentary Ombudsman can expect no additional personnel resources, the Office has been able to adopt operating practices with its existing financial and personnel resources that meet with the operations and quality requirements set for the NPM. The Ombudsman's activities as the NPM can be compared to those of the NPMs in the other Nordic countries, and in many other countries as well, in both quantitative and qualitative terms. This has been possible for the time being due to arrangements made within the Office of the Parliamentary Ombudsman as well as additional financial resources granted to the Office for the use of external experts during inspections.

As the NPM's duties have become established, it has become apparent that duties must be continuously developed and operating practices must be analysed, so that the obligations set for the NPM will be realised. For example, the formation of multidisciplinary teams for inspections is impossible due to the Office of the Parliamentary Ombudsman's present staffing structure. The instruction and guidance, introduction and continuous inclusion of external experts during inspections will offset this shortcoming. However, the development of activities need additional resources. The Office of the Parliamentary Ombudsman has estimated that in addition to the Senior Legal Adviser, who currently coordinates the NPM duties, two new staff members are needed. The Office will need a lawyer (coordinator) and an assisting employee.

## Organisation of duties

International bodies have considered it advisable to organise the work of the NPM under a separate unit. At the Office of the Parliamentary Ombudsman, however, it has seemed more appropriate to integrate the tasks of the NPM into the work of the Office as a whole.

Several administrative branches have facilities that fall within the scope of the OPCAT. However, there are differences between the places, the applicable legislation and the groups of people who have been deprived of their liberty. Therefore, the expertise needed on visits to different facilities also varies. As any separate unit within the Office of the Ombudsman would in any case be very small, it would be impossible to assemble all the necessary expertise in such a unit and the number of visits conducted would remain considerably smaller.

Participation in the visits and the other tasks of the Ombudsman, especially the handling of complaints, are mutually supportive activities. The information obtained and experience gained during visits can be utilised in the handling of complaints, and vice versa. For this reason, too, it is important that those members of the Office personnel whose area of responsibility cover facilities that fall within the scope of the OPCAT also participate in the tasks of the NPM. In practice, this means the majority of the Office's legal advisers, i.e. some 25 people.

At the moment, two public servants are coordinating the NPM duties at the Office. The Ombudsman has also appointed an OPCAT team within the Office. The OPCAT team deals with issues that are related to NPM activities and improvement in working methods. Team members are the principal legal advisers working in areas of responsibility that involve visits to places where persons are or may be deprived of their liberty, as referred to in the OPCAT, or where customers' freedom is or may be restricted. During visits the NPM has also been able to use a total of eight external experts, all of whom have a background in health care. Induction training has also been provided to five experts by experience whose expertise will be used during visits to closed social welfare institutions for children and adolescents or visits to units for persons with intellectual and other disabilities.

For more information on the matter, please contact one of the following members of staff at the Office of the Parliamentary Ombudsman: Principal Legal Adviser, OPCAT-coordinator Jari Pirjola (jari.pirjola@eduskunta.fi) and Senior Legal Adviser, OPCAT-coordinator Iisa Suhonen (iisa.suhonen@eduskunta.fi).

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