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**Expert Group Meeting on the Standard
Minimum Rules for the Treatment of Prisoners
Buenos Aires, 11 to 13 December 2012**
Item 5 of the agenda

COMMENTS OF THE GOVERNMENT OF FINLAND¹

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Reference: UNODC/CCPCJ/EG:6/2012/2**OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP ON THE SMR FOR
TREATMENT OF PRISONS; EXPERT MEETING IN BUENOS AIRES, 11-13 December 2012****COMMENTS OF FINLAND**

International conventions and recommendations of both the United Nations and the Council of Europe have shaped significantly the Finnish legislation on imprisonment. According to the Government of Finland, the Standard Minimum Rules for the Treatment of Prisoners are significant in complementing national legislation and binding international conventions. Although the Standard Minimum Rules do not bind the member states, their significance as universal norms on the treatment of prisoners is widely accepted. The Standard Minimum Rules form the basis of national legislation and reforms in many UN member states.

The representative of Finland will regrettably be unable to participate in the Open-ended Intergovernmental Group Meeting to be held in Buenos Aires. For this reason, Finland would like to express its comments and views in writing.

The Ministry of Justice of Finland considers it important to revise the Standard Minimum Rules for the Treatment of Prisoners in the areas agreed at the meeting held in Vienna in 2012. The existing Standard Minimum Rules for the Treatment of Prisoners are in some respects outdated and even in conflict with the principles manifest in binding human rights conventions. It is desirable for the United Nation's Subcommittee on Prevention of Torture (SPT) to have in its work universally acknowledged international standards that the committee can take into account in its own work.

The Ministry of Justice of Finland is of the opinion that the Secretariat has done very commendable, useful work by collecting provisions, recommendations and principles from international human rights conventions and recommendations, as well as from regional and international documents, to prepare the ground for developing the Minimum Rules.

The Ministry of Justice of Finland basically supports the additions, deletions and amendments to the Minimum Rules proposed by the Secretariat.

The Ministry of Justice of Finland is of the opinion that supplementing the ban on discrimination (Rule 6) is to be supported. However, Finland would like to point out that the proposals are not fully consistent with international conventions such as Article 14 (i.e. age) of the European Convention on Human Rights. In addition, for example, the

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term “cultural belief and practices” is vague and would need to be specified before it could be adopted.

Page 19 of the working paper proposes supplementing Rule 6 of the Minimum Rules by listing the 11 different categories of prisoners with special needs. Finland does not object to the list per se, but would like to draw attention to ensure that no categories of prisoners whatsoever are omitted from the list. For this reason, it might be more justifiable to generally emphasise treatment based on the special needs of individual prisoners. Another option would be to briefly describe the type of special arrangements to be reserved for each of the categories of prisoners referred to.

Transposing Rules 57-60 into the basic principles is a clear improvement to the Minimum Rules. Finland also supports the principles in proposals made by others such as the humane treatment of prisoners, the prohibition of torture, the prohibition of unnecessary restriction of human rights and the addition of the approach principle to the Minimum Rules. However, Finland would like to point out that important provisions in principle remain in part II and it might be justified to also transpose these into the basic principles. For example, it might be equally justifiable to transpose Rule 61 (social rehabilitation), Rule 63 (individualisation of treatment principle) and Rule 64 (after-care on release) into the basic principles.

The Ministry of Justice of Finland considers the proposals concerning healthcare to be justified and these are complied with in Finland. The proposal applying to the arrangement of healthcare of children in prison with their mothers is important. However, Finland would like to express the good practice employed in Finland, whereby the care of small children of inmates in Finland is entirely the responsibility of the social welfare authorities. In Finland, a family unit has been established in conjunction with an open prison where inmates and their children have been placed. The Prison Authorities ensures the supervision of parents in prison. In Finland, also the father of a small child may be placed in the unit. The same principle has been expressed in Rule 36 of European Prison Rules, which refers solely to “a parent”.

The Ministry of Justice of Finland also supports specification of the rules applying to inspection in the manner proposed.

Use of solitary confinement must be a disciplinary punishment used as a last resort and be as brief as possible. In Finland, the maximum duration of solitary confinement is 14 days, although in practice solitary confinement lasting more than 72 hours is very rare. In Finland, prisoners in solitary confinement may take part in visits and outdoor exercise.

The Ministry of Justice of Finland supports the proposal for Rule 32, whereby solitary confinement is the last resort and its use restricted to exceptional circumstances. Finland considers it to be justified to also prohibit the solitary confinement of pregnant or breast-feeding mothers, the mentally ill or as an instrument of extortion on prisoners on remand. On the other hand, it would be very problematical to implement a prohibition on the use of solitary confinement as disciplinary punishment for life-sentence prisoner. In Finland, prisoners serving life sentences are living in the same prison units as other prisoners, nor are they subject to any special treatment just because they are serving life imprisonment. In Finland, prisoners serving life sentences are also released on parole by

court decision. On average, prisoners serving a life sentence serve 14-15 years of their sentence in prison before they are conditionally released. Prisons may contain prisoners that have been sentenced for several violent offences and who are serving longer than the average sentence referred to. It would be inconsistent to put persons serving life sentences in a different position. For this reason, Finland objects to the proposed absolute prohibition. Instead of prohibition, the rules should highlight the last resort and short duration in use of the punishment.

The Ministry of Justice of Finland considers, in addition, that the term “juvenile” referred to in the proposal needs to be defined. If it refers to everyone under the age of 21, the proposal would be difficult to implement because Finland has no other disciplinary punishments than solitary confinement, the loss of rights and caution.

The Ministry of Justice of Finland supports proposals concerning a prisoner’s right to complain. On the other hand, Finland puts forward for consideration as to whether it is necessary to adopt a new detailed rule concerning independent inspection bodies and especially their competence when similar regulations are already legally binding in the Optional Protocol to the Convention Against Torture. However, Finland will not object if it is desirable to write the rule into the Minimum Rules, but in which case it must be of the same content as in the Convention.

The Ministry of Justice of Finland considers the linguistic corrections to Rules 82, 83, 22, 26 and 25 to be supported. Most of the corrections will not result in changes to the existing Finnish translation of the text. Finland also supports the proposals concerning staff training.

When the amended rules have been added to Standard Minimum Rules for the Treatment of Prisoners, some illogicalities and new needs for change, which will have to be subsequently separately considered, might still come to light when the rules are examined as a whole.

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