

## Finland

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### *Human Rights Centre and its Delegation and Parliamentary Ombudsman*

#### **International accreditation status and SCA recommendations**

The Human Rights Centre (HRC) and its Human Rights Delegation form the Finnish NHRI, together with the Parliamentary Ombudsman. All three institutions have their own statutory tasks and mandates. The HRC's legal mandate is to monitor and promote fundamental and human rights and to engage international and European human rights cooperation. The Parliamentary Ombudsman has a mandate based on the Finnish constitution to supervise the legality of actions by all public authorities and those performing public tasks. It includes fundamental and human rights compliance. The Ombudsman is one of the key institutions for checks and balances in Finland as a supreme guardian of legality together with the Chancellor of Justice.

In October 2019, the Finnish NHRI was [re-accredited](#) with A status. While the SCA understands that the government bill establishing three components as the NHRI (the Human Rights Centre, Parliamentary Ombudsman and Human Rights Delegation) is a source of law in Finland, it encourages the FNHRI to continue to advocate for legislative amendments to further clarify this. The SCA encouraged the NHRI to continue to advocate for the funding necessary to ensure that it can effectively carry out its mandates. The SCA considers it preferable for the Human Rights Centre to also have the ability to table its reports in Parliament for discussion, as is the case for the reports of the Parliamentary Ombudsman. The HRC submits its annual report to the parliamentary committees, but not to the plenary for discussion. The HRC's annual report has been discussed in the Constitutional Law Committee.

#### **Impact of 2020 rule of law reporting**

##### **Follow-up by State authorities**

Since the reports of ENNHRI and the European Commission were published in May and September 2020 respectively, discussions on the rule of law principle in Finland have focused mostly on the EU level and on questions related to the EU rule of law mechanism and the recovery package.

The follow up actions taken by the state authorities are not directly related to the European Commission's report as most observations of the report are included in the Government's

program, such as enacting an openness register in relation to lobbying and taking measures in order to counter targeting and harassment. The progress of the program is tracked openly at the Government's website.

### *References*

- Progress of the Government's program: <https://valtioneuvosto.fi/marinin-hallitus/hallitusohjelman-seuranta/toimintasuunnitelma>

### **Impact on the Institution's work**

The Parliamentary Ombudsman is consulted directly by the European Commission for its report and therefore the contribution to ENNHRI's report by the HRC does not include the Parliamentary Ombudsman.

The HRC has been working on the rule of law issues already before ENNHRI's first joint rule of law reporting in 2020. The European Commission rule of law report, with its focus on prevention, is a useful new tool and has helped us develop our work. The focus of the HRC is on the functioning of the rule of law principle and institutions, on the checks and balances and legislative processes and on monitoring and reporting on fundamental and human rights. The monitoring of the rule of law has broadened the HRC's focus, and new contacts have been made in Finland as a result for example with the justice system and constitutional lawyers.

In the HRC's Action Plan 2021, the focus on the rule of law has strengthened. Activities include monitoring, research, promotional and educational activities and awareness raising. The HRC continues to work with and support ENNHRI's rule of law reporting, capacity building and cooperation activities. In addition, the HRC engages directly with European rule of law and human rights institutions and mechanisms.

### **Follow-up initiatives by the Institution**

The HRC and its Human Rights Delegation held a workshop on the rule of law and the impact of COVID-19 on fundamental and human rights in September 2020 and a report with recommendations addressed to the government was published in January 2021. It was widely

distributed to the Government ministers and authorities and political decision makers and communicated through social media channels.

### *References*

- The impact of the coronavirus pandemic on the implementation of fundamental rights and human rights – recommendations of the Human Rights Delegation <https://www.humanrightscentre.fi/?x170869=1015738>

## **Independence and effectiveness of NHRIs**

### **Changes in the regulatory framework applicable to the Institution**

The amendment of the Act on the division of labour between the two supreme guardians of legality, i.e., the Parliamentary Ombudsman and the Chancellor of Justice, was already included in the first Rule of Law report. The Government bill has now been finalized after an open consultation at the end of 2020. It is scheduled to be given to the Parliament during spring 2021. The new Act touches also upon the HRC as the tasks given to the Parliamentary Ombudsman based on international conventions are reflected in the new Act on the division of labour. The Finnish NHRI was given a joint task based on CRPD 33.2, when UN CRPD was ratified in Finland in 2016.

The Act on the division of labour between the two supreme guardians of legality is important both in practice and in principle as they are the pillars of the independent human rights structure in Finland. Following this major reform, it would be time to assess the other independent human rights structures and the system as a whole. The HRC has been advocating for such an assessment to be carried out by the Ministry of Justice to complement the study done by the Ministry in 2015. The assessment should include at least all the special ombudsmen and the Finnish NHRI and aim at streamlining the competencies, simplifying the structures and strengthening the actors and fundamental and human rights in Finland.

The HRC notes with concern the current plans of the Government to set up new human rights actors with overlapping mandates with the already existing human rights institutions.

The new Ombudsman for the rights of older persons will be set up as an independent function but in connection with the Non-Discrimination Ombudsman, which already has a mandate on age discrimination. In 2019 the Finnish NHRI was given significant additional resources by the Parliament to strengthen the protection and promotion of the rights of older persons. It is regrettable that despite consultations and statements by the HRC, the tasks given by law to the new Ombudsman are identical with the statutory tasks of the HRC. It would be preferable to strengthen the Non-Discrimination Ombudsman's activities and resources as regards age discrimination rather than duplicate the tasks of the HRC.

A new position of a Rapporteur on violence against women is proposed to be legislated as an additional task for the Non-Discrimination Ombudsman. This proposed draft law has drawn strong criticism from a broad range of actors in a recent consultation on the draft law. The draft was generally considered poorly justified and not in line with the Istanbul Convention's strong grounding on gender equality. The more logical place for such a new task would be within the Office of the Equality Ombudsman dealing with gender equality or the HRC (the Finnish NHRI) mandated to monitor and report on human rights.

The HRC has pointed out repeatedly that existing independent human rights actors that already have relevant mandates to protect and promote human rights should be strengthened rather than new ones being created.

### *References*

- Statement of the HRC on the division of labour of the Supreme guardians of legality (in Finnish) <https://www.ihmisoikeuskeskus.fi/?x5822114=10048067>
- The impact of the coronavirus pandemic on the implementation of fundamental rights and human rights – recommendations of the Human Rights Delegation <https://www.humanrightscentre.fi/?x170869=1015738>
- Statement of the HRC on the ombudsman for elderly (in Finnish) <https://www.ihmisoikeuskeskus.fi/?x5822114=10037341>
- Statement of the HRC on the rapporteur on violence against women (in Finnish) <https://www.ihmisoikeuskeskus.fi/?x5822114=10255437>

## Enabling space

The Finnish NHRI is able to work independently and effectively. It is completely independent from the government or any other state actors.

The environment is generally enabling in Finland, but the fragmented and complicated human rights structures are not conducive to effective work as limited resources are spread thin and coordination requires time and resources. Lack of coordination may lead to unnecessary duplication and weakened impact. The fundamental and human rights protection system that guarantees the rights of all people gets lost in the maze of thematic and group-based mandates.

## Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

The overall environment in which the institution operates has not changed. The parliamentary context provides good access to political decision-making and legislative processes and ensures total independence from the government.

But like in many other European countries, attacks on rule of law principles, fundamental and human rights and those who defend these norms and values have increased also in Finland. Another disturbing factor making the environment less favourable is the increasing spreading of disinformation, which has become more visible during the pandemic. It is of growing concern also in Finland that human rights and rule of law principles are questioned by some segments of the society and that the role of democratic institutions is undermined by some political actors. If the trend continues and gains more strength in the future, it could lead to a deterioration of the rule of law and human rights situation also in Finland.

The HRC has increased its human rights and rule of law monitoring capacity in general in order to provide reliable and comprehensive information on how human rights are realized in Finland. The goal is to have a monitoring system in place in 2021.

Targeted advocacy, strategic cooperation with civil society and other human rights actors, direct engagement with key state authorities and politicians as well as effective communication activities are other means and ways to increase its impact. The HRC is constantly striving to develop its own work and is looking for synergies and cooperation in particular with the Parliamentary Ombudsman.

## Human rights defenders and civil society space

Some of the challenges have been described above in the previous response relating to the environment where the institution operates and later in the response to the questions on media. These are common challenges to actors defending human rights, gender equality, violence against women, minorities, LGBTI etc. In our assessment, what started as attacks on specific human rights issues has spread more generally to all human rights and rule of law issues. Anti-gender movement is clearly gaining ground also in Finland.

The HRC cooperates with and supports civil society organisations defending fundamental and human rights. The Human Rights Delegation, the pluralistic and cooperative body that is part of the Finnish NHRI includes also NGOs and human rights defenders.

## Checks and balances

### Constitutional review

The Constitution of Finland guarantees the rule of law and human rights, also according to the Venice Commission. The strength of the Finnish Constitution's checks and balances is its pluralism. The Finnish system relies primarily on the ex-ante constitutionality review by the Parliament's Constitutional Law Committee. The system is generally considered to function well. There is little support for the establishment of a constitutional court in Finland.

The Finnish courts do not have the right to generally and in abstract assess if a law conflicts with the Constitution. However, section 106 of the Constitution stipulates that courts should refrain from applying the provision of the law in a concrete case if it is *evidently* in conflict with the Constitution. The ex-post monitoring of the constitutionality by the courts has been limited to relatively few cases in the last decade. Some of the cases have been significant and have been a reason for legislative amendments. There is support by the majority of constitutional lawyers and practitioners for the lowering of the threshold for the courts by removing the "evidently" criteria in section 106, although there are also views to the opposite. One of the arguments in favour of removing the "evident" criteria is that courts in Finland already must give priority to the EU law and international human rights treaties and that the threshold should be the same for the Constitution. The HRC has done research on this question and has published a study in JunM 2021.

### Trust in state authorities

Generally, the Finnish public administration is transparent and open, and the principle of legality is respected. The level of trust in state authorities is fairly high, although issues such as (alleged) political appointments to high level positions are met with criticism. There are low threshold

complaints mechanisms in place, such as the Parliamentary Ombudsman, which are important channels for citizens to get their concerns addressed. The recommendations made by the Parliamentary Ombudsman based on complaints received are generally complied with by the public authorities.

### NHRI's engagement as part of the system of checks and balances

The Parliamentary Ombudsman is one of the key institutions for the checks and balances in Finland. Their information is submitted directly to the European Commission for their report.

The independent monitoring and reporting on fundamental and human rights by the HRC as well as its other activities, such as human rights education, training and awareness raising have an increasing role in the system of checks and balances in general, but in particular in prevention with its strong focus on promotion.

The HRC has received some more staff and funds in the last few years, but as described earlier, monitoring of human rights suffers from lack of sufficient resources.

#### *References*

- Venice Commission's statement: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)010-e)
- A project funded by the HRC and the Ministry of Justice at the University of Helsinki supports the development of education for democratic citizenship and human rights education in teacher training: <https://www.helsinki.fi/en/projects/human-rights-democracy-values-and-dialogue-in-education/background>
- The Constitution of Finland: <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731>
- See the tasks of the Non-Discrimination Ombudsman: <https://syrjinta.fi/en/tackling-discrimination-and-promoting-equality1>
- See a review of the Non-discrimination Act (in Finnish): <http://urn.fi/URN:ISBN:978-952-287-959-2>
- Publication of HRC on the primacy of the Constitution (Section 106 of the Constitution) (in Finnish) <https://www.ihmisoikeuskeskus.fi/uutiset/julkaisutiedote-selvitys-perustusla/>

## Functioning of justice systems

The HRC is promoting access to justice by conducting surveys and research, by its educational activities and with its focus on the rights of older persons and persons with disabilities. Generally, the justice system functions well, but access to the courts can be hindered by the high costs and court fees especially in civil cases.

## Media pluralism and freedom of expression

According to World Press Freedom Index 2020, the legal, institutional and structural basis for free media and free journalism in Finland remained intact throughout the year 2019. There is not yet data available for the year 2020, but overall, the situation has remained relatively similar.

Nonetheless, hate speech, different type of harassment and targeting of journalists have recently been a threat against media freedom in Finland. Moreover, the economic situation of media has worsened mainly because of COVID-19 and its impact on economy in Finland: commercial media organisations have seen a decline of at least a third and possibly up to 50 % in advertising, with print and local newspapers and local radio suffering the most. Over half of all newspapers have laid off employees, and a handful of local papers have also suspended publication altogether during the crisis. (Media for Democracy Monitor 2020)

The findings of a recent study (Hiltunen 2021) suggest that the hybridization of the media environment has intensified the external interference and pressure journalists encounter in their work in Finland. Several interviewees reported experiences of coordinated interference by groups and networks fitting this description and promoting, for example, anti-vaccination, anti-immigration or pro-Russia views. This interference included verbal abuse, verbal threats, orchestrated public defamation and discrediting, and various forms of harassment. These groups utilized social media and other online platforms to publicly fan collective aggression toward journalists. Political populism was often explicitly identified as the main catalyst for polarization, creating divisions and explicitly inciting mistrust against journalism as an institution. Polarization was manifested by an increasingly aggressive public discourse and hostile attitudes toward journalism and journalists. The Union of Journalists in Finland (UFJ) has stated that there is an urgent need to pay more attention to the growing external interference and pressure journalists are facing in Finland. On the positive side, the UFJ has noticed that inappropriate conduct and criticism towards journalists by leading politicians has diminished during the term of this government.

According to different studies, especially female journalists experience gender-based hate speech and harassment. The Finnish government has recently proposed that gender should be aggravating factor for the punishment. The government proposal to amend the Criminal Code of Finland was circulated for comments in the fall 2020, and e.g., the UFJ supported the proposal in its statement.

The Council for Mass Media (CMM) in Finland is a self-regulating committee established by publishers and journalists in the field of mass communication for the purpose of interpreting good professional practice and defending the freedom of speech and publication. The CMM's mandate is considered quite strong because it includes all forms of media and the council's decisions are usually published without exception. However, the CMM has also faced some external interference and pressure as its independence and impartiality has been questioned, and journalists, in turn, are threatened with a complaint to the council. In 2020, 15 % of all complaints received by the council was concerned with news on COVID-19. The number of the complaints increased by a third in 2020.

Finnish legislation does not set additional transparency requirements for media companies. Most media companies operating in Finland are by choice open about their ownership, but according to the study commissioned by the Ministry of Transport and Communications (2020), as much as a quarter of media websites surveyed did not provide information on their ownership. In addition, only four out of 134 media websites had clearly and openly expressed their editorial ethics and corrective practices.

Regarding media pluralism and ownership, few companies dominate each media sector in Finland: in the TV broadcast sector, the four largest companies hold 92 percent of the audience and 97 percent of revenues; the four largest companies in the radio market hold 80 percent and 92 percent; and the four largest companies in the newspaper market hold 59 percent (audience) and 64 percent (revenue). (Media Pluralism Monitor 2020)

The HRC considers monitoring and reporting of the media environment to be very important in protecting the right to information and the functioning of democracy. For the time being, the situation of media is relatively good and stable in Finland so there has not been any urgent need for actions to promote a free and pluralist media environment.

## References

- Reporters without borders: Finland: <https://rsf.org/en/finland>
- Media for Democracy Monitor 2020: <http://euromediagroup.org/mdm/policybrief01.pdf>
- Hiltunen, Ilmari (2021) External Interference in a Hybrid Media environment. Manuscript in process.
- Inquiry to the Union of Journalists in Finland (UFJ) 24 February 2021.
- Inquiry to the Council for Mass Media in Finland (CMM) 25 February 2021.
- Project to add gender among the motives that constitute grounds for increasing the punishment as specified in the Criminal Code <https://valtioneuvosto.fi/hanke?tunnus=OM024:00/2019>
- Statement of UFJ on amending the Criminal Code: [https://api.hankeikkuna.fi/asiakirjat/54a5998d-2eb6-4a91-9f22-a429e66254a8/9b062d3a-7f69-45c2-81f1-6c4e28838e80/LAUSUNTO\\_20201005115738.PDF](https://api.hankeikkuna.fi/asiakirjat/54a5998d-2eb6-4a91-9f22-a429e66254a8/9b062d3a-7f69-45c2-81f1-6c4e28838e80/LAUSUNTO_20201005115738.PDF)
- Media and Communication Policy Monitoring report 2019: <https://julkaisut.valtioneuvosto.fi/handle/10024/162144>
- Media Pluralism Monitor 2020: <https://cmpf.eui.eu/mpm2020-results/>

## Corruption

The HRC does not work on corruption as such. The Parliamentary Ombudsman has a mandate to supervise the legality of actions of all public authorities.

## Impact of measures taken in response to COVID-19 on the national rule of law environment

### Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

The Finnish rule of law mechanisms have coped well during the state of emergency and the pandemic in general. However, the stringent mechanisms for checks and balances that exist in

Finland have been criticized at times due to their strict interpretation of constitutional rights and permissible restrictions. This has deemed to be an obstacle to effective legislative responses to the pandemic by some politicians.

There have been recurring problems with the quality of draft laws submitted to the Parliament by the Government.

The principle of legality has sometimes been overlooked during the pandemic. Rules on competences have not always been followed. Political decisions have been used on matters that according to the law are under the authorities' decision-making powers. Many measures had to be taken quickly in the spring 2020, but in the rush, they were not always based on law and procedural rights were often forgotten. It was not always clear whether the measures were recommendations or binding regulations. Based on such recommendations, for example the housing units for older persons and persons with disabilities put in place categorical visiting bans without proper legal basis thus violating the rights of the residents.

The numbers of complaints made both to the Ombudsman and the Chancellor of Justice and their own initiatives have risen sharply. It is of concern that no on-site inspections have been carried to any closed institution by the Ombudsman for almost a year. However, alternative methods have been developed and some inspections have been carried out remotely.

The crisis preparedness and capacity of fundamental and human rights actors needs to be strengthened. Guidelines issued by intergovernmental organisations and their monitoring bodies could be better utilized in this regard.

The HRC is monitoring the impacts of the pandemic, also long term, and the HRD has issued a report with recommendations to the Government in January 2021.

Recommendations made by the HRC and its Human Rights Delegation in a recent report:

- The coronavirus pandemic has highlighted problems with the legislation and law drafting, access to information and competence questions, which will need special attention in future.
- The crisis preparedness of the supreme guardians of legality, other overseers of legality, as well as fundamental and human rights actors, must be further strengthened and developed.
- The Finnish NHRI needs to be strengthened so that it has the means to carry out its statutory tasks, especially monitoring human rights, also in a state of emergency.

In addition to the rule of law, we focused our monitoring and reporting on the impact of the pandemic and the measures taken on the rights of elderly persons and persons with disabilities, the rights of children and young people and on violence against women and domestic violence. Our findings confirmed that people who were already in a vulnerable position have found themselves in an even more difficult situation due to the COVID-19.

More detailed information on the impact on fundamental and human rights of vulnerable people and is included in the report.

Finally, we also recommended that a comprehensive human rights assessment on the impact of the pandemic should be initiated by the Government. It should focus in particular on the situation of vulnerable groups.

### *References*

- The impact of the coronavirus pandemic on the implementation of fundamental rights and human rights – recommendations of the Human Rights Delegation <https://www.humanrightscentre.fi/?x170869=1015738>
- Statistics on complaints concerning the state of emergency received by the Parliamentary Ombudsman (in Finnish): <https://www.oikeusasiamies.fi/fi/poikkeusoloihin-liittyvien-kanteluiden-tilastotiedot>
- Press release: Koronakantelut työllistävät oikeuskansleria (Complaints related to coronavirus employ the Chancellor of Justice): <https://www.okv.fi/fi/tiedotteet-ja-puheenvuorot/545/koronakantelut-tyollistavat-oikeuskansleria/>
- CPT's statement of principles relating to the coronavirus pandemic: <https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty->
- See the summary of the guidelines of human rights bodies from the HRC's COVID-19 theme site: <https://www.humanrightscentre.fi/covid-19/>

## Most important challenges due to COVID-19 for the NHRI's functioning

The HRC has been able to fulfil its mandate and perform its work despite the pandemic. Remote working has been the most concrete impact of the pandemic to the HRC. Obviously, it has not been as easy to reach out to people and to receive visitors as in normal times.

The Parliamentary Ombudsman, which is also the Finnish National Preventive Mechanism under the UN OPCAT, has not been able to carry out inspections, but has developed alternative methods for remote inspections and is preparing for on-site inspections to start in June as the situation has improved in Finland.

## Other relevant developments or issues having an impact on the national rule of law environment

### Awareness, information and education about human rights

Promoting human rights education is an important part of creating better awareness and access to rights. It is also one of the main tasks of the HRC.

According to section 22 of the Constitution, public authorities must ensure the implementation of fundamental rights and human rights, but many authorities have insufficient resources for this task. Especially at the municipal level, which is responsible for the implementation of many key rights and services, it is difficult to carry out statutory tasks.

Knowledge and expertise in fundamental and human rights is needed especially in exceptional circumstances such as the coronavirus pandemic. Gaps in knowledge and awareness of rights in Finland has been identified by the HRC. More needs to be done on human rights education at every level of education.

The implementation of rights is not monitored systematically enough, not by the authorities or by the independent human rights actors. The annual reports of the Parliamentary Ombudsman and the Chancellor of Justice provide the Parliament with their observations on the status of implementation of fundamental and human rights. Others, such as special ombudsmen, research institutes and authorities also produce reports with information on issues they are mandated to deal with. However, information on human rights is scattered to many different sources and is not comprehensive. There is no systemic follow up. The HRC is tasked by law with monitoring and reporting but it has not been given the resources to do it comprehensively yet, although monitoring and follow-up have been increased.

The following recommendations were included in the report by the HRC and its Human Rights Delegation in January 2021:

- Training in fundamental and human rights must be increased, especially for authorities, also at the local level.
- Teaching fundamental and human rights at all levels of education must be strengthened. Teacher training must include fundamental and human rights education as a mandatory subject.
- Human rights monitoring in Finland must be further developed and necessary human resources given. The Government's third National Action Plan on Fundamental and Human Rights will be finalised in June 2021. Its aim is to improve the monitoring of fundamental and human rights and to develop an indicator framework for the use of the government. Monitoring by independent human rights bodies needs to be strengthened as well.
- The HRC collects information on fundamental and human rights and publishes up-to-date reports on the implementation of rights. But it does not have the resources to do it comprehensively. The HRC's systematic and independent monitoring work must be further strengthened.
- The structure and competences of fundamental and human rights actors must be clarified, and existing actors strengthened. The competences must be clear and easy to understand for those in need of protection. When new actors or functions are set up, they must be placed so that the overall system does not weaken and fragment further, and without creating duplicate activities.
- The basic tasks of the Non-Discrimination Ombudsman, promoting equality and tackling discrimination, must be strengthened.

### *References*

- The impact of the coronavirus pandemic on the implementation of fundamental rights and human rights – recommendations of the Human Rights Delegation  
<https://www.humanrightscentre.fi/?x170869=1015738>

