

State of the Rule of Law in Europe in 2022



Reports from National Human Rights Institutions

Finland



Finland

Finnish Human Rights Centre

Parliamentary Ombudsman

Impact of 2021 rule of law reporting

Follow-up by State authorities

Rule of law as a theme has been increasingly discussed in Finland during the reporting year in professional circles but also in the media. Inspired by the European Commission's Rule of Law Report, but also some domestic initiatives, the Ministry of Justice organised a rule of law seminar in November 2021. The seminar gathered judges, public officials, and academia to discuss the current state of rule of law in Finland. The European Commission participated in the seminar. The seminar is planned to become a yearly event. There was a common understanding among the speakers that the situation regarding the rule of law remains stable in Finland, and at a high level, but that we also need to be prepared for possible rule of law challenges. The main issues dealt with in the seminar were the independence of the courts and the resources of the justice system. Although the seminar was welcomed and well attended, there was some criticism expressed by some lawyers and human rights advocates that the approach was too narrow. For example, access to justice was not included as topic. Also, the civil society had no role given at the seminar.

This year a new Rule of Law Centre (*Oikeusvaltiokeskus*) has been established within the University of Helsinki in cooperation with the Ministry for Foreign Affairs and funded by the MFA official development funds (ODA). The aim of the Centre is to "support developing countries in creating and reinforcing the foundation of the rule of law; in developing the capacity of the rule of law institutions; and in strengthening legislation by providing expertise, training and other support." As the activities of the Centre are financed from development cooperation funds, the support is available for ODA eligible countries only. The Centre aims to bring together a broad selection of relevant Finnish experts to support their networking and to include them in the development projects to be implemented. The Human Rights Centre is cooperating with the Rule of Law Centre in accordance with its own Action Plan for 2022 and is member of its Advisory Board.

There is a new important Government commissioned research project focusing on rule of law issues in the EU, by the Helsinki Rule of Law Forum, also situated at the Helsinki

University Law Faculty. "The Rule of Law, Finland, and the European Union" project runs from February 2021 to April 2022 and includes workshops, seminars and publications both in English and Finnish. Obviously, there are also many other rule of law research activities, but this project has been a visible addition with its open access workshops and seminars of very high quality.

The HRC sees these developments as a positive sign of growing recognition of the importance of rule of law in Finland. However, the HRC is somewhat concerned that human rights aspects might be sidelined if the focus on the rule of law is too narrowly defined. Fundamental and human rights are intrinsically linked to the rule of law and questions such as access to justice, good administration and institutions dealing with human rights and equality need to be included.

References

- Rule of Law Centre: <https://www.helsinki.fi/en/networks/rule-law-centre>
- Helsinki Rule of Law Forum: <https://www2.helsinki.fi/en/researchgroups/helsinki-rule-of-law-forum>
- Speech of the Minister of Justice at the Rule of Law seminar on 11 November 2021: <https://valtioneuvosto.fi/-/1410853/oikeusministeri-anna-maja-henrikssonin-avauspuheenvuoro-oikeusvaltioseminaarissa-11.11.2021>

Impact on the Institution's work

The HRC has over the past few years put more emphasis on the rule of law and the interlinkages between human rights and rule of law in its own activities. The priority given to the rule of law was strengthened in the action plan for 2022, which was approved in December 2021 by its governance body, the Human Rights Delegation. The HRC follows the rule of law discussion in Finland and contributes to it with its activities. The HRC has organised workshops and training on the theme, for example to a law students' association, done some initial research on corruption and continued monitoring the Rule of Law recommendations by Council of Europe mechanisms as well as the implementation of the decisions of the European Court of Human Rights and European Committee of Social Rights. The Human Rights Delegation, the HRC's decision making and governance body consisting of members representing the Finnish human rights actors and the Finnish society, has discussed rule of law issues several times in its meetings during the year.

The main piece of research by the HRC is the "Report on the Primacy provision of Section 106 of the Constitution and the requirement of evident conflict" published in June 2021. The report examined existing case law relevant to the requirement of *evident* conflict and

focused on decisions where courts had found, in accordance with Section 106 of the Constitution, an *evident* conflict between the Constitution and the application of a law in a concrete case. The report was reviewed by prominent experts, distributed widely, also in the Parliament and as such the report for its small part contributed to the discussion on the rule of law and the role of the courts.

In relation to monitoring the implementation of pending Finnish cases of the European Court of Human Rights and European Committee of Social Rights, the HRC requested information on the reasons for the long delays in June 2021 from the Ministry for Foreign Affairs. The HRC received a reply in September 2021 explaining the reasons behind the delays as well as the planned timetable and actions for advancing the implementation. One of the reasons mentioned as a cause to the delays was the lacking resources of the MFA responsible for the coordination of government responses. The limited resources given to human rights work within the Ministry remains a concern. The implementation of judgments will be treated further in the part on checks and balances.

References

- The HRC: Action Plan 2022: <https://bin.yhdistysavain.fi/1598743/UB44AE4DR5sL9WSM0BDI0XJ2wv/IOK%20TOSU%202022%20EN.pdf>
- The HRC: Report on the Primacy provision of Section 106 of the Constitution and the requirement of evident conflict: <https://www.humanrightscentre.fi/uutiset/press-release-report-on-the-primacy/>
- Delays in implementation of pending cases of the European Court of Human Rights and the European Committee of Social Rights concerning Finland need to be clarified: <https://www.humanrightscentre.fi/uutiset/delays-in-implementation-of-pending/>

Follow-up initiatives by the Institution

The HRC has provided input and comments to the Government Report on Human Rights Policy, which also includes the rule of law as a theme. The HRC has been heard by several committees dealing with the Report in the Parliament in the early 2022.

The HRC has closely monitored rule of law related discussions that have taken place in the Finnish Parliament in its various committees.

References

- Publications of the Finnish Government 2021:92: Government Report on Human Rights Policy: <http://urn.fi/URN:ISBN:978-952-383-971-7>

NHRI's Recommendations to National and European policy makers

The Rule of Law report should be based on a broad concept of rule of law and interlink fundamental and human rights, access to justice and the rule of law and human rights institutions. Participation of NHRIs and civil society organisations in the process should be further strengthened to ensure impact and follow up beyond government and justice circles.

As the rule of law mechanism is a preventive tool aiming at preventing the erosion of the rule of law in member states, the Commission should pay careful attention to the information received from the civil society and NHRIs.

References

- <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20Report%20October%202019%20English.pdf>

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

The Finnish National Human Rights Institution (FNHRI) is comprised of the Human Rights Centre, its Human Rights Delegation, and the Parliamentary Ombudsman. All the three parts that together form the FNHRI have their own specific legal duties, whereby the role of the Human Rights Centre is to take part and represent the FNHRI in international and European human rights co-operation among its statutory tasks. It needs to be emphasized that despite the three-part structure of FNHRI, there is only one NHRI in Finland.

The FNHRI was last reaccredited with A-status in October 2019 (1).

The SCA recommended that adequate funding be made available to the FNHRI to perform its function as a National Preventive Mechanism under the OPCAT (only the Parliamentary Ombudsman) and National Monitoring Mechanism under the CRPD (the FNHRI joint task), and for the Human Rights Centre to work on business and human rights. The SCA encouraged the FNHRI to continue advocating for the necessary funding to ensure that it can effectively carry out its mandate.

Further, the SCA was of the view that due to the different procedures through which the annual reports of the FNHRI are submitted to the Parliament, the Parliament is not

provided with a complete account of the work of the FNHRI. The SCA encouraged the FNHRI to continue to advocate for the Human Rights Centre to have the competence to table reports to the Parliament for discussion to align this procedure with that followed by the Parliamentary Ombudsman.

Regulatory framework

There have been no changes in the regulatory framework of the FNHRI after the 2021 ENNHRI Rule of Law Report.

New human rights bodies and tasks were created in Finland during 2021 (Ombudsperson for Older Persons and a Rapporteur for Gender Based Violence). These new additions, although as such created to engage with important human rights topics, risk fragmenting and complicating the Finnish human rights architecture even further.

The Parliamentary Ombudsman has a strong constitutional basis. The HRC and its Delegation have a legal basis. The Parliamentary Ombudsman has a mandate to deal with individual complaints, mandate to oversee legality and to monitor the implementation of fundamental and human rights whereas general human rights promotion is a task given to the HRC.

The statutory tasks of the HRC are: to promote information provision, training, education and research on fundamental and human rights; to draft reports on the implementation of fundamental and human rights; to take initiatives and give statements for the promotion and implementation of fundamental and human rights; to participate in European and international cooperation related to the promotion and protection of fundamental and human rights; to perform other similar tasks associated with the promotion and implementation of fundamental and human rights.

The FNHRI has been given a joint task to promote, protect and monitor the implementation of the United Nations' Convention on the Rights of Persons with Disabilities.

The Human Rights Delegation serves as a national cooperative body for actors in the sector of fundamental and human rights; deals with fundamental and human rights matters that are of far-reaching significance and principal importance; approves annually the Human Rights Centre's plan of action and annual report; promotes, protects and monitors the implementation of the United Nations' Convention on the Rights of Persons with Disabilities together with the Human Rights Centre (HRC) and the Parliamentary Ombudsman.

The Parliamentary Ombudsman oversees and promotes the legality of actions taken by authorities and other parties performing public tasks as well as the implementation of fundamental and human rights. The Ombudsman examines complaints, takes initiatives on his own and carries out inspections of administration and, in particular, at prisons, military garrisons and other closed institutions. The legislative reform process to divide the tasks of the Chancellor of Justice and the Ombudsman by enacting a new law is still ongoing. The Government proposal has been given to the Parliament on 21 October 2021. The new law will not change the constitutional competences and tasks of the two supreme guardians of legality.

References

- Parliamentary Ombudsman Act (197/2002):
<https://www.oikeusiamies.fi/en/parliamentary-ombudsman-act>
- Government proposal for acts amending the Parliamentary Ombudsman Act and the Chancellor of Justice Act (HE 205/2010 vp):
<https://bin.yhdistysavain.fi/1586428/fA9OcNUmFXPdO8KHVTLB0UqnUk/IOK-HE%20205-2010.pdf>
- Government proposal on Law to clarify the division of powers between the Chancellor of Justice and the Parliamentary Ombudsperson (HE 179/2021 vp):
https://www.eduskunta.fi/FI/vaski/KasittelytiedotValtiopaivaasia/Sivut/HE_179+2021.aspx
- The National Human Rights Institution Working Group: The establishment of a National Human Rights Institution – Proposal for amendments to the Parliamentary Ombudsman Act and Chancellor of Justice Act, Memorandums and statements 45/2010:
<https://bin.yhdistysavain.fi/1586428/Y2AliaWznaNcATYfTxve0UqnUk/IOKOM%20452010%20Kansallisen%20ihmisoikeusinstituution%20perustaminen.pdf>

Enabling and safe space

The working environment for the FNHRI is safe and enabling and there have not been threats or harassment towards the FNHRI.

The Parliamentary Ombudsman is a well-known old institution and enjoys high standing and respect in the Finnish society. It is also known by the public due to its long history, the connection to the Parliament and in particular its complaints handling mandate. The HRC has been established more recently and is not yet as widely known to the public. The HRC

has gradually become a respected expert body in the field of human rights through its advisory, advocacy, outreach and international and European co-operation activities.

The FNHRI has adequate access to information.

According to Parliamentary Ombudsman Act Section 7 “The right of the Ombudsman to receive information necessary for his or her oversight of legality is regulated by Section 111 (1) of the Constitution.” The Ombudsman has access to all information, including classified. According to Section 19 d “In order to carry out its tasks, the Human Rights Centre shall have the right to receive the necessary information and reports free of charge from the authorities.” The HRC does not have right to receive classified information neither is it necessary for its tasks.

The Parliamentary Ombudsman’s decisions with recommendations issued to the authorities usually have a high compliance rate. The addressees generally comply and report back to the Ombudsman on the measures they have taken as a standard procedure, but there is no legal obligation for them to do that.

References

- Interviews in light of the HRC’s soon to be published report on the Human Rights structures in Finland.
- Parliamentary Ombudsman Act (197/2002):
<https://www.oikeusiamies.fi/en/parliamentary-ombudsman-act>
- Government network of contact persons for fundamental and human rights:
<https://oikeusministerio.fi/en/project?tunnus=OM024:00/2020>
- Parliamentary Ombudsman: Summary of Annual Report 2020 (including chapter on Human Rights Centre and Human Rights Delegation):
<https://www.oikeusiamies.fi/documents/20184/39006/summary2020/2de02ec5-378a-4cf3-8948-89f346b2be3a>

Developments relevant for the independent and effective fulfilment of the NHRIs’ mandate

The HRC is carrying out a comprehensive study on the human rights structures in Finland, which will be published in June 2022. It will include recommendations to the Government on how to improve the independence and effectiveness of the human rights structures in Finland. It will also include more targeted recommendations addressing specific issues and concerns. The study also deals with the SCA recommendations addressed to the FNHRI.

The HRC has also commissioned a study on the various international and European standards dealing with human rights and equality bodies, which will be published in at the same time in June 2022. Both reports will be used for information and advocacy purposes and include follow-up activities.

References

- Both the study on human rights structures in Finland and the study on international and European standards dealing with human rights and equality bodies will be published in June 2022.

NHRI's recommendations to national and regional authorities

The Government should pay more attention to the relevant international and regional standards and recommendations and be strategic when developing human rights structures with a view of strengthening them. The resources given should be commensurate with the tasks given.

Human rights defenders and civil society space

The overall environment for human rights defenders and civil society has not changed since last year. However, discussion on certain contentious issues is often hostile and may discourage work on these issues.

Access to and involvement of civil society actors in law and policy making

The Government is developing human rights impact assessments in legislative processes. The involvement of civil society in law and policy making is routine, but there are question marks if the hearings and consultations have always sufficient impact. During the COVID-19 pandemic broader participation – also geographically – has been possible due to increased online consultations.

Knowledge based decision making usually refers to information and expertise by legal and sociological experts. The legislative processes often lack information based on lived experiences and impacts on people that are subject to legislative measures. Some people and groups have less means to participate in legislative processes. The legislation may have an impact on or even cause risks for the most vulnerable persons that were not intended. For a wider knowledge base and a more inclusive consultation in decision making and law drafting, those without a voice or at least their legitimate representatives should also be heard in some ways.

References

- Hanna Hämäläinen: Eriyisen suojattomassa asemassa olevien osallisuutta lainvalmistelun tietopohjan tuottamiseen tulisi vahvistaa (Participation of particularly vulnerable persons in the provision of the knowledge base for law drafting should be strengthened): <https://www.edilex.fi/uutiset/73236>
- Silent Agents and Legislation, SILE-project: <https://www.hiljaisettoimijat.fi/?lang=en>

NHRI's role in promoting and protecting civil society space and human rights defenders

The HRC cooperates with and supports a broad range of civil society organisations defending fundamental and human rights generally and especially disability and older persons rights. The Human Rights Delegation includes NGOs and human rights defenders.

The HRC has been promoting the protection of human rights defenders in the Finnish foreign policy and asking for protection mechanism or programme to be set up in Finland. The HRC continues to monitor how the policy is implemented in practice.

NHRI's recommendations to national and regional authorities

Civil society actors should be included in decision making, heard adequately and in a timely manner. The resources for advocacy and communications activity should be included in the funding decisions.

Checks and balances

The system of checks and balances is generally working well in Finland. The constitutionality of legislation under preparation is primarily assessed by the Constitutional Law Committee of the Parliament. The courts, on the other hand, do not have the right to assess the constitutionality of laws generally and in abstract, but they perform ex post supervision which only applies to concrete individual cases.

According to Section 106 of the Constitution, if the application of an Act would be in evident conflict with the Constitution, the court of law shall give primacy to the provision in the Constitution. In light of enhancing the courts' role in protecting fundamental and human rights, the need of removing the requirement of *evident* conflict with the constitution has been discussed. The HRC's "Report on the Primacy provision of Section 106 of the Constitution and the requirement of evident conflict" (published in June 2021) contributes to this discussion. Removing the need for the "*evident*" requirement would be one way of strengthening the courts' role in protecting human rights even when the law has been considered earlier to be compliant with the constitution by the Constitutional

Law Committee. This would enable the courts to apply the same threshold as for when a provision of law is in conflict with an EU law or international human rights obligations.

The Venice Commission of the Council of Europe has stated in 2008 that the difference between ex ante (conflict) and ex post (requirement of evident conflict) constitutionality review would not seem justified and might be reconsidered. The judicial control of constitutionality by the courts would thus be strengthened.

The citizen initiative has been in place in Finland for almost ten years. The number of initiatives has risen over the years and during the current parliamentary term, over 30 initiatives have gone to the Parliament (compared to 19 during the last electoral term).

The Speaker of the Parliament has in November 2021 underlined the importance of active participation of the civil society and the need to strengthen the trust between citizens and institutions by constantly developing new ways of taking part in decision making.

When it comes to the structural independence and effectiveness of independent human rights institutions there is room for improvement even if most have legal guarantees. Even though independent institutions are functionally independent, the structure might not be as independent as it should. The fact that equality bodies are structurally connected to the Government and financed by the Ministry, may have an indirect impact on their ability to set up their own objectives and priorities. This does not seem to be a problem for the moment but is still a vulnerability that could be addressed. This issue is dealt with in detail in the forthcoming study of the HRC on the Finnish human rights structures.

The independence of the courts has been on the legal discussion agenda during the reporting year. Developments in some other countries in Europe has been noted with concern.

According to the Fundamental Right Barometer, published by the Ministry of Justice and the HRC in June 2021, 76 % of the whole population believe that a judge can do their work always or mostly without the Government's interference.

The President of the Supreme Administrative Court, the Association of Finnish Lawyers and the Finnish Association of Judges consider it important or even necessary to examine the legal guarantees for the independence of the judiciary. Following the Parliamentary Law Committee's observations on the current state of the administration of justice and the discussion on the lacking resources, the Ministry of Justice is preparing a report on the administration of justice covering the judiciary, the Prosecutor's Office, the National Enforcement Office, the Criminal Sanctions Agency and the Legal Register Centre and the legal aid and guardianship. The report will be given to the Parliament in fall 2022.

References

- Parliamentary Ombudsman: Summary of Annual Report 2020
<https://www.oikeusasiames.fi/documents/20184/39006/summary2020/2de02ec5-378a-4cf3-8948-89f346b2be3a>
- The HRC: Primacy provision of Section 106 of the Constitution and the requirement of evident conflict <https://www.humanrightscentre.fi/uutiset/press-release-report-on-the-primacy/>
- Hanna Hämäläinen: Erytisen suojattomassa asemassa olevien osallisuutta lainvalmistelun tietopohjan tuottamiseen tulisi vahvistaa (Participation of particularly vulnerable persons in the provision of the knowledge base for law drafting should be strengthened), 16 December 2021 <https://www.edilex.fi/uutiset/73236>
- Speaker of the Parliament wants to advance participation of citizens in decision making, 29 November 2021 <https://www.eduskunta.fi/FI/tiedotteet/Sivut/Puhemies-Vehvilainen-haluaa-edistaa-kansalaisten-osallistumista-paatoksentekoon-29112021.aspx>
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<https://tuomioistuinvirasto.fi/en/index/ajankohtaista/currentissues/2021/thenationalcourtsadministrationdemandsufficientresourcesinrelationtothenumberofcases.html>
- Statements of the Parliamentary Law Committee
https://www.eduskunta.fi/FI/vaski/Lausunto/Sivut/LaVL_11+2021.aspx and
https://www.eduskunta.fi/FI/vaski/Lausunto/Sivut/LaVL_16+2021.aspx
- Research project carried out by the Ministry of Justice and the Human Rights Centre: Fundamental Right Barometer
https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163261/OM_2020_17_SO.pdf?sequence=1&isAllowed=y

Trust amongst citizens and between citizens and the public administration

As reported in previous years, the overall trust in the public administration in Finland is high. However, reports and cases of maladministration and lack of openness in decision making by the Government impacts negatively on citizens' trust in public administration.

In June 2021, the HRC and the Ministry of Justice published a Fundamental Right Barometer to survey the views and trust of people in the public administration. It examined the views and experiences of people in Finland in general, but also the views of persons

with disabilities as well as people belonging to linguistic minorities (Russian, Arabic and Swedish speakers). When using services provided by public administration or local authorities, respondents felt that long processing times, difficulties in finding information and lack of the necessary service or information on the internet were problematic. According to the results the least satisfied with the different factors in general were people with disabilities or functional limitations and Swedish speaking people.

References

- Research project carried out by the Ministry of Justice and the Human Rights Centre: Fundamental Right Survey
https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163261/OM_2020_17_SO.pdf?sequence=1&isAllowed=y

NHRIs as part of the system of checks and balances

The Parliamentary Ombudsman as the supreme guardian of legality is one of the key institutions for checks and balances in Finland. The role of the HRC is more general and it contributes through the provision of information, monitoring and conducting research, providing training and in engaging in domestic, European and international human rights and rule of law cooperation.

For the first time ever, in October 2021 the HRC has used the possibility to participate in the monitoring of the implementation of ECtHR judgments as an NHRI. The HRC submitted a rule 9 intervention to the Council of Europe Committee of Ministers, responsible for monitoring the implementation of ECtHR judgments, in the case *X v. Finland* concerning involuntary medication and lack of legal remedy against it. In the case the Court found in 2012 a violation with regard to Article 5 § 1 (Right to liberty and security of person) and Article 8 (Right to private life).

In its intervention the HRC noted that – in regard to legal remedies against forced medication - the previous attempts by the Government and the Parliament to bring the legislation in line with the requirements of the judgment in this case, as well as other international human rights instruments, have failed. Instead, since 2012, guidelines that were intended to be temporary are still in force. The repeated failures to legislate the matter in over 10 years' time shows the difficulties towards full and proper implementation of this judgment and the inability to correct the situation in general. This is highlighted further by the fact that a new case concerning lack of legal remedy against forced medication in a psychiatric hospital (*E.S. v. Finland, application no. 23903/20*) has been lodged before the Court in June 2020 and communicated to the Government in March 2021.

References

- The HRC: Primacy provision of Section 106 of the Constitution and the requirement of evident conflict: <https://www.humanrightscentre.fi/uutiset/press-release-report-on-the-primacy/>
- Venice Commission: Opinion on the Constitution of Finland, 2008: [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)
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- The HRC: Rule 9 intervention to the Council of Europe Committee of Ministers: <https://bin.yhdistysvain.fi/1586428/zo3By7qm1lyzYNZ4Kr0LOWTy3B/X%20v%20Finl and%20-Rule%209%20submission-%20CM.pdf>
- X v. Finland (34806/04): <https://hudoc.exec.coe.int/eng?i=004-5984>
- E.S. v. Finland (23903/20): <https://hudoc.echr.coe.int/eng?i=001-209024>

Functioning of the justice system

As described before, during this reporting period there has been more discussion on the justice system, although the issue of lack of resources has been on the table for a long time. The impartiality and independence of the justice system and the courts and the possible weaknesses in the legislation dealing with the composition of the courts and appointments of judges have been discussed.

The Parliamentary Law Committee has several times this year expressed its concerns about the respect for the rule of law and lack of legal protection. The resources in the justice administration are insufficient, which has ultimately an impact on the processing times and legal protection of people.

The Association of Finnish Lawyers, the Finnish Bar Association as well as legal professionals among others have expressed their concern on the issue. The cost of proceedings in civil cases has risen and the time for judicial processes (*oikeudenhoidon käsittelyaika*) have become longer – as the pandemic has also lengthened the processes. To tackle the problem, the Association of Finnish Lawyers has proposed a new procedure for minor civil cases, which would reduce the cost and time of the process. The costs and

lengthy proceedings affect especially middle-income people, as they have a risk for high costs if they decide to take the matter to court.

The Government proposals for an Act on Legal Service Agency (*Oikeuspalveluvirasto*) and an Act on Special Judicial Authorities Agency (*Oikeushallinnon erityisviranomaiset -virasto*), are on circulation for comments in February 2022. The aim of establishing a Legal Service Agency is to secure the equal availability of public legal aid and guardianship services and to transfer the central administration of the sector from the Ministry of Justice to the new authority. This proposal is part of the project on establishing a Special Judicial Authorities Agency, the aim of which is to bring together the operational administrative tasks of 11 special authorities¹ and to strengthen their administrative expert support, which would reduce overlapping administrative work and free resources for the authorities' substance work.

Access to justice and services for vulnerable groups, especially people with disabilities and migrants does not always materialize. According to the annual report 2020 of the Parliamentary Ombudsman: "The most common shortcomings found in the oversight of legality by the Ombudsman involve delays in processing applications for benefits and services granted to persons with disabilities and neglecting the authority's duty to make decisions. These procedural errors jeopardise the implementation of legal protection of persons with disabilities, as the customer's appeal is delayed." There have been cases where no personal service plan (*palvelusuunnitelma*) has been drawn up or the authority has neglected its duty to make decisions. Thus, there is no legal remedy to appeal since there is no decision to be appealed about.

When it comes to migrants and people without or with less knowledge of the national languages, interpretation plays an important role. Unfortunately, the level and quality of interpreters has deteriorated since there is no obligation for the authorities to use registered legal interpreters (*rekisteröity oikeustulkki*). A recent case by the Supreme Administrative Court concerned the fact that the asylum seeker (*KHO 2021:165*) had not had a proper language interpreter and the court stated there had been a procedural fault concerning interpretation.

A positive change considering access to justice for asylum seekers is the changes adopted in July 2021 to the Aliens Act and to the Legal Aid Act to improve access to legal aid and to lengthen the appeal period. However, these are changes following the previous Government's decision to tighten these rights. A report on the effects of the amendments made to the Aliens Act on asylum seekers during the previous Government term was published in February 2021. According to the report the focus was on making the asylum process efficient, rather than protecting the applicants' human rights. A project on

strengthening the legal protection of asylum seekers was in place from July 2019 until July 2021 and resulted in the above-mentioned amendments in favour of the asylum seekers.

References

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- The combined effects of changes to the Aliens Act and its application on the status of applicants for and beneficiaries of international protection, February 2021: https://ec.europa.eu/migrant-integration/library-document/combined-effects-changes-aliens-act-and-its-application-status-applicants-and_en
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- Association of Finnish Lawyers' proposal for a new procedure for minor civil cases: https://www.lakimiesliitto.fi/site/assets/files/23034/lakimiesliiton_ehdotus_vahaisten_riita-asioiden_menettelysta.pdf

Establishing Agencies in the justice administration:

- Oikeusapu- ja edunvalvontaviraston ja oikeushallinnon erityisviranomaiset -viraston perustaminen: <https://oikeusministerio.fi/hanke?tunnus=OM051:00/2021>
- Hallituksen esitys laiksi valtakunnallisesta oikeusapu- ja edunvalvontavirastosta: <https://oikeusministerio.fi/hanke?tunnus=OM050:00/2021>
- Hallituksen esitys laiksi oikeushallinnon erityisviranomaisista: <https://oikeusministerio.fi/hanke?tunnus=OM049:00/2021>
- Supreme Administrative Court decision KHO 2021:165: <https://www.kho.fi/fi/index/paatokset/vuosikirjapaatokset/1637818163915.html>

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NHRI's recommendations to national and regional authorities

The justice system needs adequate resources to be able to perform its function efficiently and to ensure access to justice in reasonable time. Access to justice also requires available, affordable and efficient legal aid.

Media freedom, pluralism and safety of journalists

The situation of media is relatively good and stable in Finland. However, hate speech, different type of harassment and targeting of journalists have been an alarming threat against media freedom in Finland. In addition, concentration of the national media market raises some concern.

According to a recent survey, around 42 % of journalists feel that pressure and intimidation increase the burden of work. Almost every third respondent stated that they rather not write about certain topics or perspectives because they fear they will be subjected to pressure and intimidation. Topics that caused the most intimidation were migration and asylum. Also, environmental issues caused pressure, and as a new subject causing pressure and intimidation was the COVID-19 pandemic, restrictions, and vaccinations. The gender of the journalist does not according to the survey have an impact on the amount of intimidation but is clearly visible in the severity of experienced consequences.

The Media for Democracy Monitor 2021 (MDM) contains several indicators relating to the media. To highlight some examples, according to the publication: independence of the Finnish news media from powerholders is generally strong, but it is increasingly tested; all

the largest news media organisations in Finland have their own internal protocols and guidelines for protecting their journalists against external interference and harassment; the national media market remains relatively concentrated, with only a handful of companies dividing the market in each sector; dominant regional newspapers generally face no direct competition in their own market area; apart from Swedish and Sámi media content other minority and alternative media organisations are limited; independent media criticism in Finland is weakly institutionalised, and there is an existing law that, in principle, provides open access to public information, but problems remain in practice.

The limits of freedom of speech and journalists' responsibility in their work has been discussed during the reporting year. The prosecutor has in October 2021 charged three journalists of the national daily newspaper Helsingin Sanomat for revealing and for attempt of revealing a security secret. The chair of the Union of Journalists has seen the charges as one of the hardest ones in the history of Finnish freedom of speech and that it would be a "tough thought" that journalists in Finland could be sentenced, even though it could be conditional imprisonment.

The charges raised concern the publication of an article in 2017 concerning military intelligence by the Defence Forces and the activities of the Communications Experiment Centre (*Viestikoekeskus*) conducting signals intelligence. The main question of the case relates to the journalists' right not to reveal their sources.

The case has raised broader discussion on the limits of freedom of speech and on the responsibility of journalists in their work. There have also been other journalists who have either been prosecuted or convicted of defamation. In general, journalists have asked whether the justice system has a proper understanding of the profession of journalists and whether the sanctions have been just. On the other hand, on 11 January 2022, the Supreme Court overturned the defamation sentence of a journalist in relation to commenting political action. The court thus clarified the ambit of freedom of speech, and what is allowed within the freedom of speech, which is of importance for future cases.

When it comes to the media pluralism, there are both low and high-risk areas according to the results of the Media Pluralism Monitor 2021 report. In the category of fundamental protection, the risk to media pluralism is low (28 %), however, the indicators of protection of right to information as well as universal reach of traditional media and access to the internet, present a medium risk. The market plurality on the other hand presents a high risk, of which the indicator of news media concentration presents a risk of 90 %. The category of political independence presents a medium risk, which nevertheless is mostly due to the absence of regulation preventing politicised control of the media.

As a sign of progress in the implementation of ECtHR pending cases, 11 repetitive ECtHR cases against Finland concerning freedom of speech have been closed by the Committee of Ministers in October 2021. The cases had been waiting for implementation for a long time, hence this is a welcome development.

During the war in Ukraine, three Nordic newspapers (the Finnish newspaper Helsingin Sanomat, the Swedish Dagens Nyheter and the Danish Politiken) publish their articles on the war in Russian language to provide Russians with impartial and trustworthy news and coverage.

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Corruption

According to the Transparency International index CPI, Finland is one of the world's least corrupt countries. The prevalence of street-level or petty corruption, such as bribery, is low or almost non-existent in Finland. However, Finland is not fully free of corruption; corruption is structural and hidden corruption is more difficult to detect. In addition, corruption occurs as part of economic crimes and as the provision and taking of unlawful benefits, conflicts of interest and favouritism. It is also manifested as an unethical preparation of decisions outside formal decision-making structures.

Efforts have been made to investigate the prevalence of corruption and the risk management related to it, but the analysis of the impact of corrupted practices on the realisation of human rights is lacking.

In May 2021, the Government adopted a Resolution on an Anti-Corruption Strategy and Action Plan for the period 2021–2023, with the objective being to combat corruption more broadly than is done now at all levels of public administration. The strategy is a welcome development; however, it took far too long to be adopted; a working group was set in 2015 and the draft for the strategy was given to the Ministry of Justice in 2017. The strategy and Action Plan were pending since then but have now finally been adopted. The

measures of the Action Plan include, among others, improving cooperation between the authorities, raising awareness of corruption, exposing cases of corruption, examining the functioning of anti-corruption legislation and promoting research. However, no separate funding has been allocated for the implementation of the Action Plan.

Finland lacks a corruption prevention body that would be independent from the Government. There are several different actors, such as the Ministry of Justice and its departments, the police, the Ministry of Finance, the Association of Finnish Municipalities, the Ministry for Foreign Affairs, the Finnish Competition and Consumer Authority that play a role in the corruption prevention and together form an anti-corruption cooperation network, but there is not one single actor, whose main responsibility would be anti-corruption as a whole.

There are only a few civil society actors, such as Finnwatch and Transparency International Finland, working with anti-corruption. The scarcity of actors might affect monitoring but also reporting on this issue or result in only partial information.

Corruption as a crime is investigated and understood but there is room for improvement on the impacts of corrupted practices to the rule of law and respect for fundamental and human rights.

In relation to lobbying and influencing political decision making, an Act on the transparency register will be enacted. In December 2021, the Ministry of Justice organised a seminar on the transparency register, the aim of which is to increase the transparency of lobbying and influencing activities.

There is also Government proposal on implementing the EU directive on whistle blowers that is being prepared by the Ministry of Justice. Implementation of the directive should have taken place by the end of year 2021, but there have been delays due to the extent of the EU directive and the vast and diverse feedback received during the consultation round.

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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 Chancellor of Justice gave a decision relating to the lack of openness in the management of the COVID-19 pandemic on 21 December 2021. The Chancellor suggested the Ministry of Social Affairs and Health to improve the openness and transparency of decision making in relation to the management of COVID-19 pandemic. He stated that the Ministry shall inform how it will develop openness in COVID-19 pandemic management both in the Ministry and its administrative branch. The Chancellor also criticized the fact that he has repeatedly had to request that the reasoning of Government proposals relating to the management of COVID-19 pandemic improves.

Actions taken by the NHRI to promote and protect rule of law and human rights in the crisis context

In January 2021, the HRC published a report with recommendations by the Human Rights Delegation "The impacts of the coronavirus pandemic on the implementation of fundamental and human rights", the content of which was already presented in the 2021 report. The monitoring of the impacts continues also in 2022.

The COVID-19 pandemic has had an impact on the number of complaints filed to the Ombudsman. During 2021, the Ombudsman received 7732 complaints, which is around 700 more than in 2020. The growth was biggest in complaints relating to health care. During the last three years, the number of complaints has risen over 38 %. Despite the large number of complaints, the Ombudsman was able to achieve its processing time target at the end of the year, as there were no cases that would have been pending for more than a year.

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

The COVID-19 pandemic and measures related to it still affect the FNHRI's work in the sense that most of the work is done remotely. The Human Rights Delegation has not been able to organise its meetings in person but has been able to perform its tasks via online meetings. Most of the inspections of the Ombudsman are still done remotely. Return to working places and in present meetings has begun in early 2022 as no restrictions are in place due to the pandemic.

NHRI's recommendations to national and regional authorities

The impacts of all measures taken must be properly assessed. The decisions must be made with adequate reasoning, and they must be open and transparent. Information must be timely, clear and accessible to everyone, including to the most vulnerable people.