



**GOVERNMENT OF FINLAND  
HUMAN RIGHTS REPORT  
2014**



MINISTRY FOR FOREIGN  
AFFAIRS OF FINLAND



**Government of Finland  
Human Rights Report 2014**

ISSN 0358-1489 (printed)

ISSN 2341-8230 (pdf)

ISBN 978-952-281-279-7

PDF ISBN 978-952-281-280-3

e-pub ISBN 978-952-281-281-0

Printed: Grano Oy, Jyväskylä

Layout: Grano Oy, Joensuu

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# 1 The Report as an instrument of guidance in human rights activities

This Government of Finland Human Rights Report sets out the Government's policies on Finland's national and international fundamental and human rights activities. It is based on evaluations of the implementation of earlier human rights policy reports (1998, 2000, 2004, 2009) and the National Action Plan on Fundamental and Human Rights 2012–2013. It also responds to major changes in the international and national operating environment.

The report stresses the need for consistency and coherence between national and international activities, and it highlights the position of the European Union as a fundamental and human rights actor.

The international operating environment has undergone changes since the Government Report on the Human Rights Policy of Finland was adopted in 2009 (VNS 7/2009 vp)<sup>1</sup>. In particular, the extended financial crisis of the public economy in Western countries and the economic downturn have raised concerns over the adequacy of resources allocated for the implementation and monitoring of fundamental and human rights. Public debate and civic activities related to human rights have gathered momentum globally, especially in electronic information networks and in the new and conventional media. Respect for and the implementation and monitoring of human rights also depend on trends in international relations.

The situation of fundamental and human rights in Finland is good by international comparison. The Constitution of Finland obliges public authorities to guarantee the observance of basic rights and liberties and human rights. The Government is committed to respecting, protecting and promoting human rights in its legislative work and in its policy programmes. The adoption of new international and regional human rights treaties in Finland and the evolution of their interpretation have an impact on national legislation. The European Union's role has increased as a fundamental and human rights actor, both at the

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<sup>1</sup> Below, the term Human Rights Report will be used.

national level and in international human rights policy. The end of this report includes a list of international and regional human rights treaties that Finland has adopted or ratified, or is in the process of ratifying.

Finland's first National Action Plan on Fundamental and Human Rights was adopted by the Government for 2012–13. Its implementation was monitored by a Government network of contact persons for fundamental and human rights and supported by a panel of fundamental and human rights actors that represented civil society. The mechanisms for the national monitoring and promotion of fundamental and human rights realisation has been diversified and strengthened. A national human rights institution was created in 2012. A national human rights institution was created in 2012 when the Human Rights Centre, which administratively operates in connection with the Office of the Parliamentary Ombudsman, and its Human Rights Delegation started their activities.

By and large, the assessments and objectives contained within the previous Human Rights Policy Report still remain valid. As an exception to previous documents, the current report, instead of covering all fields and forms of activity, focuses on the principal areas where improved and more specific government policies are called for. In this way, it is possible to strive to enhance the impact of our activities. The individual policy guidelines contained in this report represent new or evolving goals of the Government's fundamental and human rights activities.

A fundamental and human rights perspective also has a role in several other Government policy outlines and operational policies. The Government Report on Democracy Policy published in 2014 (VNS 3/2014 vp) can be cited as an example. Led by the Ministry of Employment and the Economy, recommendations for measures that are in line with the UN Guiding Principles on Business and Human Rights were also prepared. They specify how companies should respect fundamental and human rights, how the Government should protect the population from human rights violations in business and how victims of human rights violations should have recourse to effective remedies. As part of ownership steering, the State expects every company to account for human rights in a responsible and transparent manner both in their own organisation and in their subcontracting chains. The Development Policy Programme of Finland, in turn, is founded on a human rights-based approach, and its cross-cutting objectives include gender equality and reducing inequality. In order to

reinforce equality and non-discrimination, policies and programmes regarding the position of various population groups have been adopted. Rather than discuss the policies contained in other Government documents, the Human Rights Report emphasises the need for a consistent and coherent approach to fundamental and human rights activities.

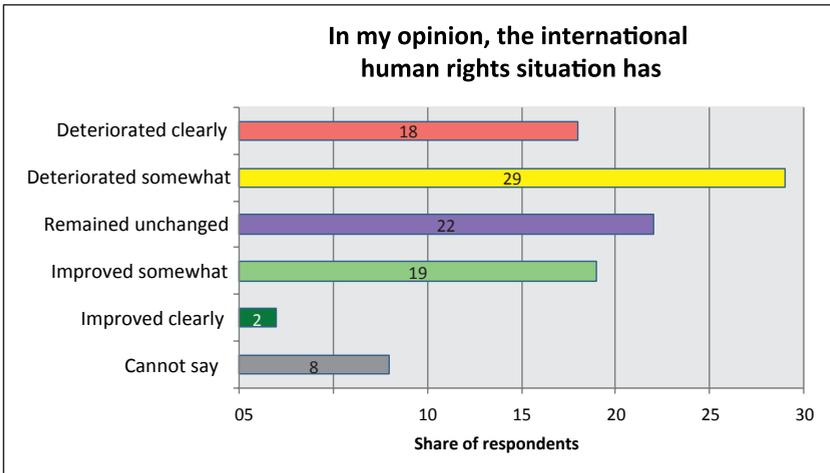
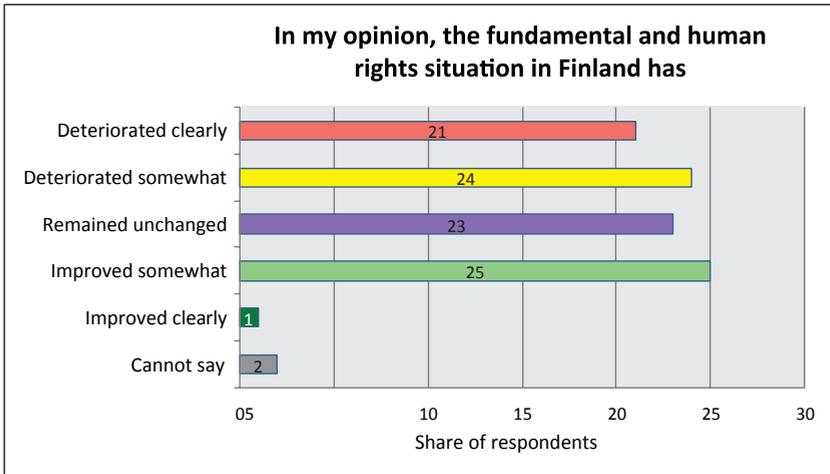
## 1.1 Preparation of the report

The Government submits its Human Rights Report to the Parliament as indicated in the Government Programme and takes into account the parliamentary reply to the report submitted in 2009. In addition to policies on international activities, the report includes an evaluation of the implementation of the National Action Plan on Fundamental and Human Rights 2012–13. While the Ministry for Foreign Affairs assumed overall responsibility for preparing the report, the sections on national activities and EU affairs were drafted by the Ministry of Justice. The report was prepared by the Government network of contact persons for fundamental and human rights, in which all Ministries are represented.

A study commissioned by the Ministry for Foreign Affairs evaluated the image of Finland's international human rights policy. The report is also underpinned by an external evaluation of the implementation of the National Action Plan on Fundamental and Human Rights commissioned by the Ministry of Justice. The preparation involved discussion sessions and requests for statements from authorities, NGOs and other actors working with human rights. For the first time, private individuals could express their views on the Internet to assist the preparation of the Human Rights Report. In spring 2014, 931 persons responded to a survey on the implementation of fundamental and human rights and suggested further measures on the Ministry of Justice's web service *otakantaa.fi*. See the attached tables for a compilation of the respondents' views on the development of the national and international situation regarding fundamental and human rights.<sup>2</sup>

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<sup>2</sup> To read the replies submitted through the service in full, visit: [https://www.otakantaa.fi/fi-FI/Selaa\\_hankkeita/Perus\\_ja\\_ihmisoikeudet\\_Suomessa/Perus\\_ja\\_ihmisoikeudet\\_Suomes-sa\\_kysely\(27986\)/KyselynTulokset](https://www.otakantaa.fi/fi-FI/Selaa_hankkeita/Perus_ja_ihmisoikeudet_Suomessa/Perus_ja_ihmisoikeudet_Suomes-sa_kysely(27986)/KyselynTulokset). In addition, three persons returned their responses in letter form.



## 1.2 Basic principles of fundamental and human rights activities

The basic principles of the Government's human rights activities include the universality of human rights, non-discrimination, and the interdependence and indivisibility of civil, political, economic, social and cultural rights, as well as strong participation rights. The implementation and promotion of human rights are stressed in its activities. Education on and awareness of fundamental and human rights promote their implementation.

Human rights refer to the rights of individuals, and in specific cases, of population groups consisting of individuals, that are fundamental and safeguarded in international and regional human rights treaties. The provisions of human rights treaties specify a minimum level of human rights that is required for a life with human dignity. In international human rights treaties, state parties undertake to respect, protect and implement their human rights obligations under the treaties.

The Constitution of Finland contains provisions on fundamental rights that belong to everyone. Fundamental rights refer to the rights of individuals, or population groups consisting of individuals, that are safeguarded in national constitutions. European Union law also safeguards certain fundamental rights of individuals.

Human rights belong to everyone in all countries. Various states can draw upon their national practices in the implementation of fundamental and human rights, but this must not mean violating international human rights provisions.

Shortcomings in recognising and implementing fundamental and human rights obligations is a key problem everywhere, and also in Finland. Constructive dialogue is thus needed between monitoring bodies and governments, as well as clear recommendations that promote the realisation of human rights. International and regional monitoring bodies for human rights treaties, regional human rights courts and other mechanisms for realising human rights must be sufficiently autonomous and have an independent competence and adequate resources for overseeing compliance with treaties, interpreting their contents and intervening in violations against them. Dialogue between states and peer support may promote the implementation of human rights. Support from the international community is needed in developing legal systems, and especially in rebuilding in the aftermath of conflicts and autocratic systems.

Finland continues its open and constructive dialogue with the United Nations and European human rights treaty bodies. National fundamental and human rights actors, including the supreme overseers of legality, the Ombudsmen and the Human Rights Centre, must have sufficient competence and adequate resources to oversee the implementation of fundamental and human rights and work for the improvement of the standard of protection afforded by the rights.

Non-discrimination is an important objective of the Government's fundamental and human rights activities: everyone has an equal right to live their lives with human dignity. However, the rights are not implemented equally. A precondition for the realisation of equality is paying particular attention to the rights and views of persons belonging to population groups at risk of exclusion and discrimination in drafting and decision-making.

Similarly to international human rights norms, the Constitution of Finland contains both civil and political rights (CP rights) and economic, social and cultural rights (ESC rights). The Government highlights the equal value of CP and ESC rights and the fact that these rights are mutually supportive.

In addition to the freedom of economic activity and social security, extensive civil liberties and a strong civil society are some of the basic features of the Nordic model of society. The development of the rule of law, transparency of government and information, and opportunities for civil society participation are integral in the realisation and development of fundamental and human rights, both nationally and internationally.

## 2 Non-discrimination and transparency are highlighted in Finland's international human rights activities

As set out in the Government Programme, the Government promotes the development of the rule of law, democracy and human rights in its bilateral relations and within international organisations in a constructive manner and with a results-oriented approach. Human rights play a vital part in the overall consideration of Finland's foreign and security policy. The European Union is Finland's most important frame of reference and channel of action in international human rights activities.

In 2013, the Ministry for Foreign Affairs adopted a Human Rights Strategy accompanied by a more detailed Action Plan 2013–15. These two documents inform the activities of the Ministry and Finland's foreign missions. The founding principle for the activities is the universality of human rights and the cross-cutting objectives of reducing and eradicating discrimination and improving transparency and possibilities for participation.

The flagship objectives of the action plan comprise actions to promote women's rights, ESC rights and various forms of transparency and inclusion. The Ministry for Foreign Affairs will adopt a more detailed action plan for 2016–19 based on the strategy.

The underlying principle of the Government **Security and Defence Policy Report** (VNS 6/2012 vp) adopted in 2012 is that Finland's international cooperation is based on transparency, promoting human rights, democracy and the rule of law, and complying with international law. Security, development and human rights can only be implemented in interaction between these three areas.

Finland supports the inclusion of clear human rights objectives in the mandates and the reporting of crisis management operations. The position and participation of women and girls will be strengthened, in particular on the basis of the UN Security Council resolution on Women, Peace and Security

(1325). In crisis prevention and rebuilding, Finland highlights the protection of minority rights and the operating possibilities of civil society.

In efforts to strengthen cybersecurity, the Government respects the protection of privacy and the right of access to societal information. The Government undertakes to respect fundamental and human rights and the rule of law in all of its anti-terrorism activities. Preventing exclusion and discrimination is a significant factor in preventing violent extremism.

It is important for states to have resources for preventing and prosecuting crimes that are within the scope of their responsibility to protect, including genocide, war crimes, crimes against humanity and ethnic cleansings, as well as incitement to these acts. Finland stresses the international community's right to act on its responsibility to protect in cases where national capabilities to implement it are absent. Finland focuses on developing international peace mediation activities to enable the prevention of war crimes and serious human rights violations and to reduce their impunity.

Human rights are an inseparable part of economically, socially and ecologically sustainable development. According to the **Development Policy Programme** adopted in 2012, Finland supports a human rights-based approach to development. Finland aims to ensure that the authorities know, respect and implement their human rights obligations and that even the poorest people know their rights and are able to take action to realise them. The Government Report on the Impact and Coherence of Development Policy (VNS 5/2014 vp) states that Finland's development policy shall be also based on human rights and on a human rights-based approach in the future.

It is vital that the UN development agenda beyond 2015 be human rights based. Finland highlights states' human rights obligations and responsibilities, and the non-discrimination of and particular attention to the most vulnerable population groups. In addition, Finland promotes the creation of operating environments that are favourable for human rights implementation by supporting peace processes, good governance, anti-corruption actions and the development of the rule of law.

The liberation and international regulation of **trade** can jointly promote the

achievement of human rights objectives and fundamental rights in working life. Companies must respect human rights, states must protect the population from human rights violations associated with business, and victims of human rights violations must have the possibility of referring violations to competent authorities.

The Ministry for Foreign Affairs has adopted UN and regional operating strategies and thematic policies, which also impact the implementation of human rights.

Respecting and protecting fundamental rights in working life is an important part of the realisation of human rights. Finland is a state party to a number of International Labour Organization (ILO) conventions, including ones that safeguard the right to decent work, and actively takes part in the organisation's work. The Social Protection Floor initiative of the ILO and certain UN organisations<sup>3</sup> that is underpinned by the UN Declaration of Human Rights may strengthen the right to work and social security. The Government works together with employers' organisations and trade unions to prepare accession to treaties and to monitor compliance with the obligations arising from them.<sup>4</sup>

Reflecting these and other policies adopted by the Government, the Human Rights Report stresses human rights issues where Finland can develop its national strengths and offer added value to international human rights activities.

An expert evaluation concentrating on the implementation of the section on international activities in the Human Rights Policy Report of 2009, commissioned by the Ministry for Foreign Affairs, proposes that, in the future, Finland should consider shifting the focus from economic, social and cultural rights, or ESC rights, more strongly towards civil and political rights (CP rights), as the latter have a higher profile in international human rights discussions.<sup>5</sup>The messages received from human rights actors and Ministries in the course of preparing the report, on the other hand, highlighted the increasing significance of ESC rights. The report does not propose changing the current basic policy, which

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<sup>3</sup> Social protection floor

<sup>4</sup> [http://www.tem.fi/tyo/kansainvalinen\\_tyoelamayhteistyo/kansainvalinen\\_tyojarjesto\\_ilo](http://www.tem.fi/tyo/kansainvalinen_tyoelamayhteistyo/kansainvalinen_tyojarjesto_ilo)

<sup>5</sup> <http://formin.finland.fi/Public/default.aspx?nodeid=42553&contentlan=1&culture=fi-FI>

strives to strengthen both types of rights and to secure an equal position for ESC and CP rights in international human rights activities. The impact of Finland's actions in the areas of both CP and ESC rights should be investigated further. The recommendations contained in the most recent evaluation, which concerned stepping up reporting, data collection and the use of indicators in international human rights activities, will be followed as far as permitted by the existing resources and in cooperation with various Ministries.

When preparing the report, attention was paid to the national ratification of international and regional human rights treaties. In the Finnish system, a precondition for the appropriate ratification of international and regional human rights treaties is that national legislation is first amended to comply with the provisions of the international treaty. The availability of adequate national resources and other practical requisites for our ability to ratify human rights treaties as soon as possible after their political consideration should be ensured.

Systematic and effective action to promote human rights requires cooperation between public authorities and civil society. Internationally, NGOs are increasing their role in developing sets of norms, in monitoring the realisation of human rights, and as a channel for exerting influence for citizens, including population groups most at risk of discrimination. The treaty preparation and ratification processes are participatory. In the context of monitoring human rights treaty implementation, the Government highlights the significance of the Human Rights Centre and NGOs as producers of independent information and disseminates information about their possibilities of engaging in direct cooperation with the treaty monitoring bodies.

## **2.1 Strengths and shortcomings of the international human rights system**

### *Improved coverage and monitoring of human rights treaties*

The international human rights situation shows both positive and negative trends. The system of international human rights treaties more and more extensively covers the rights of various population groups. More than 80 per cent of the world's states are committed to several major international human rights treaties. The situation is illustrated by the table below.

EXAMPLES OF KEY UN HUMAN RIGHTS CONVENTIONS AND THE NUMBERS OF STATE PARTIES		
Convention <sup>6</sup>	Number of state parties <sup>7</sup>	Year of ratification by Finland
ICERD (1965) <sup>8</sup>	177	1970
ICESCR (1966) <sup>9</sup>	162	1975
ICCPR (1966) <sup>10</sup>	168	1975
CEDAW (1979) <sup>11</sup>	188	1986
CAT (1984) <sup>12</sup>	155	1989
CRC (1989) <sup>13</sup>	194	1991
CRPD (2006) <sup>14</sup>	150	Ratification being prepared by the Government.

Access to legal protection has been strengthened by the complaints procedures set up under the most important UN human rights conventions. The new complaints procedures include the international ratification of the Optional Protocols to the ICESCR and the Convention on the Rights of the Child, which contain an individual complaints mechanism and investigative procedures.

Activities to monitor the implementation of treaties as well as the interpretation of human rights norms and the methods for promoting them have developed. The number of treaty monitoring bodies has increased rapidly with the ratification of new human rights treaties. The monitoring bodies have adopted new methods

<sup>6</sup> The year of adoption of the convention is given in brackets after the international abbreviation of its title.

<sup>7</sup> Situation in September 2014. The total number of UN member states is 193.

<sup>8</sup> International Convention on the Elimination of All Forms of Racial Discrimination Finnish Treaty Series no 37/1970

<sup>9</sup> International Covenant on Economic, Social and Cultural Rights Finnish Treaty Series no 6/1976

<sup>10</sup> International Covenant on Civil and Political Rights Finnish Treaty Series no 7-8/1976

<sup>11</sup> Convention on the Elimination of All Forms of Discrimination against Women Finnish Treaty Series no 67-68/1986

<sup>12</sup> Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment Finnish Treaty Series no 59-60/1989

<sup>13</sup> Convention on the Rights of the Child Finnish Treaty Series no 59-60/1991

<sup>14</sup> Convention on the Rights of Persons with Disabilities. The convention was signed by Finland on 30 March 2007.

to enhance the supervision of the implementation during the middle part of the reporting term as well. In addition to periodic reporting and a complaints procedure, other forms of monitoring are also in use, such as visits by the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to locations in the territories of states parties where persons deprived of their liberty are or may be kept.

All UN member states are involved in the UN Human Rights Council's Universal Periodic Review (UPR), where the states provide one another with recommendations for promoting the realisation of human rights. Within a short period of time, the UPR has developed into a significant instrument for human rights dialogue on individual countries. The resources of the Office of the United Nations High Commissioner for Human Rights have been increased, but their share of the UN budget still remains at only three per cent. In its activities, Finland aims to strengthen the operational preconditions of the Office of the United Nations High Commissioner for Human Rights and to provide it with significant financial support. The international system for criminal justice has continued to grow stronger, as the number of cases handled by the International Criminal Court has increased.

Regional human rights systems have also evolved outside of Europe. In the Americas, the cases and practices of the Inter-American Commission on Human Rights have continued to develop. However, the status of the monitoring system in countries in the Americas is affected by the inefficient execution of the court's decisions. The activities of the African Commission on Human and Peoples' Rights, its special representatives and working groups for issuing guidelines and recommendations are becoming established. The African Court of Justice and Human Rights has issued decisions since 2009, despite having held, however, that the cases considered until now have not been judicially sufficient for actual court proceedings. In 2009, the member states of the Association of Southeast Asian Nations (ASEAN) established a regional human rights commission and in 2012 ratified a human rights declaration; the declaration, however, has been criticised for lacking central human rights norms and principles.

## *Human rights treaty monitoring bodies are under pressure*

Extending the monitoring mechanisms to cover new human rights, more detailed requirements concerning the contents of periodical reporting, and greater awareness about the complaints procedures have added to the monitoring bodies' workload. Increasing their resources at a corresponding pace has not been possible, and this has extended processing times in international and regional monitoring bodies and courts.

Even if only 16% of states' periodical reports to the UN are submitted on time, more than 300 periodical reports still need to be processed and nearly 500 individual complaints are in queue.<sup>15</sup> Finland, together with other Nordic countries, has proposed several resolutions on safeguarding the operational preconditions of treaty monitoring bodies. In terms of the future and credibility of the monitoring mechanism, ensuring the expertise, independence and neutrality of members elected to the committees plays a crucial role.

An increasing number of special procedures, which include special rapporteurs, independent experts and working groups and which cover a wide range of human rights issues, are in place under the UN Human Rights Council. These bodies are under continuous pressure, especially when assessing the development of the human rights situation at the national level. Finland will continue to defend the independence and operational preconditions of its special procedures. The UN Human Rights Council has proven its ability to meaningfully address even serious human rights violations, for example by appointing commissions of inquiry on the human rights situations in Syria and North Korea.

Long-term reform efforts have improved the efficiency of the European Court of Human Rights. Some Member States have questioned the binding nature of the European Court of Human Rights' rulings. Even though the Council of Europe is specifically a human rights organisation, the possibilities given to civil society to influence the way in which its activities are developed are very limited. Finland supports a reform of the Council of Europe as an organisation focusing on human rights, democracy and rule of law that monitors compliance

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<sup>15</sup> Report of the United Nations High Commissioner for Human Rights on the strengthening of the human rights treaty bodies (GA/66/860),

with accepted norms. Its expertise could be drawn upon even more extensively, for example in the activities of the European Union. In the Organisation for Security and Cooperation in Europe, on the other hand, all decisions must be made unanimously. Above all, the organisation thus has a role in the dialogue on human rights.

### *Citizens' expectations are mounting, legislation is being improved*

As a result of a general improvement in levels of education and increasing communication, citizens are even more aware both of their rights and of any actual human rights violations. Human rights organisations, and in a wider sense, pressures exerted by civil society and communicated through both conventional and new media, have in many states played an important role in reinforcing the national implementation of human rights. Many states have adopted constitutions and other legislation containing provisions on human rights, set up additional mechanisms for monitoring human rights, and improved the operational preconditions of these mechanisms. Finland supports the development of the rule of law in developing countries through international organisations, bilaterally by judicial cooperation, and by supporting local and international human rights organisations.

### *Armed violence spreads insecurity*

Discussion and development in the field of human rights must be seen in the context of trends in relationships between states. Signs of more extreme views have been observed both in dialogues on human rights between states and in the preparation and implementation of international decisions. A division into blocks reminiscent of the Cold War would lead to a situation where human rights are mainly used for scoring political points. This would undermine the monitoring of human rights implementation, particularly in countries afflicted by conflicts and areas where the human rights situation already is difficult.

Violence against civilians has increased to a worrying extent in many crisis hotspots around the world. The backdrop to the crisis often is widespread violations of both civil liberties and economic and social rights as well as discrimination against minorities. At worst, violent conflicts result in torture, extrajudicial executions, rape and similar extremely serious human rights

violations. In these cases, Finland and the entire international community must be capable of rapid action in order to prevent violations and bring parties guilty of war crimes and violations to justice. Willingness to respect human rights often emerges readily in the aftermath of a crisis, for which reason it is vital to work towards the strengthening of both ESC and CP rights at that time.

### *Continuous wrangling over what the protection of human rights covers*

In recent years, in the UN and in regional organisations, there has been an alarming increase in attempts to question the universal nature of human rights and the equality of all population groups. These attempts have been justified, *inter alia*, through recourse to national sovereignty, legislation, culture, values and traditions. Finland and like-minded states as well as human rights organisations have in these cases highlighted the rights and equality of such groups as women and sexual and gender minorities.

In certain questions that are important for Finland, including the promotion of women's and girls' sexual rights and the rights of indigenous peoples, EU Member States have been unable to formulate a position consistent with Finland's human rights policy. In these cases, cooperation between like-minded states has primarily taken place with other Nordic countries and, as the situation may warrant, with states showing initiative in other country groups.

It is important to prevent a situation where the EU and like-minded states have to mount a defence in the decision-making process of international human rights policy bodies. EU positions must be formulated early enough so that there is time to justify them to other actors. More efficient negotiations on the details of decisions must be possible with third countries, while, at the same time, not compromising on internationally accepted human rights standards.

### *Finland is looking for new partners*

In addition to large emerging economies like Brazil, China, India and Russia, many other states with regional influence, including Indonesia, Mexico, Nigeria, South Africa and Turkey, have also become more active in human rights forums. We can expect increasing multipolarity in decision-making associated with human rights.

From the perspective of human rights, the newly active players are not a uniform group, and their capabilities to work together with other states vary from country to country and depend on the situation. The growing number of states taking a stand on human rights questions increases the range of different views and, in part, results in the established ideas of human rights being questioned. On the other hand, it creates opportunities for more diverse forms of cooperation between states, as well as EU cooperation with states in other regional groups.

As a country highly capable of collaboration, Finland has opportunities for promoting human rights cooperation in individual cases with a number of states, both within the framework of the EU and, if necessary, bilaterally. Finland already engages in cooperation outside the EU framework with various countries, for example in association with the rights of women and persons with disabilities and the legally binding nature of ESC rights.

### *Widespread discussion on corporate social responsibility for human rights*

The increasing trans-boundary mobility of capitals, services and labour has given rise to more demands by civil society to supervise the operations of businesses abroad. Finland stresses the state's responsibility for meeting international human rights obligations at home and internationally. This responsibility also has an extraterritorial dimension, which to some extent extends the state's responsibilities to include activities and persons outside the national territory. An attempt should be made to prevent any negative impacts on human rights associated with companies' operations abroad. The measures, means and possibilities of achieving this should be examined further.

## **2.2 Action in international organisations and bilateral activities**

Finland mainly implements its international human rights policy through the EU, and EU cooperation also plays a role in the development of Finland's own international human rights activities. This makes it possible to improve the impact and coverage of the operations. Finland supports an active, coherent and result-oriented human rights policy in the EU. For a more detailed discussion of the EU's international human rights activities, see section 3.3.

The United Nations (UN) and its human rights mechanism lay a foundation for the international protection and promotion of human rights and for monitoring their national implementation. Finland emphasises a state's responsibility for implementing human rights, including the fact that the member states of the UN Human Rights Council and other decision-making organs must themselves also comply with the obligations and commitments they impose. Finland is involved in formulating a UN resolution on abolishing extrajudicial executions, and it grants significant financial support to UN and NGO activities against torture.

Striving to formulate common EU positions in UN decision-making is vital. Through Nordic cooperation in the UN, we can highlight the position and rights of persons in the most discriminated position. The aim is to bring up more emphatically the justifications for Finland's views in the UN through the EU, common positions of the Nordic countries, or directly as a member state in the UN. Finland promotes cooperation across the boundaries of regional groups and NGO participation in human rights issues discussed in the UN.

The primary task of the Council of Europe is to promote human rights, pluralistic democracy and the rule of law. The achievement of these objectives is supported by legal obligations arising from human rights treaties and the monitoring of their implementation. The European Court of Human Rights, whose decisions are binding to the state parties, operates under the auspices of the Council of Europe. The European Convention on Human Rights and its Protocols have created a monitoring system for the effective implementation of human rights. Finland supports developing the Council of Europe as an organisation focusing on human rights, the rule of law and democracy, and it grants significant amounts of voluntary funding to the Council's projects and expert activities.

Due to its geographical coverage, the Organisation for Security and Cooperation in Europe (OSCE) has a significant role, especially in dialogues on human rights. Among other things, Finland supports the activities of the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities and the Representative on Freedom of Media as well as the implementation of human dimension commitments and recommendations. Finland is one of the largest providers of funding for OSCE projects.

Finland strives to promote cooperation between European organisations to support the more efficient implementation of human rights.

Nordic cooperation and, more extensively, cooperation between like-minded states, carries particular weight in safeguarding the rights of persons belonging to population groups most at risk of discrimination.

Finland actively intervenes in human rights violations and promotes the implementation of rights by means of political, national level dialogues on human rights with other countries, primarily through the EU but also in bilateral contexts. An effort will be made to build up cooperation with non-EU states on core human rights issues, both as multilateral cooperation and bilaterally. Finland engages in direct bilateral liaisons as a regular part of other political interaction and, in particular, when the human rights issues emphasised by Finland are at stake or when its views or experiences can bring added value to finding solutions. Country-specific human rights evaluations and strategies jointly approved by EU Member States also support country- and region-specific human rights cooperation in these cases. Bilateral dialogues on human rights draw upon the UN's country-specific Universal Periodic Reviews (UPRs), the recommendations of international treaty monitoring bodies, and information distributed by the authorities and civil society in the partner country.

Ratification of central human rights treaties without any reservations against their objectives and purposes must be promoted further, and full compliance with obligations under the treaties must be required at the level of individual countries. The appropriate ratification of human rights treaties in Finland enhances the credibility of its human rights policy.

Human rights violations must be addressed coherently and with the same level of severity, regardless of the states in which they occur. In particular, Finland stresses robust and timely intervention in human rights violations that are systematic and claim a high number of human lives. Finland acts with initiative and is, even in difficult situations, willing to engage in open and equal dialogue on both its own and the partner's human rights problems and to bring up its own experiences of human rights implementation. Bilateral activities and activities in international organisations must be mutually supportive.

Limited resources are having an increasing impact on the implementation of Finland's international human rights policy. The primary goal is ensuring as high an impact as possible. Consequently, an effort has been made in the

Foreign Service's human rights strategy and action plan to direct resources to areas where there is a particular international need for Finland's independent activities and where we have something special to contribute. In our other human rights activities, Finland visibly supports the initiatives of other like-minded countries. A precondition for a targeted approach is increased personnel training and adequately justifying its positions in questions where Finland strives to be particularly active.

**Policy guideline 1:**

Finland supports the autonomy and mandates of the UN and regional organisations' human rights bodies and, within the limits of its financial resources, funds their activities. The main channel for implementing Finland's international human rights policy is the European Union. Finland engages in bilateral cooperation with the Nordic countries, other national groups and individual states where clear added value can be produced on key issues pertaining to Finland's human rights policy.

### **2.3. The rights of groups at risk of discrimination and the eradication of discrimination on multiple grounds**

Treating people differently without a justified reason is prohibited under international treaties. Human rights must be secured for everyone without distinction of any kind, such as sex, ethnic origin, colour, language, religion, sexual orientation or gender identity, political or other opinion, national or social origin, membership in a national minority, property, birth or other status.

The realisation of equality is associated with problems in every country, including Finland, even if our situation is good by international comparison. Discrimination that is particularly extensive and systematic occurs in countries where political decision-makers and the legal system fail to protect persons most at risk of discrimination. Women are discriminated against more often than men, and children have poorer possibilities than adults for defending their

rights. Indigenous peoples, those belonging to ethnic, linguistic and religious minorities, and persons with disabilities are frequently victims of systematic discrimination. In many countries, the prohibition of discrimination does not encompass sexual orientation or gender identity.

Particularly at risk of discrimination are persons threatened by **discrimination on multiple grounds**, i.e. persons who are simultaneously discriminated against for several reasons, including sex, disability, ethnic origin, sexual orientation, religion or other beliefs, or other grounds for discrimination.

In international organisations and, among other things, in our other development policies, Finland has highlighted the rights of the most vulnerable population groups and drawn attention to discrimination on multiple grounds. In international organisations, including the OSCE, Finland is a significant provider of voluntary funding for reinforcing the rights of population groups at risk of discrimination.

Finland stresses the enjoyment of human rights essential for the identity, culture and living conditions of **indigenous peoples** as a community. The Government aims to ratify ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries. For this purpose, a voluntary commitment has been given to the UN, several recommendations from international human rights bodies have been received, and the objective has been recorded in the Government Programmes of Prime Ministers Katainen and Stubb. Indigenous peoples' right to participate in decision-making in matters that concern them, including free, prior and informed consent, must be promoted as stated in the Declaration on the Rights of Indigenous Peoples adopted by the UN General Assembly (2007).

Finland provides voluntary funding for improving indigenous peoples' possibilities of participating in UN activities. Preventing discrimination on multiple grounds encountered by women and girls who belong to indigenous groups and realising indigenous peoples' linguistic rights will continue to be important objectives in regional and bilateral cooperation as well. At international meetings on indigenous peoples' rights, the representation of the Sámi people in the Finnish delegation will be ensured.

It is estimated that there are at minimum one billion **persons with disabilities** in the world. Their right to be heard and to receive accessible education, health care and other services is restricted in a manner that is discriminatory. The rights of persons with disabilities must be widely accounted for in international decision-making. For more information on reinforcing the rights of persons with disabilities, see Section 5.3.

Violence against **children**, in extreme cases resulting in fatalities, as well as child abuse, child poverty and youth unemployment, are serious human rights problems not only in developing countries but also in Europe. A child's right to receive food and health services, and providing parents with information about health and nutrition, play a crucial role in a child's development. Finland attaches special attention to the rights and status of children affected by multiple forms of discrimination. Central themes for Finland are promoting girls' rights to sexual and reproductive health and the rights of all children, including those most at risk of discrimination, to education.

Finland stresses that in addition to protecting children, it is also necessary to promote their participation and to develop ways in which they are heard in accordance with their age and developmental level. Children and young people have been selected for Finnish delegations to international meetings addressing the rights of the child, with the aim of increasing their opportunities for participation. NGOs promoting the rights of the child are central cooperation partners for the Finnish Government. The United Nations Children's Fund (UNICEF) is one of the four largest UN organisations supported by Finland. In 2013, Finland held the presidency of the UNICEF Executive Board for the first time. The government is preparing for the national implementation of an Optional Protocol to the UN Convention on the Rights of the Child regarding the new complaints procedure. Finland supports the activities of the International Labour Organisation to eliminate the worst forms of child labour.

The expression of homosexuality has been classified as a crime in tens of states. Criminalisation, the death penalty and other discriminatory legislation and discriminatory measures taken by authorities in relation to sexual orientation, gender identity and the expression of gender must be eliminated. Finland participates in and provides its visible support to the initiatives and the cooperation of similarly-minded states protecting the rights of **sexual and**

**gender minorities** (LGBTI), and it supports international and local NGOs. Finland has taken particular initiative in LGBTI questions in the context of the Council of Europe. The promotion of the human rights of sexual and gender minorities is addressed in more detail in Section 5.2.

Throughout Europe, the **Roma** are struggling with discrimination, and hate speech directed at the Roma population has, in part, increased with the economic downturn. The long-term unemployment of Roma people in the EU area is at an exceptionally high level, and 70 to 90 per cent of the Roma are thought to be severely financially distressed.<sup>16</sup> Finland is taking the initiative in promoting the equal rights and socio-economic status of the Roma. It is essential to improve the opportunities of the Roma and of the organisations representing them to be heard and to impact matters concerning them. The European Union must act in a goal-oriented manner to eliminate discrimination against the Roma in the area of its Member States. Finland has offered expert assistance to EU functions to reduce discrimination against the Roma in Member States. Finland's strategy for influencing the international Roma policy, which supports this objective, was prepared under the leadership of the Ministry for Foreign Affairs.<sup>17</sup> In the Council of Europe, Finland highlights the equal rights of the Roma, especially Roma women and young people, and the possibilities of organisations representing the Roma to influence the Roma policy of the Council of Europe. The purpose is to develop cooperation between the EU, the Council of Europe and the OSCE, with the aim of increasing the impact of the actions.

Finland defends the freedom of religion or belief that belongs to each individual, and it wishes to protect the rights of religious minorities and those with no religion who are most at risk of discrimination. Finland condemns mass killings by extreme movements and other violence against religious communities. Liaising between various religious groups can contribute to preventing discrimination and aggression motivated by religion. EU activities in this area are guided by the guidelines on the promotion and protection of freedom of religion or belief.

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<sup>16</sup> European Employment Observatory, "Review: Long-term Unemployment 2012"; FRA, "The Situation of Roma in 11 EU Member States: Survey results at a glance, 2012.

<sup>17</sup> <http://formin.finland.fi/Public/default.aspx?nodeid=42553&contentlan=1&culture=fi-FI>

**Policy guideline 2:**

In its contributions to international forums and the events it organises, as well as in development cooperation, Finland stresses consideration of the rights of persons belonging to the population groups most at risk of discrimination in negotiations on international human rights treaties and decisions. In addition to protection measures, hearing the views of these population groups, equal participation rights and participation at international meetings are highlighted. Finland will also enhance the coherence and complementary nature of actions aiming to eradicate discrimination in the EU and in international organisations and financial institutions.

**Policy guideline 3:**

Finland stresses the recognition, prevention and eradication of discrimination on multiple grounds and supports bringing up the perspective of women, children and young people, persons with disabilities, and indigenous peoples and minorities, including the Roma, in international decision-making.

## 2.4 Promoting women's rights

Finland has for many years worked actively to promote women's rights and possibilities for participation both in international organisations and bilateral cooperation. Some of the most important themes have been women's and girls' sexual and reproductive health and rights (SRHR), the prevention of violence against women, equal right to education, women's political participation and economic empowerment, as well as women's role in resolving armed conflicts. Finland highlights the elimination of discrimination on multiple grounds as a part of women's rights.

Hundreds of millions of women do not have access to family planning. Every person should have the right to information and services that help them make independent decisions about their bodies, sexuality and family planning. Women's and girls' sexual and reproductive health and rights are a vital part of Finland's foreign policy. The objective is to include SRHR rights in the UN

development agenda beyond 2015. Finland provides significant support for the activities of the UN Population Fund (UNFPA).

Violence against women is one of the most widespread human rights violations affecting women. We must intervene in it, both at the international level and at the national level, including in Finland. Finland has worked to develop the international set of human rights norms and supported several developing countries in passing national legislation and improving the financial independence of women.

By European comparison, the level of violence against women in Finland is high.<sup>18</sup> Finland has repeatedly received recommendations from international treaty monitoring bodies to put in place more efficient measures to prevent violence, to protect victims from violence, and to ensure that perpetrators of violence are brought to justice. International dialogue can contribute to developing national measures. The aim is that the Council of Europe Convention on preventing and combating violence against women and domestic violence, or the so-called Istanbul Convention, will enter into force in Finland during the current Government term. This convention also covers intimate partner and domestic violence against men.

Women and men's equal right to own and inherit property, to receive education and to take part in decision-making and working life are vital human rights. They also are an important part of a society's development potential and the more even distribution of wellbeing. Finland has allocated development cooperation funds to supporting the international networking of woman leaders and entrepreneurs operating in different countries, legislative projects that improve women's position, and women's access to legal remedies.

Finland has played an active role in implementing the UN Security Council resolution on women, peace and security<sup>19</sup> and other resolutions that complement it<sup>20</sup>. Finland has a national 1325 Network, and support has been

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<sup>18</sup> For example, the survey of the European Union Agency for Fundamental Rights 2014: <http://fra.europa.eu/en/publication/2014/vaw-survey-main-results>

<sup>19</sup> S/RES/1325 (2000)

<sup>20</sup> S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1889 (2009), S/RES/1960 (2010), S/RES/2106 (2013) and S/RES/2122 (2013)

given for preparing the national action plans of several developing countries. Finland has shown initiative in implementing the 1325 principles in NATO crisis management training. Promoting women's rights is an important part of the international peace mediation network coordinated by Finland and Turkey.

Several ministries have allocated their resources to making the annual meetings of the UN Commission on the Status of Women a success. Finland is one of the largest financial supporters of the UN's gender equality organisation, UNWomen. Finland works together with like-minded states by taking part in such projects as the Equal Futures Partnership initiative.

In decision-making on international climate policy, Finland has worked to promote women's access to participation in decision-making and planning. In the guidelines and activities related to the protection of human rights defenders, the significance of women and organisations defending women's rights has been taken into account separately.

#### **Policy guideline 4:**

Finland promotes the sexual and reproductive health and rights of women and girls and their right to education. Particular attention is paid to combating violence against women, women's possibilities for political and economic activity, and women's role in resolving armed conflicts. Prevention of discrimination on multiple grounds is a part of all activities.

#### **Policy guideline 5:**

Finland exerts influence with a high political profile at international meetings on women's rights and position and it supports NGO activities. Gender equality and improving women's position must be adopted as a separate development target, and gender equality must be mainstreamed in the UN's development agenda beyond 2015. The commitments concerning women's rights and position in the UN's Beijing Declaration from 1995 and the Beijing Platform for Action will be stressed, for example in connection with the 20th anniversary celebrations of the Declaration and the Platform for Action.

### **Policy guideline 6:**

Finland will ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, implement the obligations imposed by this convention and promote accession to the convention and implementation of its obligations internationally.

## **2.5 More transparency in decision-making and better possibilities for civil society participation**

Access to societal information, freedom of opinion and freedom of assembly, as well as rights to participate in decision-making in a meaningful way, are a vital part of civil and political rights and freedoms. We must act coherently to support NGO participation rights, increase transparency and develop participatory operating methods in international organisations. Improving the possibilities of operating and exerting influence for the population groups most at risk of discrimination and the NGOs representing such groups are particularly vital.

Civil society plays a significant part in assessing the societal impacts of human rights obligations and the implementation of human rights. Finland's strengths include open interaction between the authorities and NGOs, for example in the context of drawing up and discussing reports to be submitted to international treaty monitoring bodies. The UN's Universal Periodic Review<sup>21</sup> also found Finland's reporting model a good practice. Information should be disseminated about information exchanges and cooperation between the authorities and NGOs and develop them further. The sporadic attempts to limit NGO participation in the human rights activities of the UN and regional organisations must be systematically defeated.

The position of the Advisory Board on International Human Rights Affairs, which operates under the auspices of the Ministry for Foreign Affairs, has been

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<sup>21</sup> A/HRC/21/8

reinforced, for example when preparing the Foreign Service's human rights strategy and action plan and monitoring their implementation.

A major part of Finland's development cooperation appropriations are allocated as financial support for NGO activities. For example, support is granted to international human rights organisations, for the human rights work of Finnish organisations in developing countries, and to human rights organisations and human rights defenders in developing countries through local small grants of Finland's foreign missions. Among other things, significant support is granted to organisations working to promote the rights of persons with disabilities.

The significance of human rights defenders who draw public attention to human rights violations and corruption crimes and who engage in other vital human rights work, and activists working for democracy, has increased as part of civic movements against autocratic political leaders who are guilty of abuses. At the same time, the need for protecting human rights defenders has increased in a number of states. Issues related to the freedom of speech and freedom of assembly have an important role in bilateral human rights dialogue and the support provided for the action of human rights defenders. In 2014, instructions concerning various means of supporting and protecting human rights defenders were prepared for the Foreign Service.

Finland supports reinforcing the principle of transparency in the activities of international organisations, drawing upon our long historical traditions. The year 2016 will mark the 250th anniversary of the Swedish act on the freedom of the press, which is considered one of the world's first laws safeguarding human rights.

#### **Policy guideline 7:**

Liaisons between the Government and civil society and participatory operating methods will be developed, including cooperation in the areas of raising awareness about human rights and human rights training. Attention will be paid to the representation of civil society, and in particular of the population groups most at risk of discrimination, when selecting delegations and organising events. Finland supports more transparent operating methods in international organisations and better civil society participation opportunities and methods at international meetings.

**Policy guideline 8:**

In decision-making related to international activities, operating models for transparent governance will be developed further, working together with NGOs and other stakeholders and drawing on the positive experiences of the Open Government Partnership and other Government actors.

## 2.6 International promotion of economic, social and cultural rights

Prerequisites for a life with human dignity include the right to water and food, subsistence and protection, and education and health care. The realisation of economic, social and cultural rights (ESC rights) has strong links with reducing poverty.

For enhanced impact, Finland will focus on the international promotion of separate ESC rights, and especially on equal access to basic education of a high standard. In this work, the good practices of our own school system will be highlighted in international contexts, including non-discrimination in access to education, working methods that motivate students and investments in teacher education.

Women's and girls' sexual and reproductive health and rights, which Finland emphasises, are a vital part of the right to appropriate health services. The right to water and sanitation must be implemented as an elemental part of sustainable development. Together with Germany, Finland has been responsible for issuing a resolution on housing rights in the UN's Human Rights Council.

A more detailed discussion of the binding nature and implementation of ESC rights is contained in Section 5.4.

**Policy guideline 9:**

In international efforts to promote ESC rights, Finland emphasises in particular equal rights to basic education of a high standard, women's and girls' sexual and reproductive health and rights and, in individual cases, the right to clean and safe drinking water and sanitation, an adequate standard of housing and a basic level of protection.

## **2.7 Implementation of international criminal justice and supporting the development of rule of law**

While each country has its own legal traditions, we are accustomed to considering compliance with the constitution and other legal rules in the actions of the authorities, the passing of laws by bodies elected by the people, equality before the law, respect for human rights and independent courts as characteristic signs of the rule of law. The fact that the system also works in practice is a sign of good governance and advanced rule of law.

In September 2012, the UN General Assembly held the first High-Level Meeting on the Rule of Law, in which Finland stressed questions relevant to reinforcing legal protection and, in particular, the position of women.

The impunity of perpetrators of the most serious international crimes, including genocide, crimes against humanity and war crimes, is a significant human rights problem. The International Criminal Court (ICC) is thus needed as a legal body that complements the activities of national courts. The ICC's tribunal activities are expanding and its position is being highlighted, as the special courts appointed by the ICC, including the Special Court for Sierra Leone or the International Criminal Tribunals for the former Yugoslavia or Rwanda, are completing their proceedings.

Finland has been an active supporter of the ICC from the start. A Finnish judge has been working with the ICC since 2003. Since December 2011,

Finland has been a Bureau member in the Assembly of State Parties to the Rome Statute, and the Foreign Minister has been a member of the so-called ICC Informal Network of Ministers of Foreign Affairs.

Finland has stressed efficient implementation of the rights granted to victims of crimes that are within the ICC's competence. A Trust Fund for Victims operates in connection with the ICC, the particular target groups of which include victims of sexual violence, former child soldiers and kidnapped children, and the families and villages of victims of murders and violence. So far, some 110,000 people have already benefited from the Trust Fund's projects. Finland is one of the most long-term and largest supporters of the Trust Fund for Victims. A Finnish representative has also represented the Western countries in the Trust Fund's Board of Directors.

The national adoption and ratification of amendments to the Statute of Rome, adopted in 2010 (crimes of aggression and amendments to crimes of war), is currently being prepared. Finland emphasises the importance of effective ICC activities and expects countries to collaborate with the court. However, a number of arrest warrants issued by the ICC remain outstanding. The African Union and some of its Member States have accused the ICC of excessive focus on the African continent. However, the processing of the majority of pending situations was initiated by the relevant countries themselves. A precondition for improving the ICC's operating possibilities is promoting the court's positive public image and disseminating correct information, especially in countries under investigation.

Finland has also granted financial support to the activities of other international special courts and other projects aiming to reduce impunity.

**Policy guideline 10:**

Finland is part of a UN group working on rule of law issues; the group supports human rights-based development of the rule of law and implementing any commitments made. Objectives that reinforce development of the rule of law must be contained in the development agenda beyond 2015.

**Policy guideline 11:**

Finland supports the universality of the ICC Statute, the Court's independence and integrity, and efforts to increase its resources. Finland, together with the other Nordic countries and EU Member States, promotes more positive attitudes towards the ICC's activities and stresses the importance of implementing the rights granted to victims of crimes.

### 3 Fundamental and human rights in the European Union

The European Union is an important operating environment for Finland's fundamental and human rights policy. The fundamental rights enshrined in the EU Treaties and the Charter of Fundamental Rights have gained increased weight, both at the Union level and nationally, especially as a result of the Court of Justice of the European Union case law. While European union legislation is often used as a tool to enhance enjoyment of fundamental rights, it also needs to be taken into account in other Union activities.

Fundamental and human rights are an indispensable part of the European identity. The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.<sup>22</sup> The fundamental rights ensure that Union citizens and other persons who find themselves within the Union's competence enjoy uniform rights and opportunities for participation, and by so doing, reinforce mutual trust between the Member States. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.<sup>23</sup> The Member States and EU institution, bodies, offices and agencies are committed to respecting and promoting the realisation of fundamental rights. In the management of the financial crisis in Europe, for example, attempts should also be made to ensure the realisation of the citizens' fundamental and human rights. The EU's fundamental rights dimension has also had a positive impact on the fundamental and human rights culture in Finland.

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<sup>22</sup> Article 2 of the Treaty on the European Union, OJEU C 326, 26.10.2012, p. 13-390

<sup>23</sup> Article 6 of the Treaty on the European Union, OJEU C 326, 26.10.2012, p. 13-390

Fundamental and human rights lay the foundation for EU law. Their position was further strengthened by the Lisbon Treaty, as the Charter of Fundamental Rights of the European Union became legally binding and was given equal legal value with the Treaties. At the same time, a decision was made on the Union's accession to the European Convention on Human Rights<sup>24</sup> by including in the Treaty the legal basis making the accession possible. Fundamental and human rights basically have a bearing on all fields of activity of the EU, and they bind all Union institutions. The EU also promotes compliance with human rights, including labour rights, in its external relations with partner countries.

Finland plays an active role in developing the Union's internal fundamental rights policy as well as the human rights activities that are a part of EU foreign policy. In the field of foreign policy, the Union is a key human rights actor and, for example, the largest provider of development aid in the world. The Union is also an important actor in the UN, and it works closely together with the Council of Europe. EU membership adds weight to Finland's efforts at bringing up human rights issues in international forums.

The EU's high profile in international human rights activities exposes it to pressures to show a good example. In order for the EU's external human rights activities to be credible, its Member States must comply with the same standards that the EU expects of third countries. For example, parties to various human rights dialogues are increasingly bringing up the EU's internal fundamental and human rights problems, including the large-scale discrimination against the Roma, or anti-Semitism and xenophobia. In recent years, there has been more widespread discussion on reinforcing the coherence of the EU's human rights policy, and better consistency between the external and internal activities of the Union has been called for. While different priorities in the external and internal activities of the Union are necessary, coherent action must be aimed for in the field of fundamental and human rights.

International and internal fundamental and human rights activities are increasingly interlinked in the Union's policies, requiring more efficient coordination. In some cases, inconsistencies between the interpretation practices

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<sup>24</sup> Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (1950) Finnish Treaty Series no 18–19/1990

of EU legislation and international human rights treaties can be observed. It is vital that fundamental and human rights obligations are interpreted as mutually complementary mechanisms, mechanisms that aim to prevent the emergence of conflicting interpretations. The EU's adherence to international human rights treaties is an issue that needs to be examined logically both from the standpoint of the international human rights treaty system and national- and EU-level fundamental rights systems. In particular, the EU's accession to the European Convention on Human Rights, the expeditious completion of which Finland supports, will highlight the need to reconcile different positions. A precondition for coherence is stepping up dialogue between various actors, both at the Union level and at the national level. The achievement of this objective could be supported by strengthening the resources for coordinating the preparation of fundamental and human rights issues both at the ministries and in Finland's Permanent Representation to the EU.

In the context of fundamental and human rights policy, the Government Report on EU Policy (VNS 6/2013 vp) highlighted the rule of law and reinforcing the Union's fundamental rights dimension. These are Finland's most important objectives regarding the EU's fundamental rights policy. This section describes the means by which Finland seeks to strengthen the Union's fundamental rights dimension and promote the implementation of the rule of law.

### **3.1 Strengthening the fundamental rights dimension in the EU**

In this context, the EU's fundamental rights dimension refers both to European legislation and to the actions and procedures in place to ensure the realisation of fundamental and human rights in the Union's activities. By strengthening the fundamental rights dimension, Finland is striving to ensure consistency between the Union's law and the requirements set by fundamental and human rights and making sure that fundamental rights are accounted for in all Union activities.

A prerequisite for the Union's legitimacy in the eyes of its citizens is a strong commitment to implementing fundamental rights and freedoms. EU legislation frequently has a direct bearing on the realisation of fundamental and human rights in the Member States, including fields that are not always associated with human rights. In practice, examples can be found in all fields of Union law from

border control to the coordination of social security systems. There have been increasing demands, especially from the civil society, for the EU to take on a more visible role in safeguarding fundamental and human rights. As a result of the financial crisis, the situation in some Member States has deteriorated regarding both the realisation of rights and security, for example as xenophobia gains ground. These issues are linked with a more extensive debate on respecting the EU's basic values.

The Charter of Fundamental Rights is the most important fundamental rights instrument in EU law<sup>25</sup>. The Charter of Fundamental Rights is a modern human rights document, and the rights and principles contained in it cover both traditional civil rights and freedoms as well as economic, social and cultural rights. The Charter of Fundamental Rights binds Union institutions, bodies, offices and agencies in all their activities. The Member States have an obligation to comply with the Charter when implementing Union law.

Since 2010, the European Commission has drawn up annual reports on the application of the Charter of Fundamental Rights. These reports are an important tool for monitoring the realisation of fundamental rights and for developing the EU's fundamental rights dimension. Finland would like to see an annual Council discussion on the reports and the fundamental rights situation in general. Raising awareness about the Charter among citizens is also important.

The significance of the Charter of Fundamental Rights is stressed in the drafting of Union legislation. The Commission, the Council and the European Parliament have a duty to ensure that their actions comply with the Charter. It is vital that the contents and application practices of the rights and principles enshrined in the Charter of Fundamental Rights are well known to both Union institutions and Member States when they participate in drafting regulations or implementing EU legislation. In order to raise awareness about the Charter, it is important to develop and exploit the existing practical tools for law drafters, including instructions and various check lists<sup>26</sup>. It is also important that these tools are known and that they are actively used in all spheres of EU activities, including

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<sup>25</sup> Charter of Fundamental Rights of the European Union, OJEU C 326, 26.10.2012, p. 391-407

<sup>26</sup> Guidelines on methodological steps to be taken to check fundamental rights compatibility in the Council's preparatory bodies 10140/11 FREMP 54 JAI 319 COHOM 132 JURINFO 31 JUSTCIV 129.

those that are not traditionally associated with fundamental and human rights. Their consideration should be supported, for example by means of training provided for drafters of EU legislation.

In the drafting of legislation, the possibility of requesting opinions from the European Union Agency for Fundamental Rights should be increasingly used within the limits of the Agency's mandate. The focus should be on *ex ante* assessment of the fundamental rights compatibility of Union legislation. Fundamental and human rights impact assessment is an important foresight tool and it should be used systematically. The Council of the EU should ensure that fundamental rights are accounted for when it negotiates on and, in particular, modifies the Commission's proposals. The fundamental and human rights impacts should also be monitored when implementing legislation, and more assessments of this type should be included in evaluation reports on EU legislation.

The significance of the Court of Justice of the European Union in safeguarding fundamental and human rights has increased considerably in recent years. The courts of the European Union (Court of Justice, General Court and Civil Service Tribunal) refer to the Charter of Fundamental Rights with increasing frequency in the reasoning for their rulings. In 2013, the courts issued a total of 114 rulings that made reference to the Charter of Fundamental Rights, which represents a significant growth compared to earlier years<sup>27</sup>. The number of requests for preliminary rulings by Member States' courts concerning the Charter has increased. This increase indicates that the Charter is more widely recognised as a source of law, including at the national level, when applying European legislation. The Court of Justice of the European Union plays an important role in ensuring the implementation of fundamental rights. Finland follows closely the case law of the Court and takes action when needed, for example in issues regarding data protection.

The Commission has drawn up several strategies and action plans to promote the implementation of fundamental rights concerning such issues as

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<sup>27</sup> In 2011, the total number of rulings of this type was 43, while in 2012 it was 87; Commission's Report on the Application of the EU Charter of Fundamental Rights 2013, COM(2014) 224 final.

Roma integration and the rights of the child. Grants for projects promoting fundamental and human rights in the Member States are available under various funding programmes. Many fields of Union legislation and activity have a direct bearing on the realisation of fundamental and human rights in the Member States. Thematic strategies, action plans and funding programmes promote the implementation of EU law and complement the Union's activities in the sphere of fundamental rights in a significant manner. Union-level activities bring added value to the promotion of fundamental and human rights in the Member States, especially in the case of rights that are politically sensitive in a certain Member State. This makes Union-level promotion of the fundamental and human rights of, for example, the Roma and persons belonging to sexual and gender minorities particularly important. Various programmes are a convenient instrument for such promotion. It is also worthwhile to follow European debates in the various spheres of Union activity in order to anticipate questions that will come up in the preparatory process as early as possible.

From the perspective of developing the culture of fundamental rights in the EU, throwing more light on the links between Union activities and people's rights in their everyday lives would be useful. Council discussions on the rule of law, the fundamental rights situation in the Union, or thematic topics that play a vital role in fundamental and human rights are good tools for raising the profile of these rights in the Union's activities. In order to develop regular dialogue on fundamental rights, such documents as the Commission's Report on the Application of the Charter of Fundamental Rights and the annual report of the Agency for Fundamental Rights could be used. It would be a good idea to link the discussion to topics that could be evaluated by using various indicators. It should also be assessed whether an internal fundamental rights strategy and action plan should be drafted for the EU, similarly as with the human rights strategy for external relations and the related action plan. A wider discussion on the fundamental rights situation in the EU is also needed with the European Parliament and other EU institutions and agencies, as well as with national human rights actors and civil society. Below, the EU's accession to the European Convention on Human Rights and strengthening the role of the European Union Agency for Fundamental Rights are examined separately, as these are the most important structures through which the fundamental rights dimension can be reinforced over the next few years.

### *3.1.1 EU accession to the European Convention on Human Rights*

Finland finds it crucial that the EU accede to the European Convention on Human Rights (ECHR) as soon as possible. In addition to the ECHR, the EU is now also in the process of acceding to its Protocols Nos. 1 and 6, which have also been ratified by all EU Member States. It is important for Finland that the decision made at this time will not become an obstacle to the EU's later accession to other existing or future Protocols to the ECHR. The implementation method of the accession should result in a situation that is as clear as possible for the individual and where no unnecessary delays in implementing an individual's rights are caused by the specific structure, delegation of powers or other similar aspects of the EU.

EU accession to the ECHR would strengthen the legal position of individuals. In the future, each natural or legal person could address an application against the EU concerning a violation of their rights enshrined in the ECHR directly to the European Court of Human Rights when Union law has been applied to an individual case. This would also cover cases in which the European Court of Justice has issued a ruling as a court of last instance or given a preliminary ruling to a national court and in cases where the European Court of Justice, following a provision in the Treaty of Accession, gives a statement during a pending application process. For the EU, accession to the ECHR means that the Union will be the respondent in cases where the European Court of Human Rights assesses whether or not the Union law meets the requirements of the ECHR. In the current situation, the Member States have ended up defending measures that, at least indirectly, arise from EU law in the European Court of Human Rights.

The accession negotiations have been completed. The Commission has requested a statement from the European Court of Justice on whether the Accession Treaty is consistent with the EU Treaties. If no more changes in the Accession Treaty are needed, the Convention will be sent to the European Council for approval and opened for signatures, after which EU and national adoption processes will begin. Finland must adopt the Accession Treaty both as a contracting party to the ECHR and as an EU Member State. The EU's decision on adopting the Convention must be made unanimously, and it will enter into force once all Member States have adopted it. The EU intends to annex to its decision

internal EU rules regulating accession; the rules contain details on such issues as coordination and division of responsibilities between the EU and the Member States in the case of complaints.

### *3.1.2 European Union Agency for Fundamental Rights*

The European Union Agency for Fundamental Rights (FRA) started operating in 2007, after negotiations on its establishment had been concluded during the Finnish Presidency of the Council of the EU. Finland has supported the Agency's visible role in Union activities from the beginning. The Agency is tasked to provide the relevant institutions and authorities of the Community and its Member States when implementing Community law with information, assistance and expertise on fundamental rights.

The Agency's mandate and scope of activities are specified in the Regulation establishing it<sup>28</sup>. In addition, the Council of the EU determines the Agency's more specific focus areas in Multiannual Frameworks. The Agency's tasks include collecting, analysing and disseminating data, developing methods for improving data comparability and reliability, carrying out and supporting scientific research and studies, and preparing and publishing, either on its own initiative or at the request of the European Parliament, the Council or the Commission, opinions on individual topics for Union institutions and Member States when they are implementing Union law.

A Multiannual Framework for the Agency is adopted for five years at a time. According to the framework confirmed for 2013–2017, the Agency will work in the following nine areas: 1) access to justice, 2) victims of crime, 3) information society and, in particular, respect for private life and protection of personal data, 4) Roma integration, 5) judicial cooperation, except in criminal matters, 6) rights of the child, 7) discrimination, 8) immigration and integration of migrants, visa and border control, and asylum 9) racism and xenophobia. In Finland's view, the procedure for adopting the Multiannual Framework is unnecessarily cumbersome, as a unanimous decision of the Council of the EU is required. For this reason, it has not been possible to include police cooperation and

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<sup>28</sup> Council Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights

judicial cooperation in criminal matters included in the previous pillar III in the Agency's framework.

Finland finds that the Commission should draft a proposal for amending the founding regulation of the Agency for Fundamental Rights, which would extend the Agency's mandate to cover the entire sphere of Union activity and the Charter of Fundamental Rights. The Agency's Multiannual Framework could be approved by the Agency's Management Board. The Agency should also have the possibility of giving own-initiative opinions on individual topics within the limits set by the Treaties. The Agency's role should be developed to become as close as possible to the type of national human rights institution as referred to in the Paris Principles<sup>29</sup>. The Agency's work should be utilised more effectively in law drafting and other decision-making in the Union. For example, the Agency's annual reports and extensive studies produce significant information about fundamental and human rights situation in the Member States. The annual Fundamental Rights Conferences and other events organised by the Agency have created an important forum for European discussions on fundamental rights. Finland considers that, in order to improve the visibility of the Agency's work, its Director should be more frequently invited to take part in Council of the EU meetings. The Agency's reports should be regularly discussed at the Council level and in working groups, and the possibility of requesting opinions from the Agency should be more actively used in the Union's law drafting. The visibility of the Agency's work should also be improved nationally, for example by drawing more extensively on its reports for the purposes of the national drafting of legislation.

### **3.2 Rule of law protects citizens' rights**

Finland is an active participant in discussions on implementing the rule of law. Finland finds it important to ensure that rule of law is implemented throughout the Union and that it is made concrete and visible in the citizens' every-day lives. Finland regularly brings up this issue in different contexts with the Commission and in bilateral relations with other Member States as well as in Council discussions.

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<sup>29</sup> <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>

In discussions on implementing the rule of law, it is important to proceed to concrete proposals for developing modalities that enhance the Union's activities in following the development concerning the rule of law. Effective realisation of the rule of law is a necessary precondition for the realisation of citizens' fundamental and human rights. The point of departure for any examination of the rule of law should be the perspective of a private individual. Commitment to respecting the rule of law is a fundamental value of the Union, compliance with which is evaluated during the accession process. The Union must also have the means for intervening in problems related to the functioning of the rule of law in its Member States. Rule of law, democracy and fundamental and human rights are an interdependent whole, where the realisation of none of the components can be taken for granted. The implementation of the European Union's fundamental values should be examined as a whole, and the rule of law cannot be narrowed down to only looking at, for example, legal systems. The examination of the rule of law is also about implementing existing EU law.

The Communication on a New EU Framework to Strengthen the Rule of Law issued by the Commission in March 2014 lays a good foundation for further work. The Commission must play a central part in this, and in Finland's view, the Commission can engage in dialogue with the Member States and issue recommendations within the framework of the existing Treaties, as proposed in the communication.

The Council's role in ensuring compliance with the rule of law should be strengthened. Compliance with the Union's shared values in all Member States will create mutual trust and add to the credibility of the Union's foreign policy and its legitimacy from the perspective of Union citizens. The possibilities provided by the Treaties of imposing sanctions on Member States that seriously and continuously violate the shared values must be resorted to if necessary. Regular discussions in the Council covering all Member States would normalise the discussions on complying with the rule of law and enable proactive intervention in any problems that have been observed.

The modalities of the discussions should be underpinned by equal treatment of the Member States. This principle would be supported by a regular procedure that would, for example, be partly based on agreed topics of discussion. A mutual dialogue would be a sensible approach, as all Member States have room for

improvement in implementing democracy, the rule of law and fundamental and human rights. A wealth of information is available, and the discussion would thus not require new administrative structures or reporting obligations, as building on existing instruments would play a central part in it. The Agency for Fundamental Rights could, in addition to its own reports, collect and systematise other available data to support the work of the Commission and the Council.<sup>30</sup> Data that would be relevant to this dialogue is being produced by the Court of Justice of the European Union, the European Court of Human Rights and other Council of Europe institutions, the UN human rights treaty monitoring bodies and procedures, as well as specialised organisations, including the International Labour Organization (ILO). These should be fully used, while avoiding any overlapping efforts. The dialogue should focus on recognising trends and tacit signals, thus emphasising the prevention of problems.

### **3.3 Coherent human rights activities are needed in the EU's external relations**

The entry into force of the Lisbon Treaty has provided a more favourable setting for the EU's human rights work, a goal which Finland has been striving to promote. The High Representative for Foreign Affairs and Security Policy and the EU's External Action Service are also important actors in the EU's human rights policy. The actions of the High Representative for Human Rights, in particular, have supported human rights considerations in the EU's foreign and security policy. Finland supports the High Representatives' possibility and ability to promptly intervene in topical human rights issues.

In June 2012, the EU adopted its first Strategic Framework and Action Plan on Human Rights<sup>31</sup>; in preparing and implementing it, Finland has emphasised the rights of women and minorities as well as ESC rights. These policies encourage the mainstreaming of human rights in the EU's external relations, including crisis management.

The EU is a highly significant international human rights actor, both at the level of individual countries and in the UN system, for example in issues concerning

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<sup>30</sup> This would require an amendment to the Agency's founding regulation.

<sup>31</sup> EU Strategic Framework and Action Plan on Human Rights and Democracy (2012)

the prohibition of capital punishment and LGBTI rights<sup>32</sup>. Union institutions extensively express their opinions on human rights questions in individual countries and on specific themes. In terms of the effectiveness and credibility of EU activities, it is vital that the EU's Strategic Framework on Human Rights, country-specific strategies and thematic Guidelines on Human Rights form a coherent whole that guides the Union's joint activities. After the publication of the Human Rights Report of 2009, the Union has adopted new Guidelines on Freedom of Expression<sup>33</sup>, on Freedom of Religion or Belief<sup>34</sup>, and on LGBTI rights<sup>35</sup>.

Finland finds it important that, if necessary, the EU takes a stand on the human rights situation in individual countries, relying on the provisions of human rights treaties applicable to them. In terms of the credibility and effectiveness of the international human rights system, it is important that the situation of each country is evaluated on the same premises.

When formulating positions on human rights at the national level, Finland has mainly worked through the EU and promoted an active EU human rights policy on many issues related to CP rights, including action against capital punishment and torture. In these questions, the Union's common positions have coincided with Finland's views, and the desired results can more easily be reached by means of the EU's joint vote. In the area of ESC rights, some Member States have not been prepared to take part in joint action, and it is more justified for Finland to act independently.

The EU's human rights dialogue with third countries has not been particularly productive in cases where the other party has been unwilling to engage in dialogue. A preparedness to also discuss the human rights problems in the EU and its Member States, both within the Union and in the context of human rights dialogue with third countries, would provide better preconditions for this dialogue and increase its credibility. NGOs should also have the possibility of taking part in the dialogue.

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<sup>32</sup> LGBTI is an abbreviation for the words lesbian, gay, bisexual, transgender and intersex. As a synonym for LGBTI, the term sexual and gender minorities is also often used.

<sup>33</sup> EU Human Rights Guidelines on Freedom of Expression Online and Offline (2014)

<sup>34</sup> EU Guidelines on the promotion and protection of freedom of religion or belief (2013)

<sup>35</sup> Guidelines to promote and protect the enjoyment of all Human Rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons (2013)

The EU's human rights activities and dialogue with partner countries are based on shared international human rights norms. The Union has officially adopted the UN Convention on the Rights of Persons with Disabilities.<sup>36</sup> Discussions on the Union's possibilities of acceding to, or officially ratifying, other international or regional human rights conventions are under way.

**Policy guideline 12:**

Finland continues its work to strengthen the EU's fundamental rights dimension and the realisation of the rule of law, for example by promoting a regular Council discussion on implementing rule of law and other shared EU values in the Member States.

**Policy guideline 13:**

Finland continues its active efforts to promote EU accession to the European Convention on Human Rights.

**Policy guideline 14:**

Finland supports extending the mandate of the Fundamental Rights Agency to cover the entire sphere of Union activities and the Charter of Fundamental Rights, and it works to reinforce the Agency's position in Union activities. Finland will intensify its cooperation with the Agency and improve the visibility of the Agency's work at the national level.

**Policy guideline 15:**

Finland will continue its work to improve the coherence of the EU's human rights activities and develop its national activities in a manner that supports Union-level coordination.

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<sup>36</sup> UN Convention on the Rights of Persons with Disabilities (CRPD, 2006)

**Policy guideline 16:**

Finland acts with initiative to promote the efficient implementation of human rights policies relevant to the EU's external relations. Possibilities for civil society participation should be improved, and NGO activities should be supported, for example through the European Instrument for Democracy and Human Rights (EIDHR).

## 4 Fundamental and human rights in Finland

The field of Finnish fundamental and human rights activities has developed rapidly over the last few years. The previous Government of Finland Human Rights Report from 2009 was the first document to extensively discuss the realisation of fundamental and human rights in Finland. In 2012, the Government adopted the first National Action Plan on Fundamental and Human Rights. A Strategy for the National Languages of Finland was also adopted.<sup>37</sup> In various branches of administration, thematic programmes that promote the realisation of fundamental and human rights have additionally been adopted, including the Government Action Plan on Gender Equality<sup>38</sup>, the Action Plan to Reduce Violence Against Women<sup>39</sup>, the National Policy on Roma<sup>40</sup>, the Disability Policy Programme<sup>41</sup>, the Child and Youth Policy Programme 2012-2015<sup>42</sup> and the Action Plan for Sámi Languages<sup>43</sup>. The Human Rights Centre began operating in 2012. The Government has proposed transferring the independent ombudsmen to operate under the auspices of the Ministry of Justice from the beginning of 2015.<sup>44</sup> This proposal is related to the proposal for a Non-discrimination Act that the Government submitted to the Parliament in spring 2014.<sup>45</sup>

Fundamental and human rights are also increasingly prevalent in EU affairs, and the Government has intensified its cooperation with the European Union's Agency for Fundamental Rights. This cooperation is complemented by collaboration with other EU institutions relevant to fundamental rights, including the European Institute for Gender Equality<sup>46</sup>.

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<sup>37</sup> Strategy for the National Languages of Finland. Prime Minister's Office Publications 4/2012.

<sup>38</sup> Government Action Plan for Gender Equality 2012–2015. Publications of the Ministry of Social Affairs and Health 2012:10.

<sup>39</sup> Action Plan to Reduce Violence Against Women. Publications of the Ministry of Social Affairs and Health 2010:5.

<sup>40</sup> National Policy on the Roma. Reports of the Ministry of Social Affairs and Health 2009:48.

<sup>41</sup> A Strong Basis for Inclusion and Equality. Finland's Disability Policy Programme VAMPO 2010-2015. Publications of the Ministry of Social Affairs and Health 2010:4.

<sup>42</sup> Development Programme for Child and Youth Policy 2012–2015. Ministry of Education and Culture publications 2012:6.

<sup>43</sup> Action Plan for the Sámi Languages. Ministry of Education and Culture working group reports and studies 2012:7.

<sup>44</sup> HE 111/2014 vp

<sup>45</sup> HE 19/2014 vp

<sup>46</sup> <http://eige.europa.eu/>

Cooperation on fundamental and human rights within the Government has been stepped up since the establishment of the government network of contact persons for fundamental and human rights. National-level dialogue with civil society has also been more systematic than before, for example through the panel of human rights actors that took part in drafting the action plan. In addition, the annual reports of the supreme overseers of legality have been developed to provide a more comprehensive picture of how fundamental and human rights are realised in Finland.

Over the last twenty years, a significant change in the fundamental and human rights culture has taken place, which started with Finland's accession to the Council of Europe in 1989 and the European Convention on Human Rights the following year. Major reforms completed since that time include the fundamental rights reform in 1995 and accession to the European Union. These have had a significant impact on the roles and duties of the authorities, research on fundamental and human rights, civil society actors, and citizens' views on the roles of the Government and other public actors alike.

This development has taken place on a relatively rapid schedule, while more in-depth cultural change takes time. As a consequence, obligations arising from fundamental and human rights and, for example, long-established practices are at times on a collision course. Unfortunately, fundamental and human rights issues are not always recognised for what they are. In public debate, the legal nature of fundamental and human rights is sometimes not fully understood, for example in connection with racist online writing. More attention should be paid to fundamental and human rights-related education and training at all levels.

#### **4.1 National Action Plan on Fundamental and Human Rights**

Finland's first National Action Plan on Fundamental and Human Rights was completed in 2012.<sup>47</sup> This action plan comprised projects through which the Government wished to promote the implementation of fundamental and human rights in 2012–2013. The decision on preparing this action plan was contained in Prime Minister Katainen's Government Programme, published in summer 2011. In its parliamentary communication on the Government Report on Human

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<sup>47</sup> <http://urn.fi/URN:ISBN:978-952-259-195-1>

Rights policy of 2009, the Parliament required that the Government, at the beginning of the following government term, adopt a national action plan on the implementation of fundamental and human rights in Finland and report on the implementation of the action plan in connection with this report.<sup>48</sup>

This action plan was the first of its kind in Finland, even if the UN World Conference on Human Rights had urged states to consider drawing up human rights action plans to identify measures by which they could promote the realisation and protection of human rights as early as in 1993. While the 2009 report brought up a number of challenges related to the realisation of rights, as the Parliament pointed out, it contained few concrete proposals for addressing them. The action plan represented an attempt to respond to some of the identified challenges and to develop a more comprehensive way of examining the fundamental and human rights situation in Finland. The schedule for drawing up the action plan was tight: its preparation was launched in summer 2011, and the plan was adopted by the Government in March 2012. The action plan period was also laid down in the Government programme to enable the monitoring of the set targets in this report.

The work to prepare the action plan was led by the Ministry of Justice in a separate working group with representatives from all Ministries as well as experts from the Office of the Parliamentary Ombudsman and the Office of the Chancellor of Justice. To support the working group, a panel of NGO human rights actors was set up. During the course of preparing the action plan, an extensive seminar and hearing was organised as well as an open discussion for citizens in the web service [otakantaa.fi](http://otakantaa.fi).

The Ministry of Justice commissioned an external evaluation of the action plan, which was completed in March 2014 by a group of researchers in public law from the School of Management at the University of Tampere.<sup>49</sup> The observations made during the evaluation were used as background material for drawing up the report.

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<sup>48</sup> EK 3/2010 vp

<sup>49</sup> <http://urn.fi/URN:ISBN:978-952-259-362-7>

In the following sections, the preparation of the action plan and action plan projects as well as the Government network of contact persons for fundamental and human rights set up by virtue of the action plan are examined separately, and observations concerning the national operating environment and changes that have occurred in it since the previous report and action plan were drawn up are provided.

## **4.2 Preparation of the National Action Plan on Fundamental and Human Rights and action plan projects**

The action plan was a cross-administrative programme with a total of 67 separate projects, which were relevant to the branches of administration of the different Ministries. The action plan translated in concrete terms the duty to guarantee the observance of fundamental rights and human rights imposed on public authorities in the Constitution (Section 22 of the Constitution). The action plan was divided into two sections. The general part set the targets for the action plan, specified the arrangements for its monitoring and evaluation, described fundamental and human rights structures in general, and outlined the importance of follow-up indicators. The more specific section, on the other hand, identified the most essential development needs, contained general policies for the efficient protection of rights, and briefly described the projects selected for the action plan.

The action plan projects were grouped according to twelve different sectors of society, by and large following the chapter on fundamental rights in the Constitution. The project descriptions in the action plan were very concise and only gave each project's name, the key contents, the fundamental or human rights provision for which the project was relevant, the Ministry or Ministries responsible for the project, and project-specific indicators for evaluating its implementation.

The working group preparing the action plan used as a reference such sources as comments by the Constitutional Law Committee, the observations of the supreme overseers of legality, the conclusions of UN treaty monitoring bodies and the recommendations received in the Universal Periodic Reviews (UPRs) of the UN Human Rights Council, the decisions of the European Court of Human Rights concerning Finland, and the Human Rights Policy Report of 2009. In

addition, the working group organised an extensive hearing in October 2011 and held two joint meetings with the panel of human rights actors. The action plan contained a list of themes that emerged during the preparation process<sup>50</sup>, which varied from individual human rights problems to extensive structural issues.

The action plan noted that it was not possible to intervene in all the problems that had been identified during the action plan period. In addition to the recurrent nature of problems that emerged in the preparation material, criteria for selecting the projects included their practicality and whether or not their implementation was possible during the action plan period. In practice, most projects selected for the action plan had been proposed by the Ministries. For example, a few projects proposed for the action plan were left out because no Ministry could be found to assume responsibility for them.

The National Action Plan on Fundamental and Human Rights is a good human rights policy tool for each Government term, and the second National Action Plan should be prepared during the forthcoming Government term. In future action plans, prioritisation could be facilitated by drawing a clearer line between a general human rights policy that spans several government terms and concrete policies to be implemented during a specific Government term. As such, it is natural that resolving human rights problems progresses in steps, as limited resources are targeted at different themes at different times.

According to the evaluation, the problem with the action plan for 2012–2013 was that it had no clear priorities, as its core consisted of a large number of relatively fragmented projects. In the future, the priorities should be specified in the Government programme, and the action plan's role would thus involve implementing, in concrete terms, the fundamental and human rights priorities set out in that particular document. The evaluation notes that while the public servants responsible for preparing the action plan and the NGO representatives participating in the work did have the skills and abilities to identify fundamental and human rights problems, they did not have the possibilities for resolving them within the framework of the action plan. As one of the greatest weaknesses of the action plan, the external evaluation pinpoints the fact that separate funding had not been earmarked for implementing the action plan and only projects for

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<sup>50</sup> See National Action Plan on Fundamental and Human Rights 2012–2013, p. 19-20.

which adequate resources existed outside it could be implemented as part of the plan. In the future, the links of the action plan process with the Government programme and budget should be strengthened, thus guaranteeing adequate financial and other preconditions for its implementation.

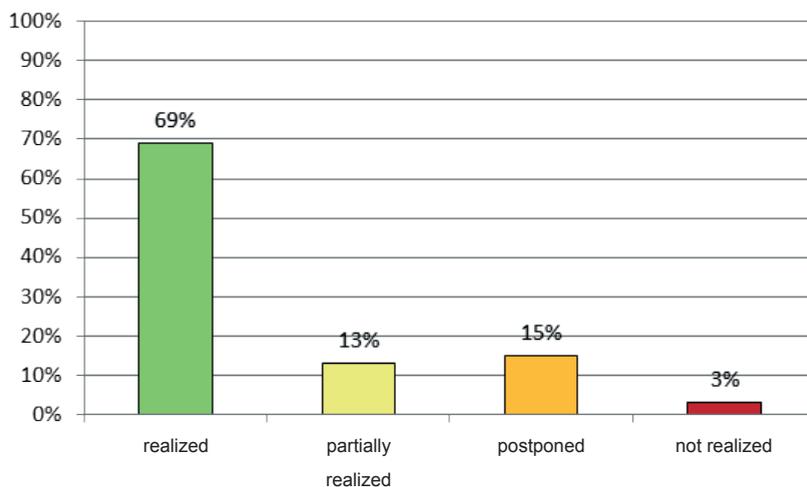
The definition of priorities is closely associated with the question of selecting action plan projects. In 2012–2013, there was little prioritisation of the projects proposed in the action plan, as giving visibility to the diversity of projects that promote fundamental and human rights was considered more important in the first action plan, even at the risk of ending up with an incoherent selection of projects. As the projects were so dissimilar, efforts at their concentrated monitoring were challenging. Nearly all of the projects were implemented as planned.

The Government network of contact persons for fundamental and human rights has monitored project implementation throughout the action plan period in a table format.<sup>51</sup> In addition, the panel of human rights actors engaged in independent efforts at project monitoring.

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<sup>51</sup> Situation at the conclusion of the action plan period: <http://oikeusministerio.fi/fi/index/valmisteilla/kehittamishankkeita/kansallisenperus-jaihmisoikeustoimintaohjelmantaytantonpa-nojaseu-ranta.html>

## Project implementation in the period 2012–2013:



Measuring the outcomes of individual projects is difficult, even if specific indicators were defined for each one. The evaluation drew attention to the fact that project-specific indicators for the most part did not make it possible to assess whether or not there was any improvement in the realisation of rights. Instead of individual projects, the panel representing civil society thus ended up monitoring thematic wholes, which included equality and gender equality, children and young people, human rights education and training, the position of foreigners, legal protection and gendered violence.

Fundamental and human rights must be implemented equally. A thematic approach could promote the implementation of fundamental and human rights better than separate projects. The decisions and recommendations of international and regional human rights monitoring bodies, national overseers of legality and ombudsmen, case law of the European Court of Human Rights and the rulings of supreme courts of law in Finland, as well as the legal practice of the Constitutional Law Committee, must be exploited to support the orientation of the thematic approach. Academic research on the subject should also be conducted. Clear delimitations would naturally also facilitate the arrangements for action plan monitoring and impact assessment. A more detailed discussion

on the impact assessment and monitoring of fundamental and human rights policy is contained in Section 6.

The action plan for 2012–2013 was prepared on a rapid schedule, but in close cooperation with a panel representing civil society actors. The panel submitted its own proposals for action plan projects and commented on the working group's proposals. The panel had access to all of the documents and data on which the working group relied. An extensive hearing and open citizens' discussions in the web service otakantaa.fi also took place. The evaluation found that the joint preparation process with NGOs brought significant added value to the action plan. This model, which was endorsed by both parties, should also be used when preparing the following action plan.

### **4.3 Government network of contact persons for fundamental and human rights**

A need to improve information flows within the Government on fundamental and human rights issues emerged during the action plan preparation process. A decision was made in the action plan to set up a network of Ministry representatives with the aims of clarifying the manner in which fundamental and human rights issues are dealt with, speeding up information flows and increasing awareness of fundamental and human rights in various branches of administration.

In June 2012, the Minister of Justice appointed a Government network of contact persons for fundamental and human rights for a period extending until the end of the Government term. While the general coordination of the network has been the duty of the Ministry of Justice, the Ministry for Foreign Affairs has coordinated its work regarding international human rights issues, which corresponds with the Government's division of labour on fundamental and human rights issues. All Ministries appointed their representatives to the network, and representatives from the Office of the Parliamentary Ombudsman and the Office of the Chancellor of Justice were also invited to participate as expert members.

The tasks assigned to the network include 1) monitoring the implementation of the National Action Plan on Fundamental and Human Rights, 2) preparing

a Government Human Rights Policy Report, 3) examining the fundamental and human rights situation in Finland, 4) examining the implementation of Finland's human rights obligations and commitments and the relevant periodic reporting, 5) monitoring the development, adoption and national ratification of new international human rights treaties and their protocols, and 6) investigating the necessity of establishing a Finnish fundamental and human rights portal, as well as the prerequisites for setting up this portal.

To support the network, the Ministry of Justice appointed a panel of fundamental and human rights actors for a further term that extended until the end of the action plan period. At the end of the action plan period, the panel drew up conclusions in which it proposed that the division for monitoring fundamental and human rights implementation in the Human Rights Centre's Human Rights Delegation could assume responsibility for monitoring the action plan and engage in dialogue with the Government network.

The network has improved information flows on fundamental and human rights issues within the Government. Experiences of the network activities support the idea of turning the network into a permanent structure. In several Ministries, it has prompted the creation of internal structures that prepare the issues to be discussed in the network. However, the practices vary in different Ministries. In the future, a stronger commitment of the public servant management in the Ministries must be ensured to taking fundamental and human rights into account when drafting and, in general, when managing matters related to rights issues. Those responsible for making decisions could thus better identify fundamental and human rights issues that are significant to their activities. Local and regional actors should also be more strongly involved in the fundamental and human rights discussion. By international comparison, the network is an exceptional structure, and its tasks of monitoring the implementation of international human rights obligations and commitments and the relevant periodical reporting have been praised in international contexts. This dimension of the network's activities should be reinforced and developed further.

#### **4.4 Observations of the national operating environment**

When examining the action plan, the Parliament's Constitutional Law Committee noted that in the future, it should highlight the most essential fundamental

and human rights challenges and openly justify the criteria based on which the projects are selected. Recognising problems and resolving them as soon as possible should be its aim. In this connection, the Constitutional Law Committee paid particular attention to the so-called structural problems that tend to recur, for example in the decisions of the overseers of legality.<sup>52</sup> It was felt that the following action plan should specify its priorities more carefully and focus on less numerous and more precisely delimited projects that specifically act upon the selected priorities.

The Government feels that the most important sources for identifying fundamental and human rights problems should include sections discussing shortcomings in the implementation of fundamental and human rights in the annual reports of the supreme overseers of legality, the overseers' decisions in general, the rulings of Finnish supreme courts, and the legal practice of the Constitutional Law Committee. In addition, it is worthwhile to follow both the case law of the European Court of Human Rights and the interpretations of international human rights treaty monitoring bodies, including UN committees<sup>53</sup>, and in both cases also pay attention to the observations on states other than Finland. When selecting the priorities, recurring observations are a natural point of departure.

This report does not contain an exclusive list of the observations made. The National Action Plan on Fundamental and Human Rights 2012–2013 contained the following list of themes that emerged during action plan preparation:<sup>54</sup>

- need to improve the coordination of fundamental and human rights issues in the Government;
- enhancing rights-based thinking in the Government and ownership in protecting fundamental and human rights, especially by regional and local authorities as implementers of rights;
- obtaining information on the realisation of rights (developing indicators);
- developing civil society cooperation;
- promoting fundamental and human rights education;
- strengthening legal protection, good governance, access to rights, the right

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<sup>52</sup> PeVL 16/2012 vp

<sup>53</sup> CERD, HRC, CESCR, CEDAW, CAT and CRC

<sup>54</sup> National Action Plan on Fundamental and Human Rights 2012–2013, p. 19–20.

to receive a justified decision within a reasonable amount of time, and addressing delays in general courts and within the administration as a particular problem;

- more effective fundamental and human rights monitoring;
- problems ensuing from the authorities' lack of resources in service provision;
- in municipal services in particular, transferring tasks that have traditionally been the responsibility of the public sector to the private sector (e.g. customer-supplier model) and problems in terms of implementing fundamental rights that may result from this;
- vulnerable groups, in particular those having been deprived of their liberty, older persons, mental health patients,
- those placed in detention under the Aliens Act, detainees, children subjected to child welfare measures;
- the adequacy of social security and reducing poverty;
- the rights of minority groups, especially protection against discrimination, equality and promoting participation rights;
- good ethnic relations and combating racism;
- the position of victims of crime;
- children's rights;
- arranging for national coordination on issues concerning sexual and gender minority groups;
- the rights of the disabled; in particular, ratification of the UN Convention on the Rights of Persons with Disabilities;
- violence against women;
- the position of immigrants/foreigners;
- the implementation of fundamental and human rights in working life.

Another perspective on the human rights situation in Finland is provided by the UN's Universal Periodic Review (UPR). The UN Human Rights Council reviews the human rights situation in each Member State by means of dialogue in the UPR working group. This is a peer review where states give each other recommendations for improving the implementation of human rights. Finland has been reviewed twice, in 2008 and 2012. The UPR recommendations are a type of mirror showing how other states see the human rights situation in Finland.

The themes of the UPR recommendations issued to Finland were not unexpected. The greatest number of recommendations related to equality and non-discrimination. They concerned such topics as racism, xenophobia and hate

speech, violence against women, and discrimination related to pay and pregnant women. Quantitatively, a large number of the recommendations were also relevant to the ratification of the most important UN human rights conventions. Topics associated with migrant workers, the Roma, immigration and asylum seekers also emerged in the recommendations. The recommendations received in the UPR procedure reinforce the idea that many challenges in the Finnish fundamental and human rights situation concern problems basically related to people's everyday lives that come to the knowledge of such professional groups as the police and health care personnel on a weekly basis. More effective intervention in these problems is required.

Finland accepted the majority of UPR recommendations immediately, and only a few of them were partially accepted. An analysis of the recommendations that were selected for investigation highlights some of the characteristics of Finnish fundamental and human rights problems. Many of the recommendations contained the requirement to allocate more resources to enable practical implementation. Before they can be accepted, the budget impacts of these recommendations must be assessed. Some of the recommendations, on the other hand, were related to on-going national discussions, and accepting them would have been premature. Recommendations that the Government is not competent to implement (for example, the autonomy of universities) were also partially accepted, even if, with respect to their human rights content, the Government could have accepted them as such.

Fundamental and human rights problems are recognised, and information is available on them. However, resolving the recognised problems with only a reasonable amount of delay remains difficult. This observation is supported by the recurring reprimands of the supreme overseers of legality concerning the same problems. For example, the decisions of the supreme overseers of legality have in recent years repeatedly paid attention to unreasonably long processing times in matters concerning social welfare benefits and also regional differences in the benefits.

The Chancellor of Justice has also repeatedly drawn attention to major differences between schools in, for example, the availability of student welfare services and

to the fact that this situation has persisted for years.<sup>55</sup> Especially in the case of basic services of this type, major differences between municipalities are a problem in terms of citizens' equality. In criminal cases, the long processing times in pre-trial investigations and/or the unreasonably long durations of trials have for many years cropped up repeatedly in the Chancellor of Justice's rulings. When preparing the following action plan, it will be vital to focus on resolving the identified problems. While a proactive approach may help to prevent the accumulation of problems, it is also important to rectify problems already identified without undue delay. It would even be possible to complete the preparation of the following action plan with no new background studies. When times are lean, it makes sense to concentrate the available resources on determined efforts to work on areas selected as priorities.

The Human Rights Centre started operating in connection with the Office of the Parliamentary Ombudsman at the beginning of 2012. The Human Rights Delegation, which constitutes the pluralistic element of the national human rights institution, works under the auspices of the Centre. Together with the Parliamentary Ombudsman, the Centre and the Delegation form Finland's national human rights institution, which applied to the International Coordinating Committee<sup>56</sup> for accreditation in summer 2014. The establishment of the Centre and the appointment of the Delegation have changed the national field of fundamental and human rights activities, at least regarding its structures. While major expectations have been placed on the Centre, its operation has been launched based on rather modest resources. When the Human Rights Centre was set up, the assumption was that the Finnish model would meet the requirements for an A status.<sup>57</sup>

The Delegation of the Human Rights Centre includes a wide range of Finnish human rights actors. The Delegation is appointed for four years at a time, and its members currently represent the supreme overseers of legality, the ombudsmen, the Sámi Parliament and a large number of other human rights actors. The Delegation's task is to serve as an organ of cooperation in the field of fundamental and human rights activities and help speed up information flows

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<sup>55</sup> Many studies indicate that the availability of student welfare services has improved since the passing of the Student welfare services act.

<sup>56</sup> The International Coordinating Committee for National Human Rights Institutions (ICC)

<sup>57</sup> <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>

between various actors. It also discusses far-reaching human rights questions that are, in principle, important. It is likely that the tasks of the national human rights institution will be expanded further as the UN Convention on the Rights of Persons with Disabilities is ratified if the independent monitoring duties related to implementing the convention are assigned to Finland's national human rights institution as planned. The Constitutional Law Committee has also drawn attention to the potentially significant role of the Human Rights Centre in monitoring the realisation of fundamental and human rights.<sup>58</sup>

Another dimension in the duties of the national actors is associated with ratifying the Optional Protocol to UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), as a result of which the Parliamentary Ombudsman was appointed the National Preventive Mechanism. The Protocol establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

**Policy guideline 17:**

The Government considers that Finland's second National Action Plan on Fundamental and Human Rights should be prepared during the following government term. The priorities of the action plan should be defined in the Government programme, and adequate resources should be allocated for implementing the action plan.

**Policy guideline 18:**

The work of the Government network of contact persons for fundamental and human rights will be continued, ensuring that all Ministries take part in its activities. A precondition for this is also to discuss fundamental and human rights issues within the Ministries.

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<sup>58</sup> PeVL 16/2012 vp

## 5 Evolving human rights: four example areas

Human rights are an evolving part of international law. The system of treaties is being complemented with new international and regional human rights conventions and with their optional and additional protocols. An increasing number of countries are state parties to such conventions.

This section examines four example areas of international and national significance where new provisions, international recommendations or international discussion and decision-making related to human rights policy are informing national fundamental and human rights activities in a new way. The selected themes were also regarded as having been overlooked in the National Action Plan on Fundamental and Human Rights, which was a justification for placing them under special scrutiny.

The selected topics are thus not an exhaustive list of current themes with both international and national links; rather, they were selected to serve as examples in an exercise where Finland's international human rights policy and the national implementation of rights are for the first time examined together at the level of a Government's human rights report. For a more extensive discussion of the identified problems, see Section 4.4.

### 5.1 Freedom of expression belongs to everyone, hate speech restricts its use

Freedom of expression and opinion are essential fundamental and human rights. The Finnish Constitution guarantees everyone the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. This right is also contained in the UN Declaration of Human Rights and several international and regional human rights conventions that Finland, too, has ratified. Their provisions have been fleshed out in national legislation, for example in the Act on the Exercise of Freedom of Expression in Media<sup>59</sup> and in policy recommendations and guidelines.

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<sup>59</sup> Act on the Exercise of Freedom of Expression in Media (460/2003)

By international comparison, the freedom of expression in Finland is second to none. According to a comparison drawn up by the organisation Reporters Without Borders, Finland enjoyed the best freedom of the press in the world.<sup>60</sup> This was due to the availability of information from the authorities, a high level of source protection and an effort to offer a fast Internet connection to all citizens. In terms of the high level of freedom of the press, it is important to continue safeguarding good operating conditions for media that are as diverse and independent as possible. In order to implement equality, the rights of those whose possibilities for exercising their freedom of expression are more limited, for example due to obstacles related to IT use, must also be addressed.

There are great shortcomings in the realisation of the freedom of expression in many countries. The independence of the media is under threat in many states. Illiteracy and a low standard of education are significant obstacles to the equal implementation of the freedom of expression. Finland works to promote respect for the freedom of expression, with particular focus on the rights of women and the most vulnerable population groups. The international Freedom Online coalition, which Finland joined in spring 2012, is an important actor in promoting freedom of expression on the Internet. Supporting the activities of human rights defenders also plays a key role in implementing the freedom of expression and opinion. In May 2014, Human Rights Guidelines on Freedom of Expression Online and Offline<sup>61</sup> were adopted to guide the European Union's external relations activities, and Finland supports their efficient implementation.

Finland should also continue to carefully ensure a high level of freedom of expression while implementing other fundamental and human rights, including the protection of private life, the right of access to societal information or the freedom of religion and belief. The practical-level implementation of the freedom of expression can be supported by high-quality general education for all, which promotes media literacy and offers capabilities for civic participation.

The relationship between the freedom of expression and the protection of private life in particular requires continuous scrutiny, as several rulings by the European Court of Human Rights concerning countries such as Finland demonstrate.

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<sup>60</sup> World Press Freedom Index 2014, s. 30.

<sup>61</sup> EU Human Rights Guidelines on Freedom of Expression Online and Offline (2014)

### 5.1.1 *Combating hate speech buttresses the freedom of expression*

A particular topic in recommendations related to the freedom of expression received by Finland from international and regional human rights bodies have concerned the eradication of racist and other hate speech.

The exercise of the freedom of expression comes with rights and duties. Finnish legislation regulates its use to ensure a fuller working of democracy in order to allow everyone to live safely and prevent defamation. The objectives of the regulation include prohibiting child pornography, securing copyrights and the freedom of art, preventing violations of privacy and defamation, and preventing threats of violence.

Hate speech limits the freedom of expression by creating a general atmosphere of insecurity. The right of victims of hate speech to express their opinions and identity without fear may be under threat. Hate speech may be associated with other forms of discrimination, for example in working life.

Under the Finnish Criminal Code, general grounds for imposing a more severe penalty include committing an offence based on race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability, or other corresponding grounds. Hate speech may also be associated with ethnic agitation, public incitement to an offence, defamation or an illegal threat.

The European Commission against Racism and Intolerance (ECRI) recommended that Finland should develop its monitoring of racist acts to establish how they are addressed by the competent authorities or the police, the prosecution service and the courts. In an amendment to the Criminal Code adopted in 2011, the grounds for imposing a more severe penalty were specified in greater detail, allowing their more extensive application not only for racist crimes but also for other types of hate crime.

It was also recommended that Finland should criminalise racist and xenophobic acts committed through computer systems. Finland has ratified the relevant Additional Protocol to the Convention on Cybercrime. The police are acting more efficiently to combat online racism, for example through their Internet police activities. Early intervention in online hate speech and racism is vital.

### 5.1.2 *Changing attitudes play a key role*

The actions and examples of policy-makers are crucially important in promoting the freedom of expression and preventing hate speech. The ECRI has urged the Government to encourage the representatives of political parties to ensure that they act responsibly when voicing their opinions in public.

The media plays a central part in reinforcing positive attitudes and operating methods. In September 2011, the Council for Mass Media in Finland complemented its journalistic guidelines by defining as inappropriate content that incites hatred, encourages violence and is discriminatory, and it required that editors immediately remove such content from their websites.<sup>62</sup>

A particular cause for concern is hate speech directed at children and young people. Girls as well as children and young people belonging to various types of minorities are its most frequent target. According to a study by the European Union Agency for Fundamental Rights, five per cent of women aged 18–29 years in Finland had repeatedly been the target of insulting or threatening messages in the last 12 months.<sup>63</sup> The UN's CEDAW committee (UN Committee on the Elimination of Discrimination against Women) recommended that Finland reinforce measures that prevent hate speech against girls and women belonging to ethnic minorities.<sup>64</sup> The UN Committee on the Rights of the Child has paid attention to the extensive bullying and harassment of children, and in particular girls, in digital media and online environments. According to the Child Victim Survey (2013), girls report more experiences of victimisation related to electronic media than boys.<sup>65</sup> More information is needed about the extent to which such groups as the disabled, Roma and immigrant children are targeted by hate speech.

By developing the contents of education at schools and teacher education, awareness can also be raised about rights and equality among young people,

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<sup>62</sup> For the journalist guidelines of 2011 and the guidelines updated in 2014, visit [www.journalistiliitto.fi/pelisaannot/journalistinohjeet/](http://www.journalistiliitto.fi/pelisaannot/journalistinohjeet/)

<sup>63</sup> Violence against women: an EU-wide survey Main results report.

<sup>64</sup> CEDAW/C/FIN/CO/7

<sup>65</sup> Lasten ja nuorten väkivaltakokemukset (Violence against Children and Adolescents in Finland) 2013. Results of the Child Victim Survey. Reports by the Police University College 71/110.

and their ability to recognise and defend themselves against hate speech, racism and discrimination in their own living environments can be improved. Updated core curricula for basic education are to be introduced in autumn 2016. These curricula have been geared to paying more attention to gender awareness in education, gender equality and non-discrimination. The Ministry of Education and Culture has commissioned a study on the status of democracy and human rights education in teacher education.<sup>66</sup>

A positive example in the field of NGO activities is the No Hate Speech movement launched by young people among their peers. It is part of a campaign initiated by the Council of Europe aiming to promote the freedom of expression and its equality online and offline. This campaign, which is funded by the Ministry of Education and Culture, will continue until the end of March 2015. It aims to encourage people to feel responsible for each other and show how hate speech affects people's everyday lives. High profile campaigns against hate speech are important, for example to make young people aware of their rights and to develop the behavioural patterns of children and young people in a positive direction. The campaign has also paid attention to cyberbullying.

**Policy guideline 19:**

The Government will ensure that the realisation of the freedom of expression and opinion are safeguarded in policy programmes and that the media and civil society have adequate possibilities for promoting the freedom of expression.

**Policy guideline 20:**

The Government supports activities aiming to prevent hate speech and feels that it is necessary to increase and support young people's actions against hate speech and violence. In its own activities, the Government is committed to zero tolerance for racist and other hate speech.

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<sup>66</sup> Democracy and human rights. Objectives and content in teacher education. Reports of the Ministry of Education and Culture 2014:18.

Policy guideline 21:

The Government will step up measures to prevent and recognise hate speech, in particular against ethnic and other minorities as well as girls and women, and harassment in the media, in online environments and in the social media.

## 5.2 Promoting the equality of persons belonging to sexual and gender minorities

The rights of persons belonging to sexual and gender minorities, or LGBTIs,<sup>67</sup> are being discussed more widely than ever before, both in Finland and internationally. However, major shortcomings remain in the realisation of the rights of these groups, and development of these rights in various countries takes many forms and progresses at different speeds. In a number of countries, legislation has been adopted that discriminates against or even criminalises sexual minorities, and reports indicate that hate crime against minorities is on the rise. On the other hand, legislation that enables, for example, gender neutral marriage has become more widespread.

Promoting the human rights of sexual and gender minorities has for some time been one of the priorities in Finland's international human rights policy. In the Finnish Foreign Service's human rights strategy and human rights policy action plan for 2013–2015, which were adopted in 2013, eradicating discrimination based on sexual orientation or gender identity is highlighted as a vital objective. Particular attention is paid to LGBTI persons' rights of association and the right to be heard at the national and international level.

The UN human rights system does not contain mechanisms for examining the rights of sexual and gender minorities in particular. The most central UN human rights conventions were negotiated at a time when there was little or no discussion on the rights of these minority groups. The issue belongs to an

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<sup>67</sup> The abbreviation contains the initials for groups belonging to sexual and gender minorities (lesbian, gay, bisexual, transgender and intersex). The term transgender also includes transsexuals and transvestites. As an equivalent for transgender, the NGOs have started using the term genderqueer to describe persons who do not feel that they belong to either of the official genders.

evolving part of the international mechanism for protecting human rights. In connection with the UN General Assembly, a statement<sup>68</sup> was adopted in 2008 stating that human rights must be guaranteed for everyone, regardless of their sexual orientation or gender identity. In July 2011, the Human Rights Council adopted a Resolution on Human Rights, Sexual Orientation and Gender Identity<sup>69</sup>. As a consequence of this resolution, the Office of the United Nations High Commissioner for Human Rights intensified its work on the theme. The Yogyakarta Principles<sup>70</sup> put together by a group of experts in international law strive to specify the equal human rights of persons belonging to sexual and gender minorities.

The fundamental and human rights of persons belonging to sexual and gender minorities are also safeguarded in European legislation. The European Union Charter of Fundamental Rights specifically forbids discrimination on the grounds of sexual orientation. Specific references to prohibited grounds of discrimination are contained in a number of directives. The European Union Agency for Fundamental Rights has extensively studied discrimination against LGBTI persons. The EU acts with initiative in the UN and is an important player in strengthening the rights of gender and sexual minorities. The Council of Europe, and especially its Office of the Commissioner for Human Rights, works actively to promote these rights. The European Court of Human Rights has contributed to developing LGBTI rights in its case law. Finland provides expert assistance for the development of LGBTI activities in the Council of Europe.

### *5.2.1 Equal realisation of rights in Finland must be safeguarded*

The fundamental rights enshrined in the Finnish Constitution and the human rights underpinned by international human rights treaties also pertain to persons in sexual and gender minorities without discrimination. The state must safeguard the equal implementation of these rights.

A working group set up by the Government network of contact persons for

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<sup>68</sup> Joint statement on sexual orientation, gender identity and human rights at the United Nations, 2008

<sup>69</sup> Resolution adopted by the Human Rights Council “Human rights, sexual orientation and gender identity” (A/HRC/RES/17/19)

<sup>70</sup> [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf)

fundamental and human rights has drawn up a report that examines the implementation of the fundamental and human rights of persons belonging to sexual and gender minorities

in Finland.<sup>71</sup> Based on studies drawn up by key human rights actors, the report contains observations on problems associated with the realisation of their rights. The report shows that discrimination remains widespread in the workplace and in educational institutions. Shortcomings are associated with using legal remedies, and victims of discrimination often do not inform the authorities of the discrimination they encounter because they fear additional difficulties. Persons belonging to sexual and gender minorities experience violence and insecurity more often than the remainder of the population. The report also brings up problems related to the position of families, which mainly are due to the fact that family legislation does not recognise rainbow families equally. Many international human rights treaty monitoring bodies have considered certain requirements related to confirming a person's gender a problem in terms of human rights. The Ministry of Social Affairs and Health has appointed a working group to prepare the required proposals for amending the legislation. The draft has been circulated for comments.

The Government submitted to the Parliament a proposal for reforming the non-discrimination and gender equality legislation.<sup>72</sup> Effective implementation of non-discrimination and gender equality legislation can in many ways also promote the implementation of equality in the case of sexual and gender minorities.

Developing anti-discrimination legislation and work alone is not sufficient to guarantee the full implementation of their fundamental and human rights for persons belonging to sexual and gender minorities. Other legislation and official activities must also be examined and developed from the perspective of diversity in sexual orientation, gender identity and the expression of gender.

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<sup>71</sup> <http://urn.fi/URN:ISBN:978-952-259-388-7>

<sup>72</sup> HE 19/2014 vp

The most vital areas in this respect are working life, education and health services. It is particularly important to safeguard the balanced growth of children and young people in basic education, in secondary education as well as in recreational activities intended for children and young people. Family legislation and legislation related to confirming gender also play an important role in the rights of persons belonging to sexual and gender minorities.

**Policy guideline 22:**

Realisation of the fundamental and human rights of persons belonging to sexual and gender minorities must be monitored and information about them must be disseminated. In the drafting of legislation and administrative activities, the Government will assess the impacts of proposals from the perspective of diversity in sexual orientation, gender identity and expression of gender and ensure the implementation of non-discrimination and gender equality legislation in a manner that protects the equal rights of LGBTI people. This perspective must also be taken into consideration in general fundamental and human rights education and training.

**Policy guideline 23:**

The Government considers that the fundamental and human rights of sexual and gender minorities should be promoted by drawing up a national strategy or action plan for them. The Government will clarify the division of labour between the authorities in LGBTI matters.

### **5.3 The rights of persons with disabilities must be secured**

A precondition for realising the rights of persons with disabilities is continuous monitoring and adequate resources both in Finland and in other parts of the world. Persons with disabilities are subjected to discrimination and rights violations more often than other people. Those persons with disabilities, including women, children and members of minority groups, who are discriminated against on multiple grounds are in a particularly vulnerable position.

Finland works actively to bring issues related to persons with disabilities up in international forums and supports projects that promote the realisation of human rights for persons with disabilities, both politically and financially. Issues related to persons with disabilities are an essential part of Finland's development policy, in particular in cooperation with long-term partner countries and regional organisations.

Finland has been one of the largest funding providers for the UN Special Rapporteur on Disability and Disability Partnership Programme. The mandate of the Special Rapporteur should be transferred to the UN Human Rights Council to enable stronger support for the human rights dimension of disability matters.

The role of disability organisations and other NGOs in developing the fundamental and human rights of persons with disabilities is of primary importance. Finland's goal is to reinforce cooperation between the authorities and civil society actors in disability policy.

Finland's international positions on disability issues are formulated in an informal coordination group for international disability policy, which consists of the Ministries, the National Institute for Health and Welfare, and NGOs. The expertise of disability organisations and representatives can increasingly be drawn upon in developing Finland's positions and in official delegations.

### ***5.3.1 From ratification to practical implementation of the UN Convention***

The UN Convention on the Rights of Persons with Disabilities and its Optional Protocol are of great importance in safeguarding and promoting the rights of persons with disabilities. While earlier international human rights treaties basically guarantee the same rights to everyone, the rights of persons with disabilities have not been equally implemented. The Convention entered into force internationally in 2008.

It highlights the rights of persons with disabilities as legally binding human rights and promotes their implementation. At both the central and local government level, the authorities must take the provisions of the Convention into account. In a legal sense, making the Convention a part of national law and thus legislation that can be applied by the courts and other authorities is essential.

The implementation of its provisions is enhanced by an international monitoring mechanism. After ratifying the Convention, a state must periodically report on its implementation to the Committee on the Rights of Persons with Disabilities, which can issue recommendations concerning the Convention's implementation. The Optional Protocol reinforces individuals' legal protection by enabling the filing of individual complaints to the Committee on the Rights of Persons with Disabilities.

Finland signed the Convention and its Optional Protocol in 2007. The national ratification of the Convention has required a number of legislative amendments. The amendments to the Municipality of Residence Act and the Social Welfare Act required by the Convention, which improve the possibilities of persons with disabilities to select their municipality of residence, entered into force in early 2011. Certain provisions of the Convention are relevant to the overhaul of equality and non-discrimination legislation. The relevant proposal was submitted to the Parliament by the Government in spring 2014. Another precondition for the ratification of the Convention is a reform of provisions on the right of self-determination of persons with disabilities. In practice, this means amending and repealing certain provisions of the Act on special care for person with intellectual disabilities. The Government intends to submit the relevant proposals to the Parliament in autumn 2014, after which the proposal for the national ratification of the Convention and its Optional Protocol could be submitted to the Parliament during the current Government term.

Efficient implementation of the Convention can contribute to removing structural obstacles in society, attitudes and the lack of information, which restrict the possibilities for independent living, self-determination and participation in society of persons with disabilities.

### **5.3.2**     *Aiming for an accessible society*

By improving accessibility, the possibilities of persons with disabilities to receive services and participate fully in society can be promoted. Accessibility is about principles for making the built environment, services, communications and transport equally accessible to everyone. Services are accessible when everyone can take part in using and developing them equally. Comprehensible communication is an important part of accessibility.

The starting point for the provision of services is public services intended for everyone, which are complemented with special services if necessary. A vital precondition for service use, and also for independent living and participation as set out in the UN Convention, is the accessibility of the built environment. When developing building legislation, accessibility will be promoted while taking into account the principles of design for all. The aim is a uniform interpretation and application of the provisions in all parts of the country.

A working group on reforming the disability legislation has been appointed for the period 3 May 2013–31 Dec 2014. Its task is to integrate the Act on services and assistance for the disabled and the Act on special care for persons with intellectual disabilities to form a new act on services for persons with disabilities. The working group will also investigate any other needs to reform the legislation on services for persons with disabilities. The objective of this task is to provide an integral and continuous service package that responds to each person's individual needs. The purpose of the legislative reform is, in line with the UN Convention, to reinforce the equality of persons with disabilities and to support the implementation of the housing programme for persons with intellectual and development difficulties 2010–2015. The needs for support and assistance of children with disabilities and their families play a crucial part in the amalgamation of the aforementioned acts and the overhaul of the Social Welfare Act. In legislative work, particular attention must be paid to finding out and taking into consideration the opinions of children and young people. The aim is to ensure that a child with a long-term illness, disability or other long-term problems and his or her family receive the support and services they need. In particular, it is hoped that the practice and culture of referring children with multiple disabilities and long-term illnesses from one agency to the next can be discontinued.

### ***5.3.3 Rights of self-determination and participation must be strengthened***

Many provisions of the UN Convention support the right of persons with disabilities to make decisions and exert influence in matters that concern themselves. The right of persons with disabilities to take part in making decisions that concern them is an essential obligation of the Convention. The Convention requires us to provide more information about the rights of persons with disabilities in all parts of society in order to ensure the equality and participation of persons with disabilities.

The nationally adopted objectives of no longer caring for persons with intellectual disabilities in institutions and also providing housing and services for persons with the most severe disabilities in their local communities will reinforce the equality, right of self-determination and participation in various activities in society of persons with disabilities.

On 8 November 2012, the Government adopted a resolution according to which each person with a disability has the same rights to housing as other residents of a municipality. The objective is that after 2020, no person with disabilities will be living in an institution. The intention of the housing programme for persons with intellectual and development difficulties 2010–2015 is to offer all persons with intellectual disabilities a possibility for individual housing instead of a place in an institution or their childhood home.

When dismantling institutional care for persons with intellectual disabilities, it is vital to ensure that it will not be replaced by new institutions or large concentrations of housing units and services for various special groups. Housing and services must be provided in ordinary residential areas and in normal residences, in addition to which small and diverse groups of high-quality flats will be needed. A precondition for succeeding in these reforms is seamless cooperation between the central and local government and actors in the field.

**Policy guideline 24:**

The Government promotes the implementation of the obligations contained in the UN Convention on the Rights of Persons with Disabilities by creating adequate preconditions for their implementation and monitoring. Awareness of the rights of persons with disabilities, including the complaint procedure enabled in the Optional Protocol to the Convention, will be raised among the authorities and persons with disabilities, and in all sectors of society.

**Policy guideline 25:**

The Government's targets include accessibility in society, the built environment, services, communication and transport.

**Policy guideline 26:**

The possibilities of persons with disabilities and the organisations representing them to take part in decision-making processes will be safeguarded equally with other civil society actors.

**Policy guideline 27:**

In decisions on budgets and policy, adequate financial and personnel resources will be reserved for the equal implementation of the fundamental and human rights of persons with disabilities.

## 5.4 Implementation of economic, social and cultural rights promotes equality

Economic, social and cultural rights (ESC rights) refer to rights that are part of a life with human dignity, including the right to housing, basic education, adequate health services or necessary livelihood and care.

Those in the most underprivileged position in society are the most dependent on forms of public support and services. Equal implementation of ESC rights increases social justice. The realisation of their ESC rights helps individuals exercise their other rights, including the right to participation. Safeguarding the equal and non-discriminatory implementation of ESC rights is a strict obligation contained both in human rights treaties and our own Constitution.

Internationally, there are great variations in the levels at which these rights are realised. Traditionally, Finland is one of the world's leading countries in terms of implementing ESC rights, excellent examples of which are the high standard of basic education, public health care and the extent of various social welfare benefits in Finland.

Unlike the freedom rights, many states that otherwise actively promote the implementation of human rights are not prepared to accept the full legally

binding nature of ESC rights. They regard ESC rights as being for reference purposes only, as rights that are dependent on policy decisions. However, an increasing number of states have started accepting ESC rights as full human rights, either internationally or in their national laws. A good example of the evolving interpretations is the acceptance of the right to clean and safe drinking water and sanitation as a human right.

Promoting the realisation of ESC rights is one of the flagship projects of the Foreign Service's human rights action plan for 2013–2015. In its international activities, Finland stresses the binding nature of ESC rights and their equal position with civil and political rights as part and parcel of human rights. Internationally and within the EU, Finland has a visible role as a country that highlights the binding nature and implementation of ESC rights. In the UN, Finland is active in the Group of Friends on ESC rights. The active national application of ESC rights also improves the coherence of Finland's human rights activities. For a more detailed discussion of the international promotion of ESC rights, see Section 2.6.

#### **5.4.1**     *ESC rights are legally binding*

If we compare the Constitution of Finland with its counterparts in other countries, quite a high number of modern chapters on fundamental rights contain the most important ESC rights and oblige public authorities to safeguard their implementation. Internationally, the most essential human rights treaty safeguarding ESC rights is the International Covenant on Economic, Social and Cultural Rights (below referred to as the ICESCR)<sup>73</sup>, which entered into force in Finland in 1976. The Council of Europe's revised European Social Charter<sup>74</sup> has been in force in Finland since 2002. The EU Charter of Fundamental Rights<sup>75</sup> also contains a wide range of ESC rights. Other key conventions are the European Convention on Social Security and several International Labour Organization (ILO) conventions and recommendations<sup>76</sup>. Finland currently is a state party to 87 ILO conventions.

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<sup>73</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) Finnish Treaty Series no 6/1976, and its Optional Protocol on the complaint mechanism (OPICESCR, 2008) Finnish Treaty Series no 16–17/2014.

<sup>74</sup> European Social Charter (revised) (1996) Finnish Treaty Series no 78, 80/2002.

<sup>75</sup> European Union Charter of Fundamental Rights (2000/C 364/01).

<sup>76</sup> For more information about the contents of the ILO conventions, visit: [http://www.tem.fi/files/25956/ilo\\_yleissopimukset.pdf](http://www.tem.fi/files/25956/ilo_yleissopimukset.pdf).

The ICESCR monitoring system, which was based on periodic reporting, has been complemented with a complaints mechanism. Under this mechanism, individual complaints concerning alleged ESC rights violations may be filed with the UN treaty monitoring body, and the Committee may launch an own-initiative investigation procedure in the case of serious and recurring human rights violations. The Optional Protocol on the complaints mechanism entered into force in Finland in April 2014. Regarding the revised European Social Charter<sup>77</sup>, we should note that Finland is the only Member State that has also extended the possibility of submitting collective complaints to national NGOs.

The implementation of ESC rights usually requires active measures on the part of public authorities. Under the ICESCR<sup>78</sup>, state parties take steps, to the maximum of their available resources, with a view to progressively achieving the full realisation of the rights, while at the same time taking any action to improve the situation without delay.

In Finland, ESC rights are mainly implemented through various public services, including different types of social benefits or education and cultural services. In addition to central government agencies, services are provided by a number of local and regional actors, including local authorities, joint municipal authorities and, in the future, social welfare and health care regions. In recent years, an increasing number of services have been outsourced to either municipal or private actors. Different administrative arrangements do not, however, eliminate the public authorities' responsibility for ensuring that fundamental and human rights are realised. It is particularly important to account for the binding nature of ESC rights in situations where the services for which public authorities are responsible are outsourced to private actors.

Eradicating and preventing homelessness are an elemental part of preventing exclusion and safeguarding ESC rights. The Government is working to eradicate homelessness, for example by implementing a programme to reduce long-term homelessness in 2012–2015. After the programme's conclusion, the main emphasis will be on preventing homelessness, recognising the risks from early

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<sup>77</sup> The Covenant also covers the rights enshrined in ILO conventions and laid down in EU directives.

<sup>78</sup> International Covenant on Economic, Social and Cultural Rights Article 2 (ICESCR, 1966) Finnish Treaty Series no 6/1976

on, improving housing conditions, and achieving permanent local solutions and operating methods. A precondition for achieving permanent results is cooperation between the housing, social, health, education and labour administrations.

It should also be ensured that such rights as citizens' equal rights to culture will be fostered by supporting cultural diversity and safeguarding people's possibilities of freely taking part in high-quality cultural life.

#### *5.4.2 ESC rights must also be respected during an economic downturn*

ESC rights have strong links with available economic resources and other resources. Conjectural fluctuations have a direct bearing on the standard of rights implementation internationally, nationally and locally.

The economic crisis with which European countries have been struggling for a number of years has also seriously undermined the implementation of ESC rights in many EU Member States. The position of ESC rights as fundamental and human rights sets limits to cuts in various benefits. For example, the savings must be in correct proportion to their goal and they may not flout international obligations, including the prohibition of discrimination. Between various options, one that ideally safeguards the implementation of fundamental and human rights must be chosen. The UN Committee on Economic, Social and Cultural Rights (ESC Committee), which oversees the implementation of ESC rights, issued in 2012 recommendations on how the rights should be taken into consideration when making any decisions on cuts. The cuts should be a temporary measure covering only the period of crisis, the measures must be less detrimental to fundamental and human rights than any other policy, the policy must comprise all tax and other measures to ensure that the rights of disadvantaged and marginalised groups are not disproportionately affected, and the policy must include a social protection floor.<sup>79</sup> In its resolutions on the budget cuts in Greece (2013), the European Committee of Social Rights found that any decisions on austerity measures must ensure that no population group is discriminated against and that no-one will end up below the poverty threshold

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<sup>79</sup> CESCR, "Open Letter to States Parties regarding the protection of rights in the context of economic crisis", 16.5.2012 (CESCR/48th/SP/MAB/SW).

as a result of the decisions.<sup>80</sup> Governments also have the obligation to ensure that debt restructuring processes will not undermine obligations for the realisation of fundamental and human rights.<sup>81</sup>

### *5.4.3 Implementation of ESC rights must be reinforced*

Everyone should have equal access to ESC rights, regardless of where they live. Observations of international treaty monitoring bodies indicate that there are major regional differences in the implementation of rights between various areas in Finland. There are differences between municipalities regarding financial resources and their awareness of ESC rights.

It is important to ensure that no gaps emerge in the system of service provision that would completely prevent people from enjoying their rights. One example is the rights of undocumented persons residing in Finland to necessary basic services.

In Finland's case, the European Committee of Social Rights has drawn attention to such questions as minimum protection for older persons, unequal treatment of informal carers in different municipalities and the level of social welfare benefits.

The realisation of ESC rights can be strengthened by securing adequate resources for their implementation and monitoring.

### *5.4.4 Awareness of ESC rights must be raised*

ESC rights are realised in routine everyday situations, as citizens use the services of schools, social welfare offices, health centres and old people's homes. Recognising the links of everyday situations with fundamental and human rights is of extremely high importance. This requires training and general communication about the rights, both to the authorities and service users. The users must be consulted when developing the services. Not all measures require

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<sup>80</sup> European Committee of Social Rights, Conclusions XX-2 (2013) (Greece).

<sup>81</sup> Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephias Lumina (A/HRC/17/37).

just additional resources; some also require a change in attitude. Assessing fundamental and human rights implications should be an essential part of drafting central and local government decisions.

Reference to ESC rights, either the fundamental rights enshrined in the Constitution or international human rights obligations, is rarely made in courts, legislation or administrative practices. The recommendations and conclusions of international human rights treaties monitoring bodies for Finland are an essential foundation for a gradually evolving interpretation of the ESC rights. Of national importance are the rulings of the supreme overseers of legality, or the Parliamentary Ombudsman and the Chancellor of Justice, and the observations of other supervisory authorities, including the National Supervisory Authority for Welfare and Health (Valvira) and regional state administrative agencies, as well as court rulings.

**Policy guideline 28:**

In its international activities, Finland stresses the binding nature of ESC rights and implementing the provisions contained in the treaties.

**Policy guideline 29:**

The Government will develop its internal training cooperation, its division of labour in information activities, and its cooperation with regional and local authorities concerning ESC rights and the practices of applying these rights. Awareness will be raised about the new complaints mechanism under the ICESCR and the collective complaints procedure in the revised European Social Charter.

**Policy guideline 30:**

The Government and local authorities will step up their assessment of the impacts on ESC rights when drafting decisions and in administrative activities, and they will organise relevant training for public servants and elected officials.

**Policy guideline 31:**

When making economic, social policy and other decisions, the Government will safeguard preconditions for the equal implementation of ESC rights as provided in international human rights obligations and the Constitution, in particular accounting for the rights of persons at risk of discrimination.

## 6 Active and long-term promotion of fundamental and human rights

Over the last few decades, Finland has acceded to a number of international and regional human rights treaties. Side by side with the entity formed by these treaties, Finland's national fundamental rights system has been buttressed considerably. Interpretations of international human rights treaties, rights granted by the EU, and national fundamental rights are evolving, and the environment in which these rights are applied is also constantly changing. Finland must actively follow these developments and exercise long-term fundamental and human rights policy with initiative, which will improve the recognition of these rights and improve the efficiency of their implementation.

Two previous human rights policy reports have been submitted by the Government to the Parliament, one for each Government term since 2004. The earlier reports have helped to establish the points of departure and objectives of Finland's international human rights policy, and a broad consensus prevails on the policies. The Government sees that future human rights reports should more clearly direct the great outlines of fundamental and human rights activities over the longer term, spanning individual Government terms. Intervals between the reports could be longer than they have been thus far, unless fundamental changes take place in the operating environment or the Government's human rights objectives.

Both in its international activities and in the national context, Finland stresses the efficient implementation of human rights obligations that have been adopted. The Government aims to ensure that Finland continues to be one of the states that, by both national measures and in international cooperation, strive to promote a better standard of human rights implementation that exceeds the minimum level required by the treaties.

As set out in Section 4 above, the Government sees that a national action plan for each individual Government term, one that is based on the currently valid policies of the human rights report, will be needed to develop fundamental and human rights activities. The Foreign Service's strategy and action plan on

human rights will also help target Finland's international human rights activities to the very questions for which its activities produce the greatest added value.

When preparing the Foreign Service's following action plan on human rights policy after 2015, the policies of this report will be taken into account.

## **6.1 Monitoring the realisation of fundamental and human rights**

Both in international debates on human rights and national discussions in Finland, the need to evaluate the implementation of fundamental and human rights has emerged with increasing force. This could involve *ex ante* assessments of impacts on fundamental and human rights, or *ex post* evaluations based on various indicators and reporting methods regarding the progress made in implementing fundamental and human rights. As countries continue to struggle with their public finances, we should be particularly careful to evaluate the equal realisation of rights, especially from the perspective of persons most at risk of discrimination.

The National Action Plan on Fundamental and Human Rights 2012–2013 noted that a prerequisite for productive fundamental and human rights work is assessing the impacts of activities. Both quantitative and qualitative indicators should thus be developed for examining the implementation of rights. A monitoring database that covers various sectors of society should be established. In spring 2013, the Government network of contact persons for fundamental and human rights together with the Human Rights Centre organised an extensive workshop that considered the national application of fundamental and human rights indicators on the basis of an indicator model developed by the UN.<sup>82</sup>

An evaluation of the national action plan noted that several national indicator projects have been implemented in Finland; the work to develop human rights indicators can be modelled based on these projects.<sup>83</sup> Developing rights-based indicators with a broad coverage is labour intensive, and for this reason these efforts should be linked to basic academic research on fundamental and human

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<sup>82</sup> [http://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf)

<sup>83</sup> For example, they include the efforts to develop indicators for democracy commissioned by the Ministry of Justice.

rights. International examples also support this model.<sup>84</sup>

Before launching extensive efforts to develop human rights indicators, it should be carefully considered which types of indicators are needed. There are major differences in the costs and usability of optional models. In principle, the models are divided into large, comprehensive indicator packages, macro level indices, or systems where rights-based legal indicators that take into account the definition of the contents of a right are implemented for certain selected and limited themes by drawing on existing indicators in various policy fields. An essential question is whether the selected indicators highlight potential differences in the realisation of various rights between and within different population groups.

The debate on fundamental and human rights indicators is associated with the general discussion on Finnish fundamental and human rights structures. Resources must be directed at appropriately resolving the observed fundamental and human rights problems and promoting the realisation of rights in general as efficiently as possible. Indicators are an important tool for evaluating the achievement of these goals. The use of indicators must be linked with the activities of human rights actors, the drafting of human rights policy, impact assessments and the drawing up and monitoring of the following Action Plan on Fundamental and Human Rights. The best value can be obtained from indicators by closely associating them with policy processes. Finland may develop into one of the pioneers of human rights indicator development.

The observations and recommendations of international and regional human rights treaty monitoring bodies, court rulings, decisions of the overseers of legality and other supervisory authorities, as well as the opinions of independent human rights actors, lay a solid foundation of information for evaluating fundamental and human rights implementation in Finland. Various actors are already collecting and publishing versatile data sets that could be used

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<sup>84</sup> Evaluation of the National Action Plan on Fundamental and Human Rights 2012–2013, p. 61: “Internationally, efforts to develop human rights indicators have often been carried out by a national human rights institution by developing an indicator framework together with a national university engaged in human rights policy research. For example, the Human Rights Measurement Framework in the United Kingdom was created by the English Equality and Human Rights Commission and the Scottish Human Rights Commission, which funded an indicator framework development project carried out by London School of Economics Centre for the Study of Human Rights.”

for monitoring the realisation of fundamental and human rights. International recommendations issued for Finland should be one point of departure for drawing up the next national action plan. The implementation of provisions in international and regional treaties and recommendations in Finland should be monitored and the monitoring methods should be developed further, while also drawing on good practices in other countries. Particular attention should be paid to the preconditions provided by national legislation for collecting data sets, for example those categorised based on various grounds for discrimination.

In a national examination of how to realise fundamental and human rights, we should fully exploit cooperation between various actors, including dialogue with civil society and national fundamental and human rights research. Ex ante assessments of fundamental and human rights impacts should be taken into consideration in the preparation phase of projects. In the rationale for enactment required for drafting legislation, proposals should also be examined in terms of the obligation to protect fundamental and human rights in the Constitution (Section 22) and not exclusively from the perspective of the minimum level set for national fundamental rights or international human rights.

## **6.2 Strengthening fundamental and human rights education and training**

As a result of the increasing significance of fundamental and human rights, the authorities need improved capabilities for recognising fundamental and human rights questions and familiarity with these rights in national, European and international activities alike. This sets requirements on the fundamental and human rights competence of both the authorities and public elected officials as well as on the drafting processes of the authorities.

Education and training related to fundamental and human rights should thus be stepped up. For example, content relevant to fundamental and human rights should be included in personnel training and the training provided by the authorities for elected officials and others. Both the citizens and public actors should have adequate knowledge of the rights contained in international and regional human rights treaties, EU law and national fundamental rights provisions, and of their possibilities to appeal to these rights.

The quality of the current fundamental and human rights education and training can be improved by better coordinating the training provided by various authorities and by enabling cross-administrative participation in training events.

The Human Rights Centre plays a central part in developing human rights education and training. The competence of NGOs should also be efficiently drawn upon.

The 100th anniversary of Finland's independence in 2017 will offer an opportunity to spread awareness about fundamental and human rights as an example of how Finnish society and its form of life have developed. During the anniversary year, an extensive information campaign could be implemented in educational institutions to highlight the significance of civil freedoms, other human rights, diversity and tolerance, both now and in the future.

Developing fundamental and human rights education and training should be part of the following National Action Plan on Fundamental and Human Rights. A report drawn up by the Human Rights Centre<sup>85</sup> and a study commissioned by the Ministry of Education and Culture on how objectives and contents related to democracy and human rights are approached in teacher education, provided by professional teacher education units<sup>86</sup> lay a good foundation for preparing action plans.

### **6.3 Duties of national fundamental and human rights actors**

National fundamental and human rights structures refer to the entity formed by the various fundamental and human rights actors. While this field has undergone strong development in Finland in the last few years, the resulting structure has not at any stage been systematically analysed.

The national action plan describes the various actors, including the supreme overseers of legality, ombudsmen, advisory boards appointed by the Government

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<sup>85</sup> <http://www.ihmisoikeuskeskus.fi/julkaisut/ihmisoikeuskeskuksen-julkaisut/ihmisoikeuskeskuksen-selvityksia/ihmisoikeuskasvatus-ja-koulutus/>

<sup>86</sup> Democracy and human rights. Objectives and contents of teacher education. Ministry of Education and Culture working group reports and studies 2014:18.

and international treaty monitoring bodies<sup>87</sup>. The action plan also established a Government network of contact persons for fundamental and human rights. The Human Rights Centre began operating in 2012. In addition, fulfilling the obligations imposed by international treaties has entailed new duties for the existing actors. Civil society also plays an important role in the entire field of fundamental and human rights actors. In times of meagre resources, it is vital to ensure that cooperation between existing actors is efficient, that the structures are not too heavy, or that the actors' duties do not overlap.

The work of the Government network of contact persons for fundamental and human rights should be continued. In the future, its duties could include monitoring the implementation of this report, in addition to monitoring the human rights obligations and recommendations that apply to Finland and preparing and monitoring the following national action plan on Fundamental and Human Rights. The network should work closely together with the most important human rights actors, and its composition should be expanded by including the ombudsmen. The network facilitates the participation of all Ministries in discussions on fundamental and human rights issues in the Government. The processing of fundamental and human rights issues within the Ministries should also be improved.

Civil society's possibilities of being informed about the authorities' fundamental and human rights activities and influencing the development of these activities should be safeguarded. The Advisory Board on International Human Rights Affairs, which operates under the auspices of the Ministry for Foreign Affairs, has a particularly significant role in integrating the views of civil society as part of Finland's international human rights policy.

Several advisory boards operate in various Ministries that examine issues related to implementing fundamental and human rights. A thorough analysis should be carried out of how well the system, which is based on advisory boards, works as a whole, whether individual advisory boards have clear-cut mandates, whether their mandates overlap or leave gaps, and how cooperation between the advisory boards could be developed.

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<sup>87</sup> National Action Plan on Fundamental and Human Rights 2012–2013, p. 11-15.

The launching of the Human Rights Centre is another justification for examining the mandates of the different fundamental and human rights actors. The entry into force of the new equality act<sup>88</sup> and the proposed transfer of the independent ombudsmen to the Ministry of Justice's branch of administration will intensify the need to systematically analyse the duties of Finnish fundamental and human rights actors, including any shortcomings and gaps. This background study should be launched without delay. At minimum, the study should cover coordination and cooperation within the Government in fundamental and human rights issues as well as the position, division of labour and resource allocations of statutory independent actors who promote and oversee fundamental and human rights.

**Policy guideline 32:**

The following National Action Plan on Fundamental and Human Rights should include developing fundamental and human rights indicators that are internationally comparable and compatible with Finnish society, for example by examining the possibility of linking rights-based indicators to existing indicator projects or research on fundamental and human rights. Finland is actively involved in international cooperation aiming to develop such indicators.

**Policy guideline 33:**

Fundamental and human rights education and training will be reinforced at all levels. The next National Plan on Fundamental and Human Rights should contain a section on education and training that would set concrete targets for how the Government intends to reinforce fundamental and human rights competence in Finland in the future.

**Policy guideline 34:**

In autumn 2014, the Government will launch a study on the roles and division of labour of the various fundamental and human rights actors and the possibilities of developing their cooperation.

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<sup>88</sup> HE 19/2014 vp

# Appendix 1. Key international and regional human rights treaties that Finland has signed and ratified or is in the process of ratifying

## Key UN human rights conventions<sup>89</sup>

- **International Convention on the Elimination of All Forms of Racial Discrimination** (ICERD, 1965) Finnish Treaty Series no 37/1970
- **International Covenant on Economic, Social and Cultural Rights** (ICESCR, 1966) Finnish Treaty Series no 6/1976
  - Optional protocol on the complaints procedure (OP-ICESCR, 2008) Finnish Treaty Series no 16-17/2014
- **International Covenant on Civil and Political Rights** (ICCPR, 1966) Finnish Treaty Series no 7-8/1976
  - Optional Protocol (ICPPR-OP1, 1966) Finnish Treaty Series no 7-8/1976
  - amendment to Section 2 of the decree on implementing the Covenant (1966) Finnish Treaty Series no 16/1985
  - Second Optional Protocol, which aims to abolish the death penalty (ICCPR-OP2, 1989) Finnish Treaty Series no 48–49/1991
  - amendment to Section 2 of the decree on implementing the Covenant (1990) Finnish Treaty Series no 31/1990
- **Convention on the Elimination of All Forms of Discrimination against**

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<sup>89</sup> After the titles of the treaties and their optional protocols, the international abbreviation of the title and the year of adoption are given in brackets.

For treaties concluded with other states and international organisations, see the Finlex database on international treaties at <http://www.finlex.fi>. You can search for the text of the treaty by the treaty series number indicated in the list.

For information on key UN human rights treaties and monitoring their implementation, see the website of the Ministry for Foreign Affairs at <http://formin.finland.fi/Public/default.aspx?no-deid=31460&con-tentlan=1&culture=fi-FI>.

The website of the UN Office of the High Commissioner for Human Rights (OHCHR) provides information on the most important human rights conventions and their optional protocols at <http://www.ohchr.org/EN/ProfessionalInstruments/Pages/CoreInstruments.aspx>.

For the authentic texts of conventions and their optional protocols, information about their international entry into force, signatures, ratifications/adoptions/accessions and reservations, see the UN treaties register at <https://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>.

**Women** (CEDAW, 1979) Finnish Treaty Series no 67–68/1986

- Optional Protocol on the communications procedure (OP-CEDAW, 1999) Finnish Treaty Series no 20-21/2001
- **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (CAT, 1984) Finnish Treaty Series no 59– 60/1989
  - Optional Protocol on the international and national preventive mechanisms (OP-CAT, 2002). The optional protocol was signed by Finland on 23 September 2003, the Government’s proposal HE 182/2012 vp on ratifying the protocol was passed by the Parliament on 15 April 2013
- **Convention on the Rights of the Child** (CRC, 1989) Finnish Treaty Series no 59–60/1991
  - Optional Protocol on the involvement of children in armed conflict (OP-CRC-AC, 2000) Finnish Treaty Series no 30–31/2002
  - Amendment to article 43 paragraph 2 of the Convention (1995) Finnish Treaty Series no 16/2003
  - Optional Protocol on the sale of children, child prostitution and child pornography (OP-CRC-SC, 2000) Finnish Treaty Series no 40–41/2012
  - Optional Protocol on the complaints procedure (2011), signed by Finland on 28 February 2012, Government proposal on adopting the protocol to be given during the current Government term
- **Convention on the Rights of Persons with Disabilities** (CRPD, 2006)
  - Optional Protocol on the complaints procedure (OP-CRPD, 2006)
  - The Convention and the optional protocol were signed by Finland on 30 March 2007, a Government proposal on accepting both documents is to be submitted during the current Government term
- **International Convention for the Protection of All Persons from Enforced Disappearance** (CPED, 2006)
  - The Convention was signed by Finland on 6 February 2007, the Government proposal on adopting the Convention is to be given during the current Government term
- **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** (ICMW, 1990)
  - The preconditions for the ratification of the Convention in Finland were examined in 1992, 2004 and 2011, ratification of the Convention was not found to be appropriate

## Other international human rights instruments<sup>90</sup>

- **Convention Relating to the Status of Refugees** (1951) Finnish Treaty Series no 77/1968
  - Protocol Relating to the Status of Refugees (1967) Finnish Treaty Series no 78/1968
  - Act on the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees (2004) Finnish Treaty Series no 142-143/2004
  - amendment to Section 2 of the decree on implementing the Convention (2004) Finnish Treaty Series no 144/2004
  - amendment to Section 2 of the decree on implementing the Convention (2004) Finnish Treaty Series no 145/2004
  - withdrawal of reservations in the Convention (2004) Finnish Treaty Series no 146/2004
- **United Nations Convention against Transnational Organized Crime** (2000) Finnish Treaty Series no 18, 20/2004
  - Additional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (2000) Finnish Treaty Series no 70–71/2006
  - Additional Protocol Against the Smuggling of Migrants by Land, Sea and Air (2000) Finnish Treaty Series no 72–73/2006
  - Act amending Chapter 17 Section 1a of the criminal code (2003) Finnish Treaty Series no 19/2004
  - notification given in connection with adopting the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms (2011) Finnish Treaty Series no 75/2011

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<sup>90</sup> The year of adoption is given after the titles of the conventions and their protocols.

For treaties concluded with other states and international organisations, see the Finlex database on international treaties at <http://www.finlex.fi>. You can search for the text of the treaty by the treaty series number indicated in the list.

The website of the UN Office of the High Commissioner for Human Rights (OHCHR) contains information not only about the most important human rights treaties but also about other international treaties and their protocols that protect human rights at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHuman-RightsInstruments.aspx>

For the authentic texts of conventions and their protocols, information about their international entry into force, signatures, ratifications/adoptions/acessions and reservations, see the UN treaties register at <https://treaties.un.org/pages/ParticipationStatus.aspx>.

- **United Nations Convention against Corruption**  
(2003) Finnish Treaty Series no 56, 58/2006
  - Amendment to Chapter 30 Section 12 of the criminal code (2006)  
Finnish Treaty Series no 57/2006

## UN human rights declarations<sup>91</sup>

- **Universal Declaration of Human Rights** (1948)
- **UN Declaration on the Right to Development** (1986)
- **Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities** (1992)
- **Declaration on the Elimination of Violence against Women** (1993)
- **Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms** (so-called Declaration on Human Rights Defenders, 1998)
- **Declaration on the Rights of Indigenous Peoples** (2007)

## Council of Europe's human rights treaties<sup>92</sup>

- **Convention for the Protection of Human Rights and Fundamental Freedoms (European Human Rights Convention)** (1950) Finnish Treaty Series no 18–19/1990
  - Additional Protocol No. 1 (1950) Finnish Treaty Series no 18-19/1990
  - Additional Protocol No. 4 secures certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (1963) Finnish Treaty Series no 18-19/1990

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<sup>91</sup> The website of the UN Office of the High Commissioner for Human Rights (OHCHR) contains information not only about the most important human rights treaties but also about declarations on promoting and protecting human rights: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx>

<sup>92</sup> The year of adoption of conventions and their protocols is given after their titles in brackets.

For treaties concluded with other states and international organisations, see the Finlex database on international treaties at <http://www.finlex.fi>. You can search for the text of the treaty by the treaty series number indicated in the list.

For information on the most important Council of Europe human rights treaties and the monitoring of their implementation, see the website of the Ministry for Foreign Affairs at <http://formin.finland.fi/Public/default.aspx?nodeid=31372&contentlan=1&culture=fi-FI>.

For the authentic texts of Council of Europe conventions and their protocols, information about their international entry into force, signatures, ratifications/adoptions/accessions and reservations, see the Council of Europe treaties register at <http://www.conventions.coe.int/Treaty/Commun/ListeTraites.asp?CM=8&CL=ENG>.

- Additional Protocol No. 6 on the Abolition of the Death Penalty (1983)
- Finnish Treaty Series no 18-19/1990
- Additional Protocol No. 7 (1984) Finnish Treaty Series no 18-19/1990
- Additional Protocol No. 11 on restructuring the control machinery (1994) Finnish Treaty Series no 85-86/1998
- amendment to Section 2 of the decree on implementing the Covenant (1996) Finnish Treaty Series no 91/1996
- amendment to Section 2 of the decree on implementing the Covenant (1998) Finnish Treaty Series no 44/1998
- amendment to Section 2 of the decree on implementing the Covenant (1999) Finnish Treaty Series no 22/1999
- European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms), as amended by Protocol No. 11 (1999) Finnish Treaty Series no 63/1999
- Protocol No. 12 (2000) Finnish Treaty Series no 8-9/2005
- amendment to Section 2 of the decree on implementing the Covenant (2001) Finnish Treaty Series no 31/2001
- Partial withdrawal of reservations made in the Convention (2001) Finnish Treaty Series no 40/2001
- Protocol No. 13 on the abolition of the death penalty in all circumstances (2002) Finnish Treaty Series no 6-7/2005
- Protocol no. 14 amends the control system of the Convention (2004) Finnish Treaty Series no 50–51/2010
- Protocol No. 15 aims to further improve the efficiency of the control system. The Protocol was signed by Finland on 24 June 2013, the Government proposal on adopting the Protocol will be submitted during the current Government term, while the Protocol has not yet entered into force internationally
- Protocol No. 16 extends the competence of the European Court of Human Rights to issue advisory opinions. The Protocol was signed by Finland on 2 October 2013, the Government proposal on adopting the Protocol will be submitted during the current Government term, while the Protocol has not yet entered into force internationally
- **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**  
(1987) Finnish Treaty Series no 16–17/1991
  - Annex to the Convention Finnish Treaty Series no 92/1998
  - Protocols No. 1 and 2 (1993) Finnish Treaty Series no 17/2002

- **European Charter for Regional or Minority Languages** (1992) Finnish Treaty Series no 23/1998
  - Amendment to the decree on implementing the Charter (1998) Finnish Treaty Series no 83/1998
  - Sámi translation of the Charter (1998) Finnish Treaty Series no 84/1998
  - amendment to Section 2 of the decree on implementing the Covenant (2009) Finnish Treaty Series no
  - Complementation of Finland's declaration (2009) Finnish Treaty Series no 81/2009
- **Framework Convention for the Protection of National Minorities** (1995) Finnish Treaty Series no 1-2/1998
- **European Agreement relating to persons participating in proceedings of the European Court of Human Rights** (1996) Finnish Treaty Series no 2-3/1999
- **European Social Charter (revised)** (1996) Finnish Treaty Series no 78, 80/2002
- **Council of Europe Convention on Cybercrime** (2001) Finnish Treaty Series no 59-60/2007
  - declaration made in connection with the ratification of the Convention, reservations and notifications Finnish Treaty Series no 61/2007
  - Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems Finnish Treaty Series no 84/2011
- **Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine** (1997) Finnish Treaty Series no 23–24/2010
  - Additional Protocol on the Prohibition of Cloning Human Beings (1998) Finnish Treaty Series no 23–24/2010
  - Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin (2002) Finnish Treaty Series no 23-24/2010
  - Act amending Chapter 11 Section 11 and Chapter 47 Section 3 of the criminal code (2009) Finnish Treaty Series no 25/2010
  - Entry into force of the Convention and its Protocols on the Prohibition of Cloning Human Beings and concerning the Transplantation of Organs and Tissues of Human Origin in the Region of Åland (2010) Finnish Treaty Series no 115/2010

- **Convention on Action against Trafficking in Human Beings** (2005) Finnish Treaty Series no 43-44/2012
  - Note on the adoption of the Convention (2012) Finnish Treaty Series no 46/2012
  - Act amending Section 3 of the act on business prohibitions, Finnish Treaty Series no 45/2012
- **Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** (2007) Finnish Treaty Series no 87–88/2011
- **Convention on preventing and combating violence against women and family violence** (2011)
  - The Convention was signed by Finland on 11 May 2011, Government proposal HE 155/2014 vp on adopting the Convention was submitted to the Parliament on 18 September 2014 the Convention is not yet internationally in force

## Key International Labour Organization conventions<sup>93</sup>

### *Abolition of forced labour:*

- Convention (No. 28) Concerning Forced or Compulsory Labour (1930) Finnish Treaty Series no 44/1935
- Convention (No. 105) concerning the Abolition of Forced Labour no 105 (1957) Finnish Treaty Series no 17/1960

### *Freedom of association:*

- Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise (1948) Finnish Treaty Series no 45/1949
- Convention (No. 98) concerning the Application of the Principles of the Right to Organise and Bargain Collectively (1949) Finnish Treaty Series no 32/1951

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<sup>93</sup> The year of adoption of the convention is given in brackets after its title. For treaties concluded with other states and international organisations, see the Finlex database on international treaties at <http://www.finlex.fi>. You can search for the text of the treaty by the treaty series number indicated in the list.

For the authentic texts of ILO conventions and their protocols, information about their international entry into force, signatures, ratifications/adoptions/accessions and reservations, see the ILO treaties register at <http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO::>

For more information on Finland's activities in the ILO, see the website of the Ministry of Employment and the Economy at [https://www.tem.fi/tyo/kansainvalinen\\_tyovelamayhteistyokansainvalinen\\_tyojarjesto\\_ilo](https://www.tem.fi/tyo/kansainvalinen_tyovelamayhteistyokansainvalinen_tyojarjesto_ilo)

## **Equality and gender equality**

- Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value
- (1951) Finnish Treaty Series no 9/1963
- Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation (1958) Finnish Treaty Series no 63/1970
- Convention (No 159) concerning Vocational Rehabilitation and Employment
- (Disabled Persons) (1983) Finnish Treaty Series no 24/1986

## **Abolition of child labour:**

- Convention (No. 138) concerning Minimum Age for Admission to Employment (1973) Finnish Treaty Series no 87/1976
- Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) Finnish Treaty Series no 16/2000
  - Recommendation (No.190) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

## **Indigenous peoples:**

- Convention No. 169 on identifying indigenous and tribal peoples in independent countries (1989)
  - The aim is to ratify the Convention during the current government term.



**PUBLICATIONS OF THE MINISTRY  
FOR FOREIGN AFFAIRS  
12 / 2014**

ISSN 0358-1489 (printed)  
ISSN 2341-8230 (pdf)  
ISBN 978-952-281-279-7  
PDF ISBN 978-952-281-280-3  
e-pub ISBN 978-952-281-281-0