

**Advance unedited version**

Distr.: General  
1 April 2021

Original: English

**Human Rights Committee****Concluding observations on the seventh periodic report  
of Finland\***

1. The Human Rights Committee considered the seventh periodic report of Finland (CCPR/C/FIN/7) at its 3758th, 3759th and 3760th meetings (see CCPR/C/SR.3758, CCPR/C/SR.3759 and CCPR/C/SR.3760), held on 2, 3 and 4 March 2021, virtually for the first time, due to the coronavirus disease (COVID-19) pandemic. On 26 March 2021, the Committee adopted the present concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the seventh periodic report of Finland and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/FIN/7) to the list of issues prior to reporting (CCPR/C/FIN/QPR/7), which were supplemented by the oral responses provided by the delegation, and for the important supplementary information provided to it in writing.

**B. Positive aspects**

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

- (a) Non-discrimination Act (1325/2014), in 2015 and the setting-up of the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal;
- (b) Amendments to the Act on Equality between Women and Men, in 2015;
- (c) Act on the Oversight of Intelligence Gathering (121/1019) and amendment to the Rules of Procedure of Parliament (123/2019), on 1 February 2019, with the institutionalisation of the Intelligence Ombudsman and the Intelligence Oversight Committee to oversee the legality of both civilian and military intelligence work;
- (d) Act on the National Prosecution Authority (32/2019), ensuring prosecutors full independence and autonomy;
- (e) First and second National Action Plans on Fundamental and Human Rights 2012–2013 and 2017–2019;
- (f) Action Plan for Gender Equality 2016–2019;
- (g) Action Plan against Trafficking in Human Beings 2016–2017;

\* Adopted by the Committee at its 131st session (1-26 March 2021).

- (h) Meaningful in Finland Action Plan to prevent hate speech and racism and to promote social inclusion, in 2016;
- (i) Action Plan for the Istanbul Convention 2018–2021;
- (j) National Roma Policy 2018–2022, in 2018;
- (k) Action Plan on the implementation of the Convention on the Rights of Persons with Disabilities, in 2018;
- (l) Action Plan 2019–2025 for achieving equal opportunities for lesbian, gay, bisexual, transgender and intersex persons in Åland society, in 2019.

## C. Principal matters of concern and recommendations

### Implementation of the Covenant and its Optional Protocol

4. The Committee notes that Finnish higher courts have invoked the Covenant while reviewing domestic cases. It, however, regrets the lack of concrete examples of court cases in which the provisions of the Covenant have been directly applied, particularly by setting aside relevant domestic legal provisions in conflict with the Covenant. The Committee also expresses its concern that the Views adopted by the Committee, in November 2018, regarding the right of self-determination of the Sámi people, *Tiina Sanila-Aikio v. Finland* (CCPR/C/124/D/2668/2015) and *Klemetti Nakkäläjärvi et al. v. Finland* (CCPR/C/124/D/2950/2017), have not been implemented. On the contrary, the decisions of the Supreme Administrative Court on 5 July 2019, reinstating 97 individuals to the electoral role that the Electoral Committee of the Sámi Parliament had removed, appear to run counter the Views of this Committee. Further, the Sámi Parliament elections of September 2019 were not cancelled or postponed by the Finnish Government, thus resulting in a significant change in the composition of the Sámi Parliament, with the entry of ethnic Finns which the Sámi Parliament does not consider Sámi (art. 2).

5. **The State party should continue its efforts to inform and educate lawyers, prosecutors, judges, law enforcement officers and the public about the Covenant and its Optional Protocol. It should also promptly comply with all the Views adopted by the Committee with respect to the Sámi indigenous people, through appropriate and effective mechanisms, so as to guarantee the right of victims to an effective remedy, in accordance with article 2 (3) of the Covenant.**

### Human rights impact assessment

6. The Committee takes note of the human rights impact assessments of legislative and other policy proposals undertaken by various actors, such as the Council of Regulatory Impact Analysis. The Committee also notes that the constitutionality of legislation as well as the compliance with human rights obligations is supervised by the Chancellor of Justice and the Constitutional Law Committee. It, however, is concerned by reports of the lack of a systematic approach to such assessment and their limited effectiveness in upholding the rights of children, women, asylum-seekers, migrants and the Sámi people, particularly regarding the collection and analysis of relevant data (art. 2).

7. **The State party should strengthen the mechanisms for human rights assessment of legislative and policy proposals prior to their adoption to ensure their compatibility with the Covenant, particularly with respect to any legislative and policy proposals concerning the rights of persons belonging to vulnerable groups. The State party should also improve its system of collecting reliable disaggregated data with a view to conducting impact assessments of legislation and policies on the Covenant rights.**

### Reservations

8. The Committee notes that the State party is maintaining its reservations, *inter alia*, to articles 10 (2) (b) and (3), 14 (7) and 20 (1) of the Covenant. It regrets that there has been no change in the State party's position in this regard since the last review (art. 2).

9. Recalling its previous recommendations (CCPR/C/FIN/CO/6, para. 4), the Committee reiterates that the State party should consider withdrawing its reservations to the above articles of the Covenant.

#### **Counter-terrorism measures**

10. The Committee is concerned about the vague definition of terrorist offences contained in the Criminal Code and the possible abuse of such provision. While noting the recent adoption by the State party of a relevant resolution and its intention to continue its efforts to repatriate children in armed conflict zones, the Committee is concerned about the number of children born to Finnish nationals still living under harsh conditions in such zones, particularly at the al-Hol refugee camp in Syria. (arts. 2, 9, 12 and 14).

11. The State party should:

(a) Ensure that its counter-terrorism legislation, especially its definitions and the powers and limits on their exercise, is in compliance with the Covenant and the principles of legality, certainty, predictability and proportionality, and that persons suspected of or charged with terrorist acts or related crimes are provided in law and practice with all legal safeguards, in accordance with the Covenant;

(b) Intensify its efforts to repatriate all Finnish nationals who are currently in armed conflict zones, and their children, through a clear and fair procedure with respect for the principle of the best interests of the child, and provide them with adequate access to rehabilitation services and care upon repatriation.

#### **Non-discrimination and gender equality**

12. The Committee notes the legislative and policy measures taken by the State party to prevent and combat discrimination and promote gender equality. It, however, is concerned that the Non-Discrimination Ombudsman can bring cases of discrimination before the National Non-Discrimination and Equality Tribunal only with the consent of all aggrieved parties and that victims cannot seek compensation before the Tribunal, but only through lengthy judicial proceedings at a court of law. The Committee also notes with concern the delegation's acknowledgement that the Non-Discrimination Act is not yet widely known among the public, and victims of discrimination thus tend to seek remedies through varying and sometimes confusing channels. It is also concerned about the low level of political representation of women with disabilities or of ethnic minority backgrounds and the paucity of disaggregated statistics in this respect (arts. 2 and 26).

13. The State party should:

(a) Take all necessary steps to review and amend the Non-Discrimination Act (1325/2014) and other relevant anti-discrimination laws to improve the effectiveness of the legal and institutional framework to combat discrimination;

(b) Review the mandate of the Non-Discrimination Ombudsman, with a view to removing obstacles to effectively bringing all cases of discrimination before the National Non-Discrimination and Equality Tribunal;

(c) Consider enabling the National Non-Discrimination and Equality Tribunal to provide compensation directly to victims so that victims have timely access to effective remedies;

(d) Raise awareness among the public about anti-discrimination legislation and legal remedies available for victims of discrimination, including about the mandates of the Non-Discrimination Ombudsman, Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal;

(e) Enhance its efforts to increase women's participation in public and private sectors and their representation at the highest level, especially for women with disabilities or ethnic minority backgrounds. It should improve its data collection in this regard.

### **Hate speech and hate crimes**

14. The Committee takes note of the measures taken by the State party to combat hate speech and hate crimes, including the adoption of the National Action Plan for the Prevention of Violent Radicalisation and Extremism and the introduction of “internet cops” to police departments. It, however, is concerned about persistence of intolerance, prejudice, hate speech and hate crimes against vulnerable and minority groups, including women, African descendants, Muslims, lesbian, gay, bisexual and transgender persons and Roma and Jewish communities, particularly in the media and on social networks. In this regard, the Committee regrets the lack of specific information about the impact and effectiveness of policy and awareness-raising measures on reducing incidents of hate speech and hate crimes and the insufficient data collection in this regard (arts. 2, 19, 20 and 26).

**15. The State party should redouble its efforts to combat discrimination, hate speech and incitement to discrimination or violence on the grounds of, inter alia, race, ethnicity, religion or sexual orientation and gender identity, in accordance with articles 19 and 20 of the Covenant and the Committee’s general comment No. 34 (2011) on freedoms of opinion and expression. It should, inter alia:**

- (a) Improve relevant data collection and take effective measures to prevent both online and offline hate speech, firmly and publicly condemn such speech, and intensify efforts aimed at addressing online hate speech;**
- (b) Strengthen its awareness-raising efforts aimed at promoting respect for human rights and tolerance for diversity, revisiting and eradicating stereotypical prejudices based on race, ethnicity, religion, or sexual orientation and gender identity;**
- (c) Encourage the reporting of hate crimes, and ensure that hate crimes are thoroughly investigated, perpetrators prosecuted and punished, and victims provided with effective remedies;**
- (d) Provide adequate training to central and local authorities, law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes and to media workers on promoting acceptance of diversity.**

### **Ethnic profiling**

16. While noting the prohibition of ethnic profiling stipulated in the Aliens Act and the provision of training for law enforcement officials in this respect, the Committee remains concerned by reported incidents of ethnic profiling by the police (arts. 2, 12, 17 and 26).

**17. The State party should take necessary measures to ensure the prohibition of ethnic profiling, in law and in practice, by law enforcement officials and prevent disparate treatment on the basis of physical appearance, colour or ethnic or national origin. It should continue its efforts to provide all law enforcement officials with adequate training in order to effectively prevent ethnic profiling and to conduct regular assessments of the impact of such training.**

### **Violence against women**

18. The Committee acknowledges the State party’s efforts to combat violence against women, including awareness campaigns, the opening of a telephone hotline and the proposed appointment of an independent rapporteur on this issue. It, however, remains concerned by the persistence of violence against women, particularly the rise in cases of domestic violence in the context of the coronavirus disease (COVID-19) pandemic. It also notes with concern the low level of reporting and prosecution and conviction of perpetrators of violence against women, the insufficient number of shelters and rape crisis centres, especially in remote rural areas, and the charging of court fees for unsuccessful applications for restraining orders. The Committee regrets that Chapter 20 of the Criminal Code on sexual offences has not been amended to ensure that lack of consent becomes the core element of the definition of rape, and that forced marriage has not been explicitly criminalized (arts. 2, 3, 6, 7 and 26).

19. **The State party should:**

- (a) Encourage the reporting of cases of violence against women, and ensure the safety of women who come forward, including through enhancing the accessibility and effectiveness of restraining orders. It should also consider eliminating the fees for unsuccessful applications of restraining orders;
- (b) Ensure that cases of violence against women are thoroughly investigated, and that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;
- (c) Provide victims, particularly those living in remote rural areas, with access to effective remedies and means of protection and assistance, including to accommodation or shelters in all parts of the country and to other support services;
- (d) Speed up the legislative reforms to effectively prevent and combat all forms of violence against women, including by amending the definition of rape to include lack of consent as a core feature, explicitly criminalizing forced marriage and reviewing the legislation on restraining orders;
- (e) Continue its efforts to provide law enforcement officials, prosecutors, judges and lawyers with appropriate training to effectively deal with cases of violence against women.

#### **Sexual orientation, gender identity and intersex status**

20. The Committee is concerned about social stigmatization, discrimination and violence against persons based on their sexual orientation or gender identity. While noting the ongoing process to amend the Trans Act, the Committee is concerned about the lengthy procedure for legal gender recognition and the requirements to be sterilized and diagnosed with “transsexualism” which is defined as a mental disorder. It is further concerned that consenting transgender children may be unable to access the procedure for legal gender recognition. The Committee is also concerned that irreversible and invasive medical interventions continue to be performed on intersex children. It notes with concern that such actions are often based on a stereotyped vision of gender roles and carried out before children are of an age to allow them to give their full, free and informed consent (arts. 3, 7, 9, 17, 24 and 26).

21. **The State party should take legislative and other measures to:**

- (a) Intensify its efforts to eradicate all forms of discrimination and violence against and social stigmatization of persons based on their sexual orientation or gender identity, and provide access to effective remedies for victims of such acts;
- (b) Establish a simple and accessible administrative procedure for change of civil status with respect to gender identity that is in accordance with the Covenant;
- (c) Effectively prevent the performance of irreversible medical interventions, especially surgical operations, on intersex children who are not yet capable of giving their full, free and informed consent, unless such procedures constitute an absolute medical necessity. Access to effective remedies for victims of such interventions should also be ensured.

#### **Use of excessive force**

22. The Committee is concerned by reports of increased use of force by law enforcement officials, including the use of projectile electroshock devices (tasers) and other less-lethal weapons (arts. 6 and 7).

23. **The State party should ensure that law enforcement officials adhere to the rules and conditions governing the use of tasers, that such use is adequately monitored and that policies on the use of tasers are fully in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and with the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (2020).**

### **Liberty and security of a person**

24. While noting the information provided by the State party that, in practice, arrested persons are often released within two days of their arrest, the Committee regrets the lack of reliable statistical data in this respect and reiterates its concern regarding reports of the failure by the authorities to strictly apply the 48-hour time frame within which a person arrested on a criminal charge should be brought before a judge. It is also concerned by reports that the authorities sometimes fail to notify family members of the arrested person about his or her deprivation of liberty within the 48-hour time frame (art. 9).

**25. The State party should bring its legislation and practice into line with article 9 of the Covenant, in particular by ensuring that persons arrested or detained on a criminal charge are brought promptly before a judge, within 48 hours, and that their family members or persons of their choice are notified of the deprivation of liberty within the same time frame.**

26. The Committee notes the amendment made to the Remand Imprisonment Act in January 2019, the introduction of new alternatives to remand imprisonment and the subsequent decrease in the number of remand prisoners held in police detention facilities. It, however, remains concerned that a remand prisoner can still be placed in a police detention facility on the exceptional grounds of security or investigation purposes (art. 9).

**27. The State party should take necessary measures to stop placing remand prisoners in police detention facilities, including on exceptional grounds, and speed up the planned construction of new remand detention facilities. It should also increase the use of alternatives to remand detention.**

28. While noting the low number of detainees below the age of 18 in the State party and its plan to establish separate sections for detainees below the age of 18 in several prisons, the Committee reiterates its previous concern that detainees below the age of 18 are not as yet segregated from adult prisoners and thus remain vulnerable to violence and sexual abuse (art. 10).

**29. Notwithstanding its reservation to article 10, paragraphs 2(b) and 3, of the Covenant, the State party should ensure, as a general rule, that detainees below the age of 18 are segregated from adult prisoners.**

### **Persons with psychosocial or intellectual disabilities**

30. The Committee is concerned that persons with psychosocial or intellectual disabilities, including elderly persons with dementia living in social welfare institutions, may be subject to involuntary confinement or treatment without sufficient legal basis or procedural safeguards to guarantee their rights and interests. While noting the ongoing legislative process aiming to strengthen the right of self-determination, namely of persons with disabilities, the Committee regrets the insufficient progress achieved in ensuring access to effective legal remedies to challenge involuntary psychiatric hospitalisation and treatment (arts. 7, 9 and 17).

31. **The State party should ensure, in law and in practice, that:**

(a) **Involuntary psychiatric confinement is only used where strictly necessary and proportionate, for the purpose of protecting the individual in question from serious harm or from injuring others and is applied only as a last resort and for the shortest period of time;**

(b) **Involuntary confinement or medical treatment involving persons with disabilities who have been deprived of their legal capacity is compatible with the need to make every effort to obtain free, prior and informed consent of the persons concerned and is carried out pursuant to appropriate legal and procedural safeguards;**

(c) **The procedures used for such hospitalization or treatment include initial and periodic judicial reviews and guarantees of an effective legal remedy, and that any abuse is thoroughly investigated and prosecuted.**

### **Treatment of aliens, including asylum seekers and stateless persons**

32. The Committee welcomes the State party's efforts to improve the situation of children entering the country and of access to identity documents for beneficiaries of international protection, and the legislative proposal aiming to provide access to legal counsel during asylum interviews. It, however, remains concerned by the restrictions imposed on the right to introduce new information in repeat asylum applications as well as obstacles to family reunification, including the income requirement. While noting the introduction of alternatives to detention, such as "directed residence", the Committee is concerned by the restrictive reporting obligations of such alternative measures and insufficient data collection on the use of detention and alternatives to detention. While noting that the detention of unaccompanied child asylum-seekers under 15 years of age is prohibited by law and unaccompanied children aged between 15 and 17 years cannot be detained during the asylum procedure, the Committee remains concerned that detention of children is still allowed when the child has already received a negative decision that has become enforceable and other less restrictive precautionary measures are not adequate. While commending the automatic grant of citizenship to children born in Finland who would otherwise be stateless, the Committee remains concerned about the number of stateless persons in the State party (arts. 2, 6, 7 and 13).

33. **The State party should:**

- (a) Step up its efforts to reinforce the rights of children entering the country, particularly unaccompanied children, taking into account the need to respect their best interests;
- (b) Continue its efforts to provide access to quality legal aid service for asylum seekers throughout the asylum process;
- (c) Ensure that restrictions on the right to introduce new information in repeat asylum applications do not lead to a violation of the principle of non-refoulement;
- (d) Review its family reunification procedures, including with a view to removing obstacles such as the income requirement;
- (e) Increase the use of alternatives to detention, resort to detention of asylum seekers and refugees only as a last resort, and consider introducing a general ban on the detention of children for immigration purposes. It should also improve data collection regarding the use of detention and alternatives to detention;
- (f) Strengthen the protection of stateless persons, including by establishing a dedicated and effective statelessness determination procedure with specific procedural considerations and safeguards.

### **Right to privacy**

34. The Committee is concerned that the definitions of situations granting civilian and military surveillance, e.g. under the Police Act (581/2019), may provide for overly broad powers of surveillance. While noting the existence of five intelligence oversight mechanisms in the State party, covering both civilian and military intelligence, including the newly established Intelligence Ombudsman and the Intelligence Oversight Committee, it is concerned that such complex structure may undermine their effectiveness in safeguarding the right to privacy (art. 17).

35. **The State party should ensure that:** (a) all types of surveillance activities and interference with privacy, both civilian and military, including online surveillance, interception of communications, access to communications data and retrieval of data, are governed by appropriate legislation that conforms with the Covenant, in particular article 17, including with the principles of legality, proportionality and necessity; and (b) surveillance and interception is conducted subject to judicial authorization and to effective and independent oversight mechanisms, and that the persons affected have proper access to effective remedies in cases of abuse.

### **Conscientious objection to military service**

36. The Committee is concerned that the Act Repealing the Act on the Exemption of Jehovah's Witnesses from Military Service in Certain Cases (330/2019) has removed the exemption from military and civilian service accorded to Jehovah's Witnesses, in contrast to the Committee's previous recommendations to extend such exemption to other groups of conscientious objectors (CCPR/C/FIN/CO/6, para. 14). It also notes with concern that the regular duration of alternative non-military service amounts to the longest period of military service and that, while such alternative service is under the direction of the Ministry of Employment and the Economy, military personnel still take part in relevant working groups and committees determining the nature and duration of alternative service. It is also concerned about the insufficient dissemination of information about the right to conscientious objection and alternatives to military service (art. 18).

**37. The State party should:** (a) ensure that alternatives to military service are not punitive or discriminatory in terms of their nature or duration and remain of a civilian nature, outside military command; (b) halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving related prison sentences; and (c) intensify its efforts to raise awareness among the public about the right to conscientious objection and the availability of alternatives to military service.

#### **Freedom of religion**

38. The Committee is concerned that, in light of the applicable regulations on the slaughtering of animals in the State party, religious minorities may have limited access to food products that meet their respective religious dietary restrictions (arts. 2, 18 and 26).

**39. The State party should ensure that religious minorities have adequate access to goods and services, particularly food products that meet their respective religious dietary restrictions, without discrimination.**

40. The Committee is concerned by the fact that the State party maintains a vague and broadly worded criminal provision on the breach of the sanctity of religion (Chapter 17 of the Criminal Code), which carries a penalty of up to six months' imprisonment (arts. 18 and 19).

**41. The State party should take necessary steps to decriminalize the breach of the sanctity of religion and protect freedom of thought, conscience and religion as well as freedom of expression in accordance with articles 18 and 19 of the Covenant.**

#### **Rights of the Sami indigenous people**

42. The Committee acknowledges the steps taken by the State party to promote the rights of the Sámi people, including the ongoing establishment of a Truth and Reconciliation Commission. The Committee, however, remains concerned that, despite the Committee's Views adopted in this respect, in November 2018, the Sámi Parliament Act - particularly section 3, on the definition of a Sámi and section 9, on the obligation of the authorities to negotiate with the Sámi Parliament in all far-reaching and important measures which may affect the status of the Sámi as an indigenous people - has not yet been amended in a way that guarantees the Sámi people's right of self-determination. On the contrary, the decisions of 5 July 2019, by the Supreme Administrative Court and the Government's decision not to cancel or postpone the Sámi Parliament elections of September 2019 appear to run counter the Views adopted by the Committee regarding the Sámi (see above paras. 4 and 5). It is further concerned about reports that vague criteria used to assess the impact of measures, including development projects, on Sámi culture and traditional livelihoods have resulted in the authorities' failure to engage in meaningful consultations to obtain their free, prior and informed consent. The Committee also notes the State party's delay in ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) (arts. 1, 25 and 27).

43. **The State party should:**

(a) Speed up the process to revise the Sámi Parliament Act, particularly its sections 3, on the definition of Sámi and 9, on the principle of free, prior and informed consent, with a view to respecting the Sámi people's right of self-determination, in accordance with article 25, read alone and in conjunction with article 27, as interpreted

in the light of article 1 of the Covenant and implementing the Committee's Views adopted in November 2018 (*Tiina Sanila-Aikio v. Finland* (CCPR/C/124/D/2668/2015) and *Klemetti Näkkäläjärvi et al. v. Finland* (CCPR/C/124/D/2950/2017));

(b) Review existing legislation, policies and practices regulating activities that may have an impact on the rights and interests of the Sámi people, including development projects and extractive industries operations, with a view to ensuring, in practice, meaningful consultation with the Sámi people to obtain their free, prior and informed consent;

(c) Consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169);

(d) Step up its efforts to provide government and local officials, police officers, prosecutors and judges with appropriate training on the need to respect Sámi's rights as an indigenous people.

#### **Dissemination and follow-up**

44. The State party should widely disseminate the Covenant, its seventh periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and with the general public, with a view to raising their awareness of the rights enshrined in the Covenant. The State party should ensure that the report and the present concluding observations are translated into its official languages.

45. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is invited to provide, by 26 March 2022, information on the implementation of the recommendations made by the Committee in paragraphs 15 (hate speech and hate crimes...), 19 (violence against women) and 43 (rights of the Sami indigenous people), above.

46. In line with the Committee's predictable review cycle, the State party will receive in 2027 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its eighth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2029 in Geneva.