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HUMAN RIGHTS CENTRE



# **The impacts of the coronavirus pandemic on the implementation of fundamental and human rights**

Recommendations by the  
Human Rights Delegation

**The impacts of the coronavirus pandemic  
on the implementation of fundamental and human rights**  
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Human Rights Centre's publications 3/2020.

ISSN 2670-1944

ISBN 978-952-7117-39-2

Layout: Joonas Tupala

Translation: Lingsoft Language Services Oy

<https://www.humanrightscentre.fi/publications/>

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# 1 Fundamental and human rights must also be taken into account in times of crisis

The coronavirus pandemic that began in spring 2020 has caused unprecedented challenges to societies everywhere. In March, the Government and the President of the Republic declared a state of emergency in Finland over the coronavirus outbreak and decided to adopt the powers under the Emergency Powers Act for the first time. The state of emergency lasted approximately three months, during which the fundamental rights were restricted by a number of regulations issued by the Government under the Emergency Powers Act.

The various restrictions, recommendations and social isolation required by the pandemic will continue in autumn 2020, but without the powers of the Emergency Powers Act for now. However, there have been discussions on the possible re-introduction of the Emergency Powers Act, both for and against.<sup>1</sup> An important objective of the measures and restrictions is to ensure health and life, but restrictions on

fundamental rights must always be precise, acceptable and proportionate. The restrictions must be implemented with respect for fundamental and human rights, and the people affected must have an effective legal remedy at their disposal.<sup>2</sup>

The pandemic and related restrictions have affected everyone's lives as work, school, study, travel and interaction with others are restricted by regulations and recommendations. Engaging in a trade is also restricted, and the restaurant, event and tourism sectors in particular have suffered considerable financial losses. Many companies and especially small-scale entrepreneurs have struggled and have had to, for example, temporarily lay off and dismiss employees when the freedom to engage in a trade has been restricted due to the pandemic. Efforts have been made to compensate for company losses, for example, through various cost and development subsidies.<sup>3</sup>

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1 See the Finnish discussion on the Emergency Powers Act, such as Oikeustieteilijät: Valmiuslain käyttöönotto olisi parempi ratkaisu kuin tartuntatautilain muuttaminen "valmiuslain sekundaversioksi" (Legal scholars: The introduction of the Emergency Powers Act would be a better solution than revising the Communicable Diseases Act into a 'secondary version of the Emergency Powers Act'). <https://www.hs.fi/politiikka/art-2000006675034.html>

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2 Perustuslakivaliokunnan mietintö n:o 25 hallituksen esityksestä perustuslakien perusoikeussäännösten muuttamisesta (A report of the Constitutional Law Committee n:o 25 on the Government proposal to revise the Finnish Constitution's provisions on fundamental rights). [https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/pevm\\_25+1994.pdf](https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/pevm_25+1994.pdf)

3 Ministry of Economic Affairs and Employment's coronavirus guidance for businesses: <https://tem.fi/en/information-on-coronavirus>

People who are already in a vulnerable position, such as older persons and people with disabilities, have ended up in an ever-harder situation as a result of the coronavirus pandemic and related measures. The restrictions have also affected the lives of children and young people in many ways. The coronavirus pandemic has also affected society by delaying many legislative projects in the Government Programme, such as the 'trans act' and reforms related to the legal protection of immigrants.

During the coronavirus pandemic, the importance of accessible, clear, open and timely communication from the authorities has been emphasised significantly. For example, information on restrictive measures must be available to everyone regardless of language, age, disability or other background. Sign language interpretation at Government press conferences has been found positive, but in addition to sign language, other means of communication should also be used, such as image communication. Much of the information on the coronavirus pandemic has been transmitted digitally, which means that it might not reach everyone. People in a vulnerable position, such as older persons or people with disabilities, can be excluded from the digital world and any information transmitted through it.<sup>4</sup> A good example of the alternative use of information and communication channels are the call tours

carried out in many municipalities, which have been used to find out how older persons living at home are coping in the state of emergency.<sup>5</sup>

The effects of the pandemic are certainly not yet entirely known, but it is clear that they are profound and long-lasting in all sectors of society.<sup>6</sup> Human rights and the rule of law have been stretched to the limits in the state of emergency. Economic and social rights are at risk of deteriorating permanently as the economic situation becomes more difficult. Delays in healthcare are also increasing constantly, which endangers the right to health. Not all problems in the implementation of fundamental and human rights that have emerged during the coronavirus pandemic are new or only due to the coronavirus outbreak, but the pandemic and related measures have highlighted these problems more than before.

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4 Ministry of Finance: Digitalisaatio ei saa syrjäyttää (Digitalisation must not marginalise). <https://vm.fi/digitalisaatio-ei-saa-syrjayttaa>

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5 Valli: Puhelinsoitolla tavoitettu lähes 150 000 ikääntynyttä (Nearly 150,000 older persons have been reached by phone calls). <https://www.valli.fi/puhelinsoitolla-tavoitettu-lahes-150-000-ikaantynytta/>

6 For example, see Covid19-epidemiaan vaikutukset hyvinvointiin, palvelujärjestelmään ja kansantalouteen (The effects of the COVID-19 epidemic on well-being, the service system and the national economy). Expert assessment, autumn 2020. <https://www.julkari.fi/handle/10024/140661>

### **Restrictive measures and policies during the coronavirus pandemic<sup>7</sup>**

- On 16 March 2020, the Government and the President of the Republic declared a state of emergency in Finland over the coronavirus outbreak and decided to adopt the powers under the Emergency Powers Act (1552/2011)<sup>8</sup>.
- The Government laid out a number of policies on the restrictive measures and issued regulations on the use and application of the Emergency Powers Act to the Parliament.
- The facilities of schools, educational institutions, universities and universities of applied sciences as well as adult education institutions and other liberal adult education were closed down and contact teaching was interrupted in them.
- Visits to housing service units for older persons and other risk groups were prohibited.
- As a guideline, those over the age of 70 were obliged to stay separate from other people when possible (quarantine-like conditions), excluding members of parliament, state leadership and municipal elected officials.
- The capacity of social welfare and healthcare was increased in the public and private sectors. At the same time, the amount of uncritical activity was reduced, and the statutory deadlines and obligations were made more flexible.
- On 15 June, the Government stated that the state of emergency referred to in section 3 of the Emergency Powers Act no longer applies in Finland.
- After the emergency conditions, there have been restrictions and recommendations that concern all of Finland or specific regions, depending on the regional stage of the epidemic. The Government's recommendations are not legally binding.

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7 Regarding restrictions during the state of emergency: <https://valtioneuvosto.fi/en/-/10616/hallitus-totesi-suomen-olevan-poikkeusoloissa-koronavirustilanteen-vuoksi>.

Regarding the restrictions after the state of emergency: <https://valtioneuvosto.fi/en/information-on-coronavirus/current-restrictions>

8 Emergency Powers Act: <https://www.finlex.fi/fi/laki/kaannokset/2011/en20111552>

The HRC'S Human Rights Delegation<sup>9</sup> discussed the coronavirus pandemic's impact on fundamental and human rights in four thematic workshops at its meeting in September 2020. The workshops focused on the situation from the perspectives of the rule of law, older persons and persons with disabilities, children and young people's rights as well as violence against women and intimate partner violence.

This publication based on the workshop discussions is not a comprehensive description of the situation. When selecting the topics for consideration, the aim was to address structural problems and, on the other hand, to emphasise vulnerable groups and people, especially people with disabilities and older persons. Monitoring and promoting the rights of people with disabilities is a special task of the HRC, and the rights of older persons are a special focus of the centre's activities.<sup>10</sup> The Human Rights Delegation's review excludes a number of other vulnerable groups and people whose situation also requires consideration.

The delegation is now evaluating for the first time the state of the rule of law and challenges in Finland. In addition to the general survey, the coronavirus pandemic's impact on the realisation of rights and the general functioning of the guarantees of the rule of law were discussed. The delegation will continue this dis-

cussion in the future, and it will be emphasised more in the activities of the HRC from now on.

At the September meeting of the Human Rights Delegation, Michael O'Flaherty, director of the European Union Agency for Fundamental Rights (FRA), spoke about the impact pandemic activities have on fundamental and human rights as well as about the FRA's studies on this topic. He also made recommendations on how fundamental and human rights can be ensured during the fight against the pandemic. According to him, particular attention should be paid to the extensive and systematic monitoring and evaluation of the fundamental and human rights influence during the coronavirus outbreak. He also stressed that countries must ensure the operation and resources of national human rights institutions, especially during the current emergency conditions.<sup>11</sup> Finland's National Human Rights Institution consists of the Human Rights Centre and its Human Rights Delegation together with the Parliamentary Ombudsman.<sup>12</sup>

In September, the Government appointed an independent investigation team in connection with the Safety Investigation Authority (OTKES) to look into the measures taken as a result of the coronavirus pandemic. The investigation team makes recommendations on how the experiences gained during the pandemic can be used to develop society's preparedness for serious events and mitigate their consequences. The group consults various actors extensively, such as the Ombudsman and the Human Rights Centre.<sup>13</sup> The impact of the pandemic has also been assessed by various

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9 The HRC'S Human Rights Delegation is a broad-based cooperation body of the HRC, whose members represent solid basic and human rights expertise in different sectors of society. The permanent members of the delegation include a representative of the Parliamentary Ombudsman, a representative of the Chancellor of Justice, all separate ombudsmen and the chairman of the Sámi Parliament. More on the activities and composition of the Human Rights Delegation: <https://www.humanrightscentre.fi/about-us/human-rights-delegation/>

10 The Disability Rights Committee (VIOK) operates as a permanent division under the Human Rights Delegation, and in 2020, a division on the rights of older persons began operating. Further information on the activities of VIOK: <https://www.humanrightscentre.fi/about-us/human-rights-delegation/disability-rights-committee-viok/>

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11 More on the event on FRA's website: <https://fra.europa.eu/en/event/2020/feeding-finnish-recommendations-pandemics-human-rights-impact>

12 More on Finland's National Human Rights Institution: <https://www.humanrightscentre.fi/about-us/national-human-rights-institutio/>

13 Further information on the independent investigation team: [https://valtioneuvosto.fi/-/1410853/riippumaton-tutkintaryhma-selvittamaan-korona-pandemiasta-johtuneita-toimia?languageld=en\\_US](https://valtioneuvosto.fi/-/1410853/riippumaton-tutkintaryhma-selvittamaan-korona-pandemiasta-johtuneita-toimia?languageld=en_US)

scientific panels, but a comprehensive evaluation focusing on fundamental and human rights has not yet been carried out.<sup>14</sup> According to the Human Rights Delegation, there is a significant need for such an assessment, as well as for continuous assessment of impacts on fundamental and human rights. Special attention must also be paid to assessing the fundamental and human rights issues in the follow-up of the coronavirus pandemic as well as the impacts of the measures.

The aim of this summary is to address the fundamental and human rights issues that emerged during the coronavirus pandemic and to provide decision-makers - the Government, Parliament and local level - with recommendations to remedy shortcomings both in the short term and in the longer term. The recommendations are also based on the recommendations the Human Rights Delegation gave for the Government Programme in spring 2019.<sup>15</sup>

14 The first stage report of the crisis follow-up group (in Finnish). [https://valtioneuvosto.fi/documents/10616/21411573/VN\\_2020\\_12.pdf](https://valtioneuvosto.fi/documents/10616/21411573/VN_2020_12.pdf)

The second stage report of the crisis follow-up group (in Finnish) [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162272/VN\\_2020\\_17.pdf?sequence=2&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162272/VN_2020_17.pdf?sequence=2&isAllowed=y)

Valtioneuvoston kokonaisarvio COVID-19-toimien vaikutuksista (The Government's overall assessment of the impacts of COVID-1).

[https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162525/VN\\_2020\\_COVID19\\_toimien\\_vaikutusten\\_kokonaisarvio.pdf?sequence=1&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162525/VN_2020_COVID19_toimien_vaikutusten_kokonaisarvio.pdf?sequence=1&isAllowed=y)

ETENE: COVID-19-epidemian eettinen arviointi (Ethical evaluation of the COVID-19 epidemic).

<https://etene.fi/-/etenen-uusi-julkaisu-covid-19-epidemian-eettinen-arviointi>

15 Perus- ja ihmisoikeustilanne Suomessa - Ihmisoikeusvaltuuskunnan suosituksset hallituskaudelle 2019-2023 (The fundamental and human rights situation in Finland, the Human Rights Delegation's recommendations for the government term 2019-2023). <https://www.ihmisoikeuskeskus.fi/tietoa-meista/ihmisoikeusvaltuuskunta/kannanotto/>

### Recommendations

- The discussion on the state of the rule of law and the realisation of its core values must continue in Finnish social, legal and political debate. The theme will continue to be emphasised in the Human Rights Delegation and in the activities of the Human Rights Centre.
- An overall assessment of the coronavirus pandemic's and its follow-up's impact on fundamental and human rights must be carried out. In addition, the impact assessments must separately examine the pandemic's and its follow-up's impact on vulnerable people (such as children, people with disabilities, older persons, minorities and the Sámi).
- Assessment of the impact on fundamental and human rights must be carried out continuously, systematically and comprehensively.
- Legislative projects delayed due to the pandemic, such as the reform of the Trans Act and reforms related to the legal protection of immigrants, must be completed as soon as possible.
- Authorities' announcements related to measures taken during the pandemic must be accessible and clear. The information must be available equally to all regardless of language, age, disability or other background. Information on the coronavirus pandemic must also be available through alternative means of communication and in non-digital environments.

## 2 Questions relating to the principle of the rule of law

In many European countries and in other parts of the world, the development of the rule of law was declining already before the coronavirus pandemic. Human rights and their importance are being challenged openly, and the principle of the rule of law is interpreted with emphasis on national characteristics. A number of European countries have diminished the key structures and legislation of the rule of law: The independence of courts has been weakened and the operating conditions of human rights institutions and civil society have been narrowed down or their activities have been completely prevented. In an increasing number of countries, the number of attacks on the media and journalists has grown alarmingly. Deliberately misleading information spreads faster and easier than before, especially in social media. Misleading information about the coronavirus pandemic is also shared, which aims to undermine trust in the authorities and political actors.

The principle of the rule of law is one of the fundamental values of the European Union under article 2 of the Treaty on European Union (TEU). Common values and standards are considered a key prerequisite for EU action. The recent legal practice of the Court of Justice of the European Union has played an increasing role in strengthening the rule of law. The European Commission's review of the rule of law is a new procedure aimed both at preventing problems and enabling dialogue to address existing issues.<sup>16</sup>

The rule of law is one of the core principles in the Statute of the Council of Europe, in addition to democracy and human rights. Several Council bodies promote and strengthen the rule of law in different ways: in particular, the European Court of Human Rights (ECHR)<sup>17</sup>, the Commissioner for Human Rights<sup>18</sup>, the European Commission for the efficiency of justice (CEPEJ)<sup>19</sup>, the Group of States against Corruption (GRECO)<sup>20</sup>, and the Venice Commission<sup>21</sup>.

The core elements of the rule of law are legality, legal security, prohibition of arbitrariness, access to justice (including the legality control of administrative action), respect for human rights and non-discrimination, and equality before the law. With the Venetian Commission's checklist, the state of the rule of law in Europe can be examined on the basis of uniform criteria.<sup>22</sup> The core elements of the rule of law illustrate how important it is for fundamental and human rights that the rule of law functions.

<sup>16</sup> European Commission's report on the rule of law. [https://ec.europa.eu/commission/presscorner/detail/fi/ip\\_20\\_1756](https://ec.europa.eu/commission/presscorner/detail/fi/ip_20_1756)

<sup>17</sup> ECHR's website: <https://www.echr.coe.int/Pages/home.aspx?p=home>

<sup>18</sup> Council of Europe's Commissioner for Human Right's website: <https://www.coe.int/en/web/commissioner>

<sup>19</sup> CEPEJ's website: <https://www.coe.int/en/web/cepej>

<sup>20</sup> GRECO's website: <https://www.coe.int/en/web/greco>

<sup>21</sup> Venice Commission's website: <https://www.venice.coe.int/webforms/events/>

<sup>22</sup> Venice Commission's checklist: [https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule\\_of\\_Law\\_Check\\_List.pdf](https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf)

### Finland's state of the rule of law and the functionality of the monitoring mechanism of the Constitution

The state of the rule of law in Finland is good in international and European comparisons. The Constitution of Finland ensures that the rule of law and human rights are realised. The Venice Commission also stated so in its statement in 2008.<sup>23</sup> According to the Venice Commission, the strength of the Finnish Constitution's monitoring mechanism is its pluralism.<sup>24</sup> The constitutional conformity of the laws can be monitored both in advance at the preparation and adoption stage and after the act enters into force.

The Finnish system focuses heavily on the ex-ante constitutionality review by the Constitutional Law Committee, which is considered to work very well. The Finnish state constitutional tradition and discussion have not generally supported the establishment of a constitutional court, for example. However, the Constitutional Law Committee is a political institution that reflects parliamentary power relations. The Venice Commission has considered the weakness of the Finnish system to be the fact that the monitoring of the Constitution focuses on the Parliament and the Constitutional Law Committee composed in accordance with political power relations. The committee cannot take up matters on its own initiative, as it is dependent on external initiatives. Although a majority decision is sufficient for committee decisions, it has traditionally been unanimous in its activities.

In general, courts do not have the right to assess a law's possible conflict with the Constitution. Section 106 of the Constitution allows courts to refrain from applying the provision of

the law only if it is manifestly incompatible with the Constitution. The post-monitoring of the constitutionality of the courts under section 106 of the Constitution seems to have remained rather insignificant. In 2021, the HRC will publish a report on the application of section 106 of the Constitution in the highest courts.

In October 2020, the European Commission published the first rule of law review.<sup>25</sup> For the preparation of the report, the HRC issued its own statement as part of the European Network of National Human Rights Institutions (ENNHRI).<sup>26</sup> National human rights institutions play a key role in the rule of law debate and their independent and effective operation is one of the rule of law guarantees and indicators of effectiveness.

The Commission report's part concerning the rule of law in Finland is generally very positive, but there was also room for improvement in many places. The Commission's rule of law report deals with four areas: legal order, anti-corruption measures, media status and tripartite separation of power. The Commission made comments to Finland in all areas.<sup>27</sup> With regard to the tripartite separation of power, the European Commission states in its rule of law review that in Finland, *'ex-ante constitutionality review is carried out by the Chancellor of Justice and the Constitutional Law Committee of the Parliament. Moreover, all courts can carry out ex-post constitutionality review in concrete cases. The Chancellor of Justice, the Human Rights Centre and the Parliamentary Ombudsman play an impor-*

23 Venice Commission's statement: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)010-e)

24 Venice Commission's statement: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)010-e)

25 European Commission's 2020 Rule of law report: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2020-rule-law-report\\_fi](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2020-rule-law-report_fi)

26 ENNHRI's report: <http://ennhri.org/wp-content/uploads/2020/06/ENNHRI-State-of-the-Rule-of-Law-in-Europe-June-2020.pdf>

27 The Commission's rule of law report's chapter on Finland: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1602582718489&uri=CELEX%3A52020SC0325>

*tant role in the system of checks and balances.*<sup>28</sup>

In its review, the Commission welcomed the development and clarification of the division of responsibilities between the Chancellor of Justice and the Ombudsman. The Government's act proposal to the Parliament on the division of duties between the Chancellor of Justice and the Parliamentary Ombudsman was issued in November 2020.<sup>29</sup>

The implementation of the rule of law in Finland will continue to be examined in the Human Rights Delegation and in the activities of the Human Rights Centre. The HRC will continue its international and European cooperation in the field of the rule of law. It will participate in, among other things, the Commission's annual review of the rule of law in Finland. The rule of law and the functionality of the Constitution's monitoring mechanism play a key role in ensuring and promoting fundamental and human rights.

### **Awareness of rights and monitoring the implementation of rights**

Competence in fundamental and human rights is very important from the perspective of the functionality of the rule of law. Competence in fundamental and human rights must be further strengthened, especially by the authorities. The legally binding nature of agreements and the binding nature of the decisions of the European Court of Human Rights are understood fairly well in Finland. However, identifying the legal significance of the positions of the UN's Treaty

Body System varies from actor to actor. The Charter of Fundamental Rights of the European Union is also still poorly known, although its use and application have increased in recent years.

Information on fundamental and human rights, their legally binding nature, interpretation and impacts are needed in all sectors of society: law drafting, policy measures, authoritative activities, judicature, education, research and the media. Each individual also needs information about their rights, obligations and legal remedies in an accessible and understandable manner. Promoting the human rights education is an important part of strengthening awareness.<sup>30</sup> Expertise in fundamental and human rights is particularly needed in exceptional circumstances such as the coronavirus pandemic.

The implementation of rights is still not monitored systematically enough. The reason for this is the fragmentation of fundamental and human rights structures. In addition to this, some actors are rather small in relation to their tasks. The fragmentation and weakness of the field of actors is in itself a risk to the functionality of the rule of law. The aim is to further expand the field of actors with a new small actor, as the task of the ombudsman for older persons will be established in 2021.<sup>31</sup>

In terms of legislation and authority, the most powerful actors are the Chancellor of Justice and the Parliamentary Ombudsman, both of whom have constitutional foundations and powers for monitoring fundamental and

28 The Commission's report on Finland's rule of law status: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1602582718489&uri=CELEX%3A52020SC0325>

29 The Government's act proposal to the Parliament on the division of duties between the Chancellor of Justice and the Parliamentary Ombudsman: <https://www.lausuntopalvelu.fi/FI/Proposal/Participation?proposalId=57e4a81c-b771-4770-a916-9bf965af9c28&respondentId=ac96485a-b5eb-4b70-9bdc-afcb23be28c1>

30 A project funded by the HRC and the Ministry of Justice at the University of Helsinki supports the development of education for democratic citizenship and human rights education in teacher training: <https://www.helsinki.fi/en/projects/human-rights-democracy-values-and-dialogue-in-education/background>

31 Vanhusasiavaltuutetun tehtävän valmistelu käynnistynyt (Preparations for the task of the ombudsman for older persons have begun). <https://oikeusministerio.fi/-/vanhusasiavaltuutetun-tehtavan-valmistelu-kaynnistynyt>

human rights. The annual reports of the Parliamentary Ombudsman and the Chancellor of Justice provide the Parliament with observations on the implementation of fundamental and human rights from the perspective of legality oversight. Other fundamental and human rights actors, such as special ombudsmen, human rights organisations, research institutes and authorities, also have information on the realisation of the rights of different groups of people. However, the information is scattered, and the realisation of rights cannot be assessed and monitored comprehensively and over the long term.

According to section 22 of the Constitution, public authorities must ensure the implementation of fundamental rights and human rights<sup>32</sup>, but many authorities have insufficient resources for this task. Especially at the municipal level, which is responsible for the implementation of many key rights and services, it is difficult to carry out statutory tasks.

### Recommendations

- Training in fundamental and human rights must be increased, especially for authorities, also at the local level.
- Teaching fundamental and human rights at all levels of education must be strengthened. Teacher training must include fundamental and human rights education as a mandatory subject.
- The monitoring of the implementation of rights must be further developed and its continuity and the necessary human resources ensured. The Government's third National Action Plan on Fundamental and Human Rights, which will be completed in 2021, and the indicator framework contained in it will concern the monitoring and measuring the implementation of fundamental and human rights.
- The HRC collects and produces information on fundamental and human rights and publishes up-to-date reports on the implementation of rights. The centre's long-term and independent monitoring work must be further strengthened.
- The field of fundamental and human rights actors must be clarified, and existing actors strengthened. The powers must be clear and easy to understand for those in need of legal protection. New activities must be placed so that the overall concept does not weaken and fragment further, and without creating duplicate activities.
- The basic tasks of the Non-Discrimination Ombudsman, promoting equality and tackling discrimination, must be strengthened.<sup>33</sup>

32 The Constitution of Finland: <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731>

33 See the tasks of the Non-Discrimination Ombudsman: <https://syrjinta.fi/en/tackling-discrimination-and-promoting-equality1>  
See a review of the Non-discrimination Act (in Finnish): <http://urn.fi/URN:ISBN:978-952-287-959-2>

## The rule of law issues raised during the coronavirus pandemic

The Finnish rule of law has survived relatively well in the state of emergency, but from the perspective of fundamental and human rights, there have been several problems that need to be addressed in the future. For example, human rights assessments of legislation and various policy measures and guidelines have been inadequate. The problems of law drafting have not only been related to individual legislation, but partly structural. The Constitutional Law Committee has had to act as a guardian of the ex-ante constitutionality review of legislation, but it has survived its task well under pressure.

The principle of the rule of law, which is regarded as the foundation of the rule of law and the strength of Finland, has sometimes been forgotten. The questions of authority have not been clear. Instead, political guidelines have been used to make decisions on matters that have been under authorities' decision-making powers. The coronavirus pandemic has raised issues related to law drafting, access to information and competence questions, which will need attention in future. For example, the Chancellor of Justice issued a decision in December 2020 stating that cooperation between ministries in the early stages of the coronavirus pandemic was not effective and that the division of responsibilities within the Ministry of Social Affairs and Health was not sufficiently clear. The decision concerned the activities of the Ministry of Social Affairs and Health and the

Ministry of Economic Affairs and Employment in the procurement and storage of protective equipment.<sup>34</sup>

The importance of the highest oversight of legality has been further emphasised during the coronavirus pandemic. The number of complaints and personal initiatives has grown high both to the Ombudsman and the Chancellor of Justice.<sup>35</sup> The Chancellor of Justice's activities have also emphasised the monitoring of the legality of the Government's activities and legal advice.

In particular, it has not been possible to carry out inspections of closed institutions during the pandemic, which are part of the Ombudsman's duties. No physical checks have been carried out at closed institutions due to the coronavirus outbreak. However, alternative methods have been developed and some checks have been carried out remotely.

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34 The Chancellor of Justice's decision concerning the procurement of protective equipment (in Finnish): [https://www.okv.fi/media/filer\\_public/82/1e/821e26b8-451c-40cb-9d97-82ca-7f77133e/okv\\_155\\_70\\_2020.pdf](https://www.okv.fi/media/filer_public/82/1e/821e26b8-451c-40cb-9d97-82ca-7f77133e/okv_155_70_2020.pdf)

35 Statistics on complaints concerning the state of emergency received by the Parliamentary Ombudsman (in Finnish): <https://www.oikeusasiamies.fi/fi/poikkeusoloihin-liittyvien-kanteluiden-tilastotiedot>  
Press release: Koronakantelut työllistävät oikeuskansleria (Complaints related to coronavirus employ the Chancellor of Justice). <https://www.okv.fi/fi/tiedotteet-ja-puheenvuorot/545/koronakantelut-tyollistavat-oikeuskansleria/>

The activities and crisis preparedness of overseers of legality, as well as other fundamental and human rights actors, must be further strengthened. The guidelines of international human rights bodies, for example, could be used even better in ensuring and monitoring the fundamental and human rights.<sup>36</sup> The pending clarification of the division of tasks between the supreme overseers of legality by amending the act on the division of responsibilities is a timely reform that may have an impact that promotes the efficiency of operations and specialisation.<sup>37</sup>

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36 CPT's statement of principles relating to the coronavirus pandemic: <https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty>

See the summary of the guidelines of human rights bodies from the HRC's COVID-19 theme site: <https://www.humanrightscentre.fi/covid-19/> FRA's publication on the coronavirus pandemic's impact on social rights and the groups most at risk: <https://fra.europa.eu/en/news/2020/social-rights-coronavirus-pandemic-continues-hamper-access-education-and-healthcare>

37 Working group's report on the division of tasks of the supreme overseers of legality (in Finnish): [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161658/OM\\_2019\\_24\\_Ylimpien\\_lailisuusvalvojien\\_tehtavanjako.pdf](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161658/OM_2019_24_Ylimpien_lailisuusvalvojien_tehtavanjako.pdf)

### Recommendations

- The coronavirus pandemic has highlighted various issues in law drafting, legislation, access to information and competence questions, which will need special attention in future. Solutions to solve the issues need to be sought.
- The activities and crisis preparedness of overseers of legality, as well as other fundamental and human rights actors, must be further strengthened. The guidelines of international human rights bodies, for example, must be used even better in ensuring and monitoring the fundamental and human rights.
- The National Human Rights Institution needs to be strengthened structurally so that it has the best conditions to carry out its statutory tasks also in a state of emergency. In order to strengthen the rule of law, it is important that the National Human Rights Institution is strong and independent. It is partly strengthened by the constitutional powers of the Parliamentary Ombudsman.

# 3 The coronavirus pandemic's impact on the rights of older persons and persons with disabilities

To combat the coronavirus pandemic, many measures had to be taken quickly in spring 2020, but in the rush, they were not always based on law and the procedural rights were often forgotten. Furthermore, it was unclear whether the measures were recommendations or binding regulations and decisions. The housing units for older persons and persons with disabilities in particular implemented restrictive measures, the legal basis of which was not always clear.

## The right to self-determination and the participation and involvement in decision-making

There is little regulation on restricting fundamental rights in the social services and health-care sector. The most recent and clear legislation concerns special care for persons with intellectual disabilities.<sup>38</sup> The purpose of the act is to promote the right to self-determination and to regulate any restrictive measures.<sup>39</sup> There is no similar legislation in the care of older persons, which has led to serious problems with the implementation of the fundamental

rights of older persons. The situation is also challenging from the perspective of the legal protection of employees. The problems caused by the lack of legislation have culminated and increased even more during the coronavirus pandemic.<sup>40</sup>

Decision-making and policies must aim to ensure that all fundamental and human rights are implemented as well as possible. For example, the categorical visiting bans in supported housing and other social services housing units have led to a severe restriction on the residents' and their families' right to family life and personal freedom in order to guarantee security. When setting restrictions on visits, their necessity and proportionality must be assessed case-by-case, and alternative means of preventing the spread of the virus must be sought.<sup>41</sup>

38 Act on Intellectual Disabilities (in Finnish). <https://www.finlex.fi/fi/laki/ajantasa/1977/19770519>

39 Regarding the implementation of the act, see the Parliamentary Ombudsman's decisions (in Finnish): <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/6942/2017>. In addition, Valvira (in Finnish): [https://www.valvira.fi/ajankohtaista/uutiset-ja-tiedotteet/uutinen/-/asset\\_publisher/7CNS3oAUBTIJ/content/rajoitustoimenpiteiden-kirjaaminen-ja-tunnistaminen-parantunut-kehitysvammahuollon-asumis-ja-laitospalveluissa](https://www.valvira.fi/ajankohtaista/uutiset-ja-tiedotteet/uutinen/-/asset_publisher/7CNS3oAUBTIJ/content/rajoitustoimenpiteiden-kirjaaminen-ja-tunnistaminen-parantunut-kehitysvammahuollon-asumis-ja-laitospalveluissa)

40 Valvira: Ympäri vuorokautisessa hoivassa olevien ikäihmisten hyvinvoinnista on huolehdittava ja perusteetonta rajoittamista vältettävä (The well-being of older persons in 24-hour care must be taken care of and unjustified restrictions must be avoided). <https://www.valvira.fi/-/ymparivuorokautisessa-hoivassa-olevien-ikaihminen-hyvinvoinnista-on-huolehdittava-ja-perusteetonta-rajoittamista-valtettava-1>

41 Parliamentary Ombudsman: Vanhusten yhdenvertainen kohtelu koronavirusepidemian aikana (Equal treatment of older persons during the coronavirus epidemic). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3787/2020>  
Parliamentary Ombudsman: Omaisten vierailu vanhusten hoivakodissa koronavirusepidemian aikana (Family visits to elderly care homes during the coronavirus epidemic). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3847/2020>

The legislation on social welfare and healthcare and the Administrative Procedure Act require that the customer be heard in their personal matters. According to the UN Convention on the Rights of Persons with Disabilities, '[...] in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.'<sup>42</sup> According to the general comment specifying the content of the obligation, it covers everything that applies directly or indirectly to persons with disabilities. Involvement must be done in a meaningful and timely manner. In addition, the views of persons with disabilities and their representative organisations must be given due weight.<sup>43</sup>

During the coronavirus pandemic, decisions on special measures related to coronavirus, especially in housing units, have typically been mass decisions made without the required individual consideration and consultation of the parties. The inclusion and consultation of customers, municipal councils and organisations for older persons and people with disabilities have been ignored during the coronavirus outbreak, for example, when people over the age of 70 were required to be in quarantine-like conditions or when the mobility of resi-

dents of housing units is restricted.<sup>44</sup> In general, the voice of older persons is poorly heard in societal decision-making, and the oldest age groups, for example, are often excluded from surveys.<sup>45</sup>

### Recommendations

- In order to complete the legislative process concerning the right to self-determination of social services and healthcare customers, sufficient human resources and a clear and comprehensive implementation plan must be ensured.
- Public authorities must ensure that the operating practices in social services and healthcare units are based on binding provisions, and that they implement fundamental and human rights as well as possible and that measures are proportionate to the objectives pursued.
- General visiting bans or mobility restrictions cannot be imposed on supported housing or other social services units. All restrictions must be based on an individual decision issued under the law. The customer and their family and friends need to be consulted and agree on procedures that can be used to carry out visits without causing a risk of infection.
- Older persons and persons with disabilities must be consulted both in their own affairs and in the societal activities concerning them.

42 Convention on the Rights of Persons with Disabilities. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

43 General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/7&Lang=en)

44 Parliamentary Ombudsman: Lähiomaisen hautajaisiin pääsyn epääminen poikkeusolojen takia (Close relatives denied from attending a funeral due to the emergency circumstances). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3513/2020>

45 For example, see Ikäsyrijintä vinouttaa kyselyitä (Age discrimination distorts surveys). <https://www.hs.fi/mielipide/art-2000006642472.html>

## Prolongation of a state of emergency and risks of normalisation of service level deterioration

In March 2020, the Government issued a decree under the Emergency Powers Act that gave municipalities the right to deviate from the time limits for assessing the need for non-urgent care and social services.<sup>46</sup> The decrees issued under the Emergency Powers Act were repealed in June, but the effects of the period will still be visible for a long time.

Problems with the availability of social welfare and healthcare services during the coronavirus pandemic have not been caused solely by the fact that the time limits for assessing the need for services could exceptionally be postponed. Healthcare and social welfare visits have also been cancelled for various reasons, both on the initiative of service providers and customers. The reason for this may have been the reorganisation of healthcare and social services for the needs of the pandemic or the fear of infection among customers. Due to the risk of infection, various low-threshold services, rehabilitation services and social welfare and healthcare services for groups have been temporarily ceased.<sup>47</sup>

When non-urgent treatment is postponed, the queues grow. Going through queues is challenging and can lead to more extensive treatment prioritisation. A person who would have needed non-urgent care could ultimately need urgent care if their state of health deteriorates due to the failure of the care guarantee.

46 Ministry of Social Affairs and Health: Municipalities have the right to deviate from time limits for non-urgent healthcare and assessment of the need for social services due to the coronavirus outbreak. <https://stm.fi/en/-/kunnalla-on-oikeus-poiketa-terveydenhuollon-kiireettoman-hoidon-maaraajoista-ja-sosiaalihuollon-palvelutarpeen-arvioinnista-koronavirustilanteen-takia>

47 Finnish Disability Forum: Vammaisten ihmisten oikeudet ja niiden toteutuminen koronaviruksen aiheuttamassa poikkeustilanteessa (Rights of persons with disabilities and their realisation in the exceptional situation caused by coronavirus). [https://vammaisfoorumi.fi/wp-content/uploads/2020/04/vammaisten\\_oikeudet\\_STM\\_310320.pdf](https://vammaisfoorumi.fi/wp-content/uploads/2020/04/vammaisten_oikeudet_STM_310320.pdf)

In mental health, substance abuse and social services, service needs are expected to increase as problems accumulate and prolong. The service needs of older persons and people with disabilities will increase if rehabilitation and measures promoting health and well-being cannot be maintained. Costs will increase as more robust measures are used instead of preventive or sustaining measures.<sup>48</sup>

At worst, the reduced availability of social welfare and healthcare services can become the 'new normal'. The legal protection of customers is jeopardised if the decision-making process is not handled appropriately and supervision does not work.<sup>49</sup> It is therefore important that services and their implementation are carefully monitored, especially in exceptional circumstances, and that procedural guarantees are maintained. In the past, municipalities have had challenges in guaranteeing procedural rights for persons with disabilities and older persons,<sup>50</sup> and in crisis situations, the problems only get worse.<sup>51</sup>

The equal right of older persons and persons with disabilities to receive healthcare must be guaranteed both in normal everyday life and in a state of emergency. During the coronavirus

48 Finnish Institute for Health and Welfare: Effects of COVID-19 epidemic on the population's service needs, the service system and the economy (summary in English). [https://www.julkari.fi/bitstream/handle/10024/139694/URN\\_ISBN\\_978-952-343-496-7.pdf?sequence=1&isAllowed=y](https://www.julkari.fi/bitstream/handle/10024/139694/URN_ISBN_978-952-343-496-7.pdf?sequence=1&isAllowed=y)

49 Parliamentary Ombudsman: Laitos- ja palveluasumisen laadun valvonta vanhustenhuollossa (Monitoring the quality of institutional and supported housing in the care for older persons). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/4944/2019>

50 Parliamentary Ombudsman: Kuntayhtymä laiminlöi palvelusuunnitelman laatimisen ja erityishuolto-ohjelman tarkistamisen (A joint municipal authority neglected the preparation of a service plan and the revision of the special care programme). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/4063/2019>

51 Parliamentary Ombudsman: Lähiomaisen hautajaisiin pääsyn epääminen poikkeusolojen takia (Close relatives denied from attending a funeral due to the emergency circumstances). <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3513/2020>

epidemic, a question has arisen as to whether we should be afraid that the prioritisation of treatment will result in persons with disabilities and older persons not being able to access treatment and, in particular, intensive care on an equal basis with others.<sup>52</sup>

### Recommendations

- The legislative project concerning the end-of-life care, right to self-determination, terminal care and euthanasia<sup>53</sup> must pay attention to the fact that regulation supports the principle that the prioritisation and limitation of treatment must be based on the need for care or the individual's own will, not on the person's high age or externally assessed quality of life.
- Care and service queues must be cleared and missing social welfare and healthcare services must be arranged as quickly as possible for those entitled to them. The process must be closely monitored, especially through self-monitoring, but also by means of municipal supervision obligations.
- Procedural guarantees, such as the formal requirements for decision-making and the regulation of appeals, must be taken particular care of in the case of essential services for persons in vulnerable situations.

52 Blog on the Constitution of Finland: Terveysthuollon priorisointi poikkeusoloissa - millä perusteella vaikeimmat valinnat tulisi tehdä? (Prioritisation of health care in emergency conditions - how to justify the most difficult decisions?). <https://perustuslakiblogi.wordpress.com/2020/04/07/kaisa-maria-kimmel-terveydenhuollon-priorisointi-poikkeusoloissa-milla-perusteella-vaikeimmat-valinnat-tulisi-tehda/?fbclid=IwAR2ftoZPzt0vdcSz73QnsIZhOTVOfqkHcVmFWDDkfrzJmSMonBbjv-zOCBxE>

53 Ministry of Social Affairs and Health: Expert working group appointed to examine end-of-life care and euthanasia. [https://stm.fi/-/asiantuntijaryhma-selvittaa-elaman-loppuvaiheen-hoitoa-ja-eutanasiaa?languageId=en\\_US](https://stm.fi/-/asiantuntijaryhma-selvittaa-elaman-loppuvaiheen-hoitoa-ja-eutanasiaa?languageId=en_US)

### The pandemic's impact on income

When schools moved to distance education in spring 2020, many parents of children and young persons with disabilities had to leave work to take care of their children. The parents could apply for temporary support from Kela to cover the loss of income caused by unpaid leave.<sup>54</sup> The payment of epidemic support was stopped when the schools returned to contact teaching in May. Parents who have not dared to take their children to school because of the risk of infection have remained in a difficult financial situation.<sup>55</sup> The time of the coronavirus pandemic has made the livelihood of families with children and young people with disabilities significantly more difficult. As the situation prolongs, the load accrues.<sup>56</sup>

The rehabilitative work for persons with disabilities were interrupted and, at the same time, the payment of the earnings-related contribution was stopped. There are a number of problems related to rehabilitative work, as a person with intellectual disabilities in rehabilitative work does not have an employment relationship and thus does not receive benefits or protection related to employment. In addition, the compensation for rehabilitative work is very small, but it is nevertheless relevant to a person who does not have any other income. There has been no compensation for the termi-

54 More information on the epidemic support on Kela's website (in Finnish): <https://elamassa.fi/tyo-ja-toimeentulo/korona-ajan-valiaikainen-epidemiatuski/>

55 Developmental disability organisations: Liikkumista rajoitetaan lainvastaisesti vammaispalveluissa (Mobility is illegally restricted in services for the disabled). <https://www.tukiliitto.fi/ajankohtaista/kehitysvammajarjestot-liikkumista-rajoitetaan-lainvastaisesti-vammaispalveluissa/>

56 Inclusion Finland: Perheitä tuettava korona-ajan toimeentulovaikeuksissa (Families must be supported in income difficulties during the coronavirus outbreak). <https://www.tukiliitto.fi/ajankohtaista/perheita-tuettava-korona-ajan-toimeentulovaikeuksissa/>

nation of the earnings-related contribution due to COVID-19.<sup>57</sup>

As the coronavirus pandemic spreads, people over 70 years of age and other risk groups were urged to remain in quarantine-like conditions. At the same time, the binding nature of family caregivers' work increased as temporary care during a family caregiver's leave was no longer necessarily arranged. Contacts with other people decreased and the possibility of moving outdoors diminished. The assistance and support normally provided by family and friends was interrupted or reduced, and the assistance provided by the municipality was lacking. At the same time, the service needs of older persons increased as a result of loneliness, insecurity and reduced functional capacity.<sup>58</sup> Many had to rely on income support and/or use private services subject to a fee, such as home delivery from shops or pharmacies. Public authorities have not contributed to these costs.

The Act on Client Charges in Healthcare and Social Welfare contains provisions on the reduction and non-collection of customer fees.<sup>59</sup> The starting point is that reducing customers' fees would also reduce the need to apply for social assistance in cases where a person's live-

lihood is compromised due to social welfare or healthcare service charges. However, regulation is rather overwhelming, and lowering or not collecting customer fees is not particularly common. It would be important for this possibility to be made sufficiently clear to customers and, if necessary, it would also be used when the livelihood problems are due to the increased need for services caused by the coronavirus pandemic.

### Recommendations

- Sufficient information must be provided to social welfare and healthcare customers on the possibility of lowering customer fees and not collecting them, and the costs incurred by people in the coronavirus pandemic must be taken into account when considering this.
- Financial losses incurred by persons with disabilities due to the interruption of rehabilitative work must be compensated. In future, rehabilitative work must be developed to ensure that people with developmental disabilities receive adequate pay for their work and other rights and benefits that belong to an employment relationship.
- We must ensure the livelihoods of families where parents are forced to leave work because of the risk of infection to treat their disabled children.

57 Finnish Institute for Health and Welfare: Effects of COVID-19 epidemic on the population's service needs, the service system and the economy (summary in English). [https://www.julkari.fi/bitstream/handle/10024/139694/URN\\_ISBN\\_978-952-343-496-7.pdf?sequence=1&isAllowed=y](https://www.julkari.fi/bitstream/handle/10024/139694/URN_ISBN_978-952-343-496-7.pdf?sequence=1&isAllowed=y)

58 <https://www.soste.fi/sosiaalibarometri/sosiaalibarometri-2020-vanha/sosiaalibarometri-2020-johdanto-ja-pohdinta/>

59 Act on Client Charges in Healthcare and Social Welfare. <https://www.finlex.fi/fi/laki/kaannokset/1992/en19920734>

# 4 Coronavirus pandemic's impact on children and young people

The coronavirus pandemic has had a significant impact on the well-being and realisation of rights of children, young people and families. For example, children and young people's ways of studying changed significantly in spring 2020, when schools transferred to remote teaching. The consistent implementation of the four general principles of the UN Convention on the Rights of the Child<sup>60</sup> - non-discrimination, devotion to the best interests of the child, the right to development, and the right to be heard - is also essential in the context of the pandemic and its follow-up. It is the duty of the public authorities to ensure the implementation of children's fundamental and human rights under all circumstances.

Although all children and young people are affected by the crisis and related actions, the duration and extent of the impacts vary. Systematic and consistent measures are needed to promote equality and reduce inequality.

In May 2020, the Ministry of Social Affairs and Health appointed a working group, in connection with the preparation of the National Child Strategy, whose task was to survey and strengthen children's rights and the well-being of children and families in managing the coronavirus pandemic. The first report of the work-

ing group was published in June.<sup>61</sup> The working group's second report will be published in January 2021. The proposals in the reports lay the foundation for a comprehensive plan to ensure the well-being and rights of children and young people, especially in the follow-up of the pandemic.

## Tackling inequality

The coronavirus crisis has increased inequalities among children and young people in many ways. The negative effects of the pandemic, such as poverty in families with children, often accumulate and cumulate in the everyday lives of children, young people and families.<sup>62</sup> Muni-

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61 Wellbeing of children and young people in post-crisis measures related to COVID-19 - Report on the realisation of the rights of the child, coronavirus working group linked to the National Child Strategy, Publications of the Finnish Government 2020:21. <http://julkaisut.valtioneuvosto.fi/handle/10024/162318>

62 For example, see Survey: Osalla lapsiperheistä vaikeuksia selvittää koronan keskellä ja jatkossa (Some families with children find it difficult to cope in the middle of the coronavirus outbreak and in the future). <https://ensijaturvakotienliitto.fi/kysely-osalla-lapsiperheista-vaikeuksia-selvita-koronan-keskella-ja-jatkossa/>. Also the Finnish Institute for Health and Welfare: Koronaepidemia ja eriarvoisuus (Coronavirus epidemic and inequality). <https://thl.fi/fi/web/hyvinvointi-ja-terveyserot/ajankohtaista/koronaepidemia-ja-eriarvoisuus>

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60 Convention on the Rights of the Child (1989): <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

cialities have had very different opportunities, for example, to support distance education for schoolchildren and to guarantee digital teaching tools for all. Students have had problems with the availability of mental health services, for example, while the coronavirus crisis has increased the mental health problems of young people.<sup>63</sup>

In this situation, particular attention must be paid to children and young people whose well-being in times of crisis requires special attention. These include children and young people whose families have been affected by the crisis as well as children and young people with disabilities, long-term illnesses, the Sámi, Roma, children and young people with immigrant backgrounds and those placed outside the home. Under the act on youth<sup>64</sup>, young adults must also be taken into account in the examination.

UN's Committee on the Rights of the Child<sup>65</sup> emphasises that the prohibition of discrimination is not only a passive obligation that prohibits all forms of discrimination, but also requires active measures to promote equality and tackle inequality. In addition to the provisions on equality and the prohibition of discrimination, societal justice is promoted especially by economic, social and cultural rights. In the follow-up of the coronavirus pandemic in both the short and long term, particular attention must be paid to the realisation of these rights.

63 For example, see Mental Health Finland (in Finnish): <https://mieli.fi/fi/%E2%80%9Dvuoden-2020-j%C3%A4lkeen-lasten-ja-nuorten-mielenterveysty%C3%B6ss%C3%A4-paljon-teht%C3%A4v%C3%A4%C3%A4E2%80%9D-0>

64 Act on youth 1285/2016 (in Finnish). <https://www.finlex.fi/fi/laki/alkup/2016/20161285>

65 Website of the UN's Committee on the Rights of the Child: <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

### Recommendations

- Promoting equality and combating the development of inequality among children and young people require sufficient public support measures in the management of the coronavirus pandemic. The fight against inequality among children and young people must be a key objective. In the case of different groups of children and young people, specific measures are needed to achieve effective equality, i.e., positive action.
- Adequate support must be ensured in services for children and young people. In particular, child health clinic services and other support for families provided in social welfare and healthcare services as well as support for learning and well-being provided in connection with early childhood education and care, schools and educational institutions as well as the activities and services for children and young people in leisure time play a key role.
- The state of livelihood of families with children and young adults must be assessed, and the adequacy of livelihood, especially during the coronavirus pandemic and its follow-up, must be ensured.

## Supporting inclusion

Fundamental and human rights require that children's and young people's participation, hearing and empowerment are ensured. Children's rights and special status are easily left aside in a state of emergency and related follow-up actions. The restrictive measures resulting from the coronavirus pandemic have influenced the communities of children and young people and their membership in society. The crisis has great generational effects. For example, young people's access to working life has become more difficult.

Hearing children and young people as well as taking their views into account may be ignored even in matters that are very important to them during a state of emergency. In emergency conditions, children and young people must also be heard and their views taken into account. Particular attention should be paid to strengthening the participation and opportunity to influence for vulnerable children and young people as well as children and young people belonging to minority groups. The coronavirus pandemic and the associated exceptional circumstances have contributed to emphasising the importance of listening to children and young people and the significance of information directed at them.

## Recommendations

- In the management of the coronavirus pandemic, the participation of children and young people, opportunities for exerting influence and to be heard equally must be strengthened.
- Fundamental and human rights impacts on children and young people must be assessed, and children and young people must be consulted in connection to the assessments.
- Information collected from children and young people must be systematically used to support decision-making.
- The belief in the future of children and young people and their experiences of security and inclusion in everyday life must be strengthened.
- Communications and news must ensure that children and young people can receive information in ways that are suitable for them.

## Ensuring services for children, young people and families

Services for children, young people and families are mainly the responsibility of municipalities. The coronavirus pandemic has weakened municipalities' finances. It is necessary to secure sufficient resources for the implementation of the services. In addition to securing resources, new types of operating methods and forms of cooperation need to be introduced and strengthened. During the crisis, different actors have developed and introduced new cooperation practices, and digitalisation has been strengthened in many ways. Instead of the perspective of individual organisations, we should look at how services that support the well-being of children, young people and families are organised in a child-oriented, youth-oriented and family-oriented manner. By evaluating the measures targeted at children and young people, the rights and well-being of children and young people can be taken into account in decision-making. The coronavirus pandemic has highlighted the importance of social welfare, healthcare and social security reforms.

Services for children, young people and families require extensive measures to combat the negative effects of the crisis. For example, we need to strengthen child health clinic services, support provided in early childhood education and care, student welfare services and support for learning. Mental health services for children and young people, child protection and social support for families must also be strengthened. Young people's access to the labour market has become more difficult as a result of the crisis, and it is therefore necessary to strengthen their labour market position.

### Recommendations

- Public decision-making must ensure sufficient resources for the implementation of services for children, young people and families in crisis management. The resources of both universal services and targeted services must be taken care of.
- Services and activities for children, young people and families must be organised in a child-oriented, youth-oriented and family-oriented manner. Good cooperation practices and practices introduced during the coronavirus pandemic need to be further developed and permanently implemented.

# 5 Violence against women and intimate partner violence during the coronavirus pandemic

According to the national crime victim survey (2019)<sup>66</sup>, approximately one in ten women experienced physical or sexual violence in Finland during 2018. Five per cent of women had experienced violence by their current or former partner. According to a similar study in 2019, the prevalence of intimate partner violence experienced by women was two percentage points higher than in previous years.<sup>67</sup>

Quarantines, restricted mobility and remote work caused by the coronavirus crisis have increased insecurity, violence against women and intimate partner violence. According to an estimate made by the National Police Board in December, the number of home alerts will increase in 2020 by about a quarter compared to

the previous year.<sup>68</sup> An already violent partner, the use of alcohol, fear of loss of earnings, and so on, are being culminated in violence when more time is spent within four walls during the coronavirus outbreak.<sup>69</sup> Many children are also in a difficult situation, either as victims of violence or as witnesses to it. More and more acts remain hidden because, among other things, contacts with persons outside the family have reduced. Many already disadvantaged people, such as older and disabled women, children and young people, sexual and gender minorities, victims of human trafficking and immigrants, are even easier victims.<sup>70</sup>

In September 2019, GREVIO, the group of experts overseeing the implementation of the

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66 Suomalaiset väkivallan ja omaisuusrikosten kohteena 2018 - Kansallisen rikosuhritutkimuksen tuloksia (Finnish victims of violence and property offences in 2018 - The results of a national crime victim survey). <https://helda.helsinki.fi/handle/10138/305388> See also Amnesty's municipal survey on violence against women (2017) (in Finnish). <https://frantic.s3.amazonaws.com/amnesty-fi/2017/01/Amnestyn-kuntaselvitys-naisiin-kohdistuvasta-v%C3%A4kivallasta.pdf>

67 Suomalaiset väkivallan ja omaisuusrikosten kohteena 2019 - Kansallisen rikosuhritutkimuksen tuloksia (Finnish victims of violence and property offences in 2019 - The results of a national crime victim survey). <https://helda.helsinki.fi/handle/10138/319010>

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68 For example, see Police: Domestic incidents up by a quarter. [https://yle.fi/uutiset/osasto/news/police\\_domestic\\_incidents\\_up\\_by\\_a\\_quarter/11679020](https://yle.fi/uutiset/osasto/news/police_domestic_incidents_up_by_a_quarter/11679020)

69 For example, see Declaration of the Parties to the Istanbul Convention on the impact of the coronavirus pandemic <https://rm.coe.int/declaration-committee-of-the-parties-to-ic-covid-/16809e33c6>

70 Monika-Naiset: Koronavirustilanne heikentää entisestään haavoittuvassa asemassa olevien maahanmuuttajataustaisten naisten asemaa (COVID-19 further weakens the position of women with a vulnerable immigrant background). <https://monikanaiset.fi/blogi/koronavirustilanne-heikentaa-entisestaan-haavoittuvassa-asemassa-olevien-maahanmuuttajataustaisten-naisten-asemaa-2/>

Council of Europe's Istanbul Convention on combating violence against women and domestic violence issued 58 recommendations to Finland. Eight of these needed to be urgently implemented. In January 2020, the Committee of the Parties drew attention to 14 recommendations.<sup>71</sup> The 32 measures of the Action Plan for Combating Violence against Women, published by the Government in October 2020, mainly focus on themes other than those emphasised by the Committee of the Parties.<sup>72</sup>

### Recommendation

- The GREVIO recommendations to Finland and the 32 measures of the programme to combat violence against women must be fully implemented. Particular attention must be paid to the recommendations highlighted by the Parties to the Istanbul Convention.<sup>73</sup>

71 GREVIO's and the Istanbul Convention of the Parties' recommendations for Finland. <https://www.ihmisoikeuskeskus.fi/seuranta/maaraaikaisraportointi-yk-en/raportoinnin-aikataulut/en-naisiin-kohdistuva-vakivalta/>  
Action plan for the Istanbul Convention for 2018-2021. <https://julkaisut.valtioneuvosto.fi/handle/10024/160401>

72 Action Plan for Combating Violence against Women for 2020-2023. <https://julkaisut.valtioneuvosto.fi/handle/10024/162499>  
Also see the Government's equality programme 2020-2023 (in Finnish). [https://stm.fi/documents/1271139/20825107/Valtioneuvoston\\_periaatep%C3%A4%C3%A4t%C3%B6s\\_hallituksen\\_tasa-arvo-ohjelma\\_2020-2023+.pdf/abc3b771-8611-8b85-937d-34531e90f712/Valtioneuvoston\\_periaatep%C3%A4%C3%A4t%C3%B6s\\_hallituksen\\_tasa-arvo-ohjelma\\_2020-2023+.pdf?t=1593156652563](https://stm.fi/documents/1271139/20825107/Valtioneuvoston_periaatep%C3%A4%C3%A4t%C3%B6s_hallituksen_tasa-arvo-ohjelma_2020-2023+.pdf/abc3b771-8611-8b85-937d-34531e90f712/Valtioneuvoston_periaatep%C3%A4%C3%A4t%C3%B6s_hallituksen_tasa-arvo-ohjelma_2020-2023+.pdf?t=1593156652563)

73 GREVIO's and the Istanbul Convention of the Parties' recommendations for Finland. <https://www.ihmisoikeuskeskus.fi/seuranta/maaraaikaisraportointi-yk-en/raportoinnin-aikataulut/en-naisiin-kohdistuva-vakivalta/>

## Building awareness and training professionals

In developing measures to prevent violence against women and intimate partner violence, it is essential that different forms of violence and partly new forms brought about by the pandemic are better known and recognised in the society. In identification, it is essential that the authorities at different administrative levels, individual officials and office holders are sufficiently aware of the different forms of offence and also recognise the forms of offence targeted at women and girls of different backgrounds, ages and states of life in different ways. For example, in 2020, the National Police Board renewed its instructions on police activities in cases of domestic and intimate partner violence and violence against women, after the Deputy Chancellor of Justice urged them to acknowledge the special features of intimate partner violence and the vulnerable position of the victim of violence in accordance with the requirements of the Istanbul Convention.<sup>74</sup>

Since the entry into force of the Istanbul Convention, positive developments have taken place in education and training related to violence against women and intimate partner violence, funding of preventive action and victim services. However, we must continue to ensure that there are sufficient resources for supporting victims, preventing violence, and making the perpetrators responsible and to provide help.

74 The Deputy Chancellor of Justice's decision on the National Police Board's guidelines on intimate partner violence (OKV/11/50/2019) (in Finnish): <https://www.okv.fi/fi/ratkaisut/haku/?keyword=l%C3%A4hisuhdev%C3%A4kivalta>  
In 2019, the Chancellor of Justice also issued a decision on police action in the event of intimate partner violence (OKV/1325/1/2019).

In accordance with the objective of the Government Programme 2019–2023, the Ministry of Justice has started preparing the task of a national rapporteur on violence against women. The aim is to establish an independent rapporteur on violence against women that would monitor measures against violence against women, the measures' and national legislation's functionality, as well as phenomena related to violence against women extensively across sectoral boundaries and report its findings to decision-makers. The intention is not to create a new authority, but to entrust the rapporteur's tasks to an existing independent actor in the administration. The consideration for a suitable location must include the clear added value of the new function, synergy benefits and clarity of powers. The Government's proposal to establish a rapporteur will be submitted to the Parliament in spring 2021. The new task is expected to contribute to strengthening the efforts to combat violence against women in Finland.<sup>75</sup>

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<sup>75</sup> For information on the preparation of the task of the reporter of violence against women (in Finnish): <https://valtioneuvosto.fi/-/1410853/naisiin-kohdistuvan-vakivallan-raportoin-ja-tehtavan-valmistelu-kaynnistynyt>

### Recommendations

- The knowledge and skills of citizens and, in particular, different professional groups in identifying and intervening in violence against women and intimate partner violence must be developed, for example, through systematic training in compulsory studies and further education.
- Victim support measures and training must take into account the different forms of violence, multiplicative effects on different individuals and cultural sensitivity.
- Measures to combat violence against women and intimate partner violence must be included in the welfare and safety plans of the various levels of government (state, region, municipality) and in monitoring their implementation.

### Low-threshold services, equality and accessibility

During the pandemic, the need for low-threshold services and also the shortcomings in the services have become more visible than before. In the open low-threshold services, customer numbers have increased by more than 30% and chat visits by more than 800% during the pandemic.<sup>76</sup>

The unequal position of victims in the coronavirus outbreak has also emerged, for example, as users of digital services. Not everyone has equal access to services due to their economic situation, family situation, culture, personal characteristics or place of residence.

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<sup>76</sup> The Federation of Mother and child homes and Shelters: Yhä useampi hakee apua lähisuhdeväkivaltaan chatissa (More and more people seek help with intimate partner violence through chat services). <https://www.sttinfo.fi/tiedote/yha-useampi-hakee-apua-lahisuhdevakivaltaan-chatissa?publisherId=3741&releaseId=69889307>

Accessibility is not realised in services and the treatment of victims may be inappropriate. Women and girls, especially those belonging to minorities or who have disabilities, are in a weaker position than before.<sup>77</sup> Services and service guidance do not always work as a chain of different actors. Instead, the functions are currently selective. Changes in legislation should ensure that structures, coordination, seamless service chains as well as appropriate and adequate services operate at all levels in future. Services should also include low-threshold services, all of which would be accessible, for example without a personal identity code or a Finnish language proficiency.

### Recommendations

- Equal low-threshold services for victims of violence against women and intimate partner violence must be developed, for example, by means of legislation and as part of the reform of social welfare and healthcare services. Special circumstances, such as a pandemic, must be taken into account in the development work.
- We must ensure that services are flexible, regionally comprehensive, and accessible to all those who need them. For example, age, language and cultural issues must be taken into account.
- The compilation of services for victims of violence against women and intimate partner violence in a multidisciplinary support centre like the SERI support centres (support centre for victims of sexual violence) must be investigated.

<sup>77</sup> Finnish Disability Forum: Vammaisten naisten asema Suomessa (The position of women with disabilities in Finland). <https://vammaisfoorumi.fi/wp-content/uploads/2019/09/RAPORTTI-Naisty%C3%B6ryhm%C3%A4.pdf>

### Structures and regional coordination

Systematic and coherent measures are needed to prevent violence comprehensively, to promote equality between victims and to eliminate inequalities. Legislation and structures need attention, and the key actors must be strengthened so that they can function as seamlessly and efficiently as possible, especially in exceptional circumstances.<sup>78</sup>

Cross-administrative expertise and action programmes, strategies, plans and projects are currently fairly fragmented. The roles of different actors are often unclear, and there is no comprehensive cooperation or sufficient professional skills between them. This causes service gaps and overlaps.

### Recommendations

- The coordination and cooperation of work against violence against women and domestic violence at all levels of the administration must be improved in preventive action, support services and distribution of information.
- In order to avoid overlaps and service gaps, the roles of different actors must be clarified by means of legislation, for example.
- Sufficient financial resources must be provided to combat violence against women and intimate partner violence, to support victims and to make the perpetrators responsible and to provide help.

<sup>78</sup> See the Report on the processes for intervening in and preventing intimate partner violence - Integrating good practices of intimate partner violence work into structures (Ministry of Social Affairs and Health 2020). [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162012/STM\\_2019\\_55\\_Rap.pdf](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162012/STM_2019_55_Rap.pdf)

## Summary of the recommendations by the Human Rights Delegation

- The discussion on the state of the rule of law and the realisation of its core values must continue in Finnish social, legal and political debate. The theme will continue to be emphasised in the Human Rights Delegation and in the activities of the Human Rights Centre.
- An overall assessment of the coronavirus pandemic's and its follow-up's impact on fundamental and human rights must be carried out. In addition, the impact assessments must separately assess the pandemic's and its follow-up's impact on vulnerable people (such as children, people with disabilities, older persons minorities and the Sámi).
- Assessment of the impact on fundamental and human rights must be carried out continuously, systematically and comprehensively.
- Legislative projects delayed due to the pandemic, such as the reform of the Trans Act and reforms related to the legal protection of immigrants, must be completed as soon as possible.
- Authorities' announcements related to measures taken during the pandemic must be accessible and clear. The information must be available equally to all regardless of language, age, disability or other background. Information on the coronavirus pandemic must also be available through alternative means of communication and in non-digital environments.

### Rule of law

- Training in fundamental and human rights must be increased, especially for authorities, also at the local level.
- Teaching fundamental and human rights at all levels of education must be strengthened. Teacher training must include fundamental and human rights education as a mandatory subject.
- The monitoring of the implementation of rights must be further developed and its continuity and the necessary human resources ensured. The Government's third National Action Plan on Fundamental and Human Rights, which will be completed in 2021, and the indicator framework contained in it will concern the monitoring and measuring the implementation of fundamental and human rights.
- The HRC collects and produces information on fundamental and human rights and publishes up-to-date reports on the implementation of rights. The centre's long-term and independent monitoring work must be further strengthened.
- The field of fundamental and human rights actors must be clarified, and existing actors strengthened. The powers must be clear and easy to understand for those in need of legal protection. New activities must be placed so that the overall concept does not weaken and fragment further, and without creating duplicate activities.

- The basic tasks of the Non-Discrimination Ombudsman, promoting equality and tackling discrimination, must be strengthened.<sup>79</sup>
  - The coronavirus pandemic has highlighted various issues in law drafting, legislation, access to information and competence questions, which will need special attention in future. Solutions to solve the issues need to be sought.
  - The activities and crisis preparedness of overseers of legality, as well as other fundamental and human rights actors, must be further strengthened. The guidelines of international human rights bodies, for example, must be used even better in ensuring and monitoring the fundamental and human rights.
  - The National Human Rights Institution needs to be strengthened structurally so that it has the best conditions to carry out its statutory tasks also in a state of emergency. In order to strengthen the rule of law, it is important that the National Human Rights Institution is strong and independent. It is partly strengthened by the constitutional powers of the Parliamentary Ombudsman.
- Older persons and persons with disabilities**
- In order to complete the legislative process concerning the right of self-determination of social welfare and healthcare customers, sufficient human resources and a clear and comprehensive implementation plan must be ensured.
  - Public authorities must ensure that the operating practices in social welfare and healthcare units are based on binding provisions, and that they implement fundamental and human rights as well as possible and are proportionate to the objectives pursued.
  - General visiting bans or mobility restrictions cannot be imposed on supported housing or other social welfare units. All restrictions must be based on an individual decision issued under the law. The customer and their family and friends need to be consulted and agree on procedures that can be used to carry out visits without causing a risk of infection.
  - Older persons and people with disabilities must be consulted both in their own affairs and in their societal activities concerning them.
  - The legislative project concerning the end-of-life care, right to self-determination, terminal care and euthanasia<sup>80</sup> must pay attention to the fact that regulation supports the principle that the prioritisation and limitation of treatment must be based on the need for care or the individual's own will, not on the person's high age or externally assessed quality of life assessed.
  - Care and service queues must be cleared and missing social welfare and healthcare services must be arranged as quickly as possible for those entitled to them. The process must be closely monitored, especially through self-monitoring, but also by means of municipal supervision obligations.
  - Procedural guarantees, such as the formal requirements for decision-making and the regulation of appeals, must be taken particular care of in the case of essential services for vulnerable persons.
  - Sufficient information must be provided to social welfare and healthcare customers on the possibility of lowering customer fees and not collecting them, and the costs incurred by people in the coronavirus pandemic must be taken into account when considering this.

79 See the tasks of the Non-Discrimination Ombudsman: <https://syrijinta.fi/en/tackling-discrimination-and-promoting-equality1>

80 Ministry of Social Affairs and Health: Expert working group appointed to examine end-of-life care and euthanasia. [https://stm.fi/-/asiatuntijaryhma-selvittaa-elaman-loppuvaiheen-hoittoa-ja-eutanasiaa?languageId=en\\_US](https://stm.fi/-/asiatuntijaryhma-selvittaa-elaman-loppuvaiheen-hoittoa-ja-eutanasiaa?languageId=en_US)

- Financial losses incurred by persons with disabilities due to the interruption of rehabilitative work must be compensated. In future, rehabilitative work must be developed to ensure that people with developmental disabilities receive adequate pay for their work and other rights and benefits that belong to an employment relationship.
- We must ensure the livelihoods of families where parents are forced to leave work because of the risk of infection to treat their disabled children.

### **Children and young people**

- Promoting equality and combating the development of inequality among children and young people require sufficient public support measures in the management of the coronavirus pandemic. The fight against inequality among children and young people must be a key objective. In the case of different groups of children and young people, specific measures are needed to achieve effective equality, i.e., 'positive special treatment'.
- Adequate support must be ensured in services for children and young people. In particular, child health clinic services and other support for families provided in social welfare and healthcare services as well as support for learning and well-being provided in connection with early childhood education and care, schools and educational institutions as well as the activities and services for children and young people in leisure time play a key role.
- The state of livelihood of families with children and young adults must be assessed, and the adequacy of livelihood, especially during the coronavirus pandemic and its follow-up, must be ensured.
- In the management of the coronavirus pandemic, the participation of children and young people, opportunities for exerting influence and to be heard equally must be strengthened.
- Fundamental and human rights impacts on children and young people must be assessed, and children and young people must be consulted in connection to the assessments.
- Information collected from children and young people must be systematically used to support decision-making.
- The belief in the future of children and young people and their experiences of security and inclusion in everyday life must be strengthened.
- Communications and news must ensure that children and young people can receive information in ways that are suitable for them.
- Public decision-making must ensure sufficient resources for the implementation of services for children, young people and families in crisis management. The resources of both universal services and targeted services must be taken care of.
- Services and activities for children, young people and families must be organised in a child-oriented, youth-oriented and family-oriented manner. Good cooperation practices and practices introduced during the coronavirus pandemic need to be further developed and permanently implemented.

### Violence against women and intimate partner violence

- The GREVIO recommendations to Finland and the 32 measures of the programme to combat violence against women must be fully implemented. Particular attention must be paid to the recommendations highlighted by the Parties to the Istanbul Convention.<sup>81</sup>
- The knowledge and skills of citizens and, in particular, different professional groups in identifying and intervening in violence against women and intimate partner violence must be developed, for example, through systematic training in compulsory studies and further education.
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81 GREVIO's and the Istanbul Convention of the Parties' recommendations for Finland. <https://www.ihmisoikeuskeskus.fi/seuranta/maaraaikaisraportointi-yk-en/raportoinnin-aikataulut/en-naisiin-kohdistuva-vakivalta/>

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