



REALISATION OF FUNDAMENTAL AND HUMAN RIGHTS IN FINLAND

- observations from 2019

Realisation of fundamental and human rights in Finland

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Presentation of the publication

The Human Rights Centre (HRC) has compiled observations from independent actors that monitor and promote the implementation of fundamental and human rights in this publication. The observations concern shortcomings and problems in the implementation of fundamental and human rights in Finland. Some decisions by the supreme courts and the National Non-Discrimination and Equality Tribunal of Finland have also been included. The data are mainly collected from the 2019 annual reports and online statements. Most observations are still current. In some cases, data has also been included from 2020 when significant changes have been made in the matter. However, data for 2020 have not been systematically included in the compilation.

The publication emphasises the topics and rights currently included in the HRC's general monitoring of fundamental and human rights. The primary purpose of the compilation is to support the development of the HRC's monitoring work. It is not a comprehensive presentation of all observations in the field of fundamental and human rights. The independent actors have not been consulted for the compilation, and the summaries were made mainly for this publication by the HRC. Further information on the cases and examples mentioned in the publication can be found on the relevant actors' website and reports or by searching for information on their resolution databases as requests for information.

The themes selected for the publication are in the same order as the sections of the Constitution.

The HRC published the first equivalent summary of the supervisors' observations in 2020.¹ In the future, the observations of the fundamental and human rights supervisors will be included in the HRC's monitoring and reporting where applicable.

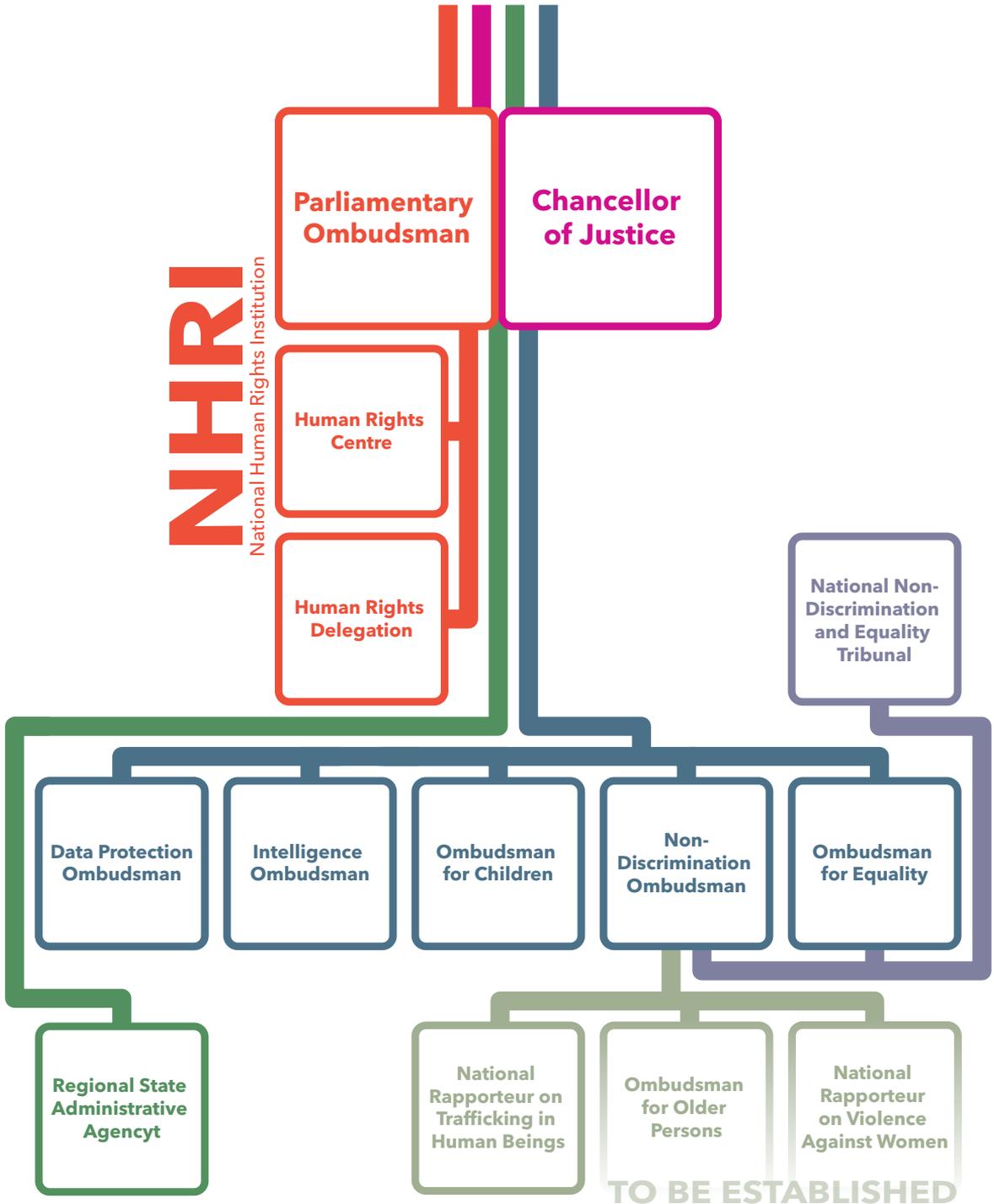
The actors and courts whose observations have been examined in the publication are:

Chancellor of Justice
 Finnish Council of Regulatory Impact Analysis
 Human Rights Centre (HRC)
 Human Rights Delegation
 Intelligence Ombudsman
 National Non-Discrimination and Equality Tribunal
 Non-Discrimination Ombudsman
 Ombudsman for Children
 Ombudsman for Equality
 Parliamentary Ombudsman
 Regional State Administrative Agency
 Supreme Administrative Court
 Supreme Court

¹ The Human Rights Centre, Perus- ja ihmisoikeuksien toteutuminen Suomessa – koottuja havaintoja, HRC publication 2/2020 (2020) <https://www.ihmisoikeuskeskus.fi/julkaisut2/ihmisoikeuskeskuksen-julkaisut/> (in Finnish)



Fundamental and Human Rights Actors in Finland



Fundamental and Human Rights Actors in Finland

Supreme overseers of legality and the National Human Rights Institution

Chancellor of Justice of the Government

Provisions on the duties of the Chancellor of Justice of the Government² are laid down in section 108 of the Constitution of Finland.³ Moreover, the duties of the Chancellor of Justice, the Deputy Chancellor of Justice and the Office of the Chancellor of Justice are based on the Act on the Chancellor of Justice⁴, the Government Decree on the Chancellor of Justice⁵ and the standing order of the Chancellor of Justice⁶. Provisions on the division of duties between the Chancellor of Justice and the Parliamentary Ombudsman are laid down

in the Act on the Division of Duties between the Chancellor of Justice of the Government and the Parliamentary Ombudsman (Act on the Division of Duties)⁷, which is currently being revised⁸. The Chancellor of Justice operates administratively in connection with the Finnish Government but is not a part of it.⁹

In addition to the Parliamentary Ombudsman, the Chancellor of Justice is the supreme overseer of the lawfulness of the official acts of the Government and the President of the Republic. According to the Constitution of Finland, the Chancellor of Justice shall supervise the legality of the actions of the Finnish Government and the President of the Republic of Finland and ensure that the courts of law, other

2 Website of the Chancellor of Justice of the Government <https://www.okv.fi/en/>.

3 The Constitution of Finland 731/1999, <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>, section 108.

4 Act on the Chancellor of Justice of the Government 193/2000 <https://www.finlex.fi/fi/laki/ajantasa/2000/20000193> (in Finnish).

5 Government Decree on the Office of the Chancellor of Justice of the Government 253/2000 <https://www.finlex.fi/fi/laki/ajantasa/2000/20000253> (in Finnish).

6 Standing order of the Chancellor of Justice (2007) http://www.okv.fi/media/uploads/talousasiakirjat/oikeuskanslerinviraston_ty%C3%B6j%C3%A4rjestys.pdf (in Finnish).

7 Act on the Division of Duties between the Chancellor of Justice of the Government and the Parliamentary Ombudsman 1224/1990 (Act on the Division of Duties) <https://www.finlex.fi/fi/laki/ajantasa/1990/19901224> (in Finnish).

8 Ministry of Justice, Clarification and assessment of the duties of the supreme overseers of legality; working group, OMO44:00/2018 statute drafting <https://oikeusministerio.fi/hanke?tunnus=OMO44:00/2018#lainvalmistelu> (in Finnish).

9 Ministry of Justice, Report on fundamental and human rights actors. Publication of the Ministry of Justice, reports and guidelines 35/2015 (in Finnish) https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/76601/selvitys_perus-ja_ihmisoik_toimijoista_82_s.pdf?sequence=1&isAllowed=y,15.

authorities and civil servants, public employees and other persons obey the law and fulfil their obligations when performing public tasks. The Chancellor of Justice also has duties related to the supervision of advocates. In the performance of his or her duties, the Chancellor of Justice monitors the implementation of basic rights and liberties and human rights. Under the Act on the Division of Duties, the Chancellor of Justice has been exempted from the obligation to supervise the Finnish Defence Forces, the Border Guard, peacekeeping personnel, prisons and other institutions in which persons are admitted against their will, and various forms of deprivation of liberty.¹⁰

In addition, the Chancellor of Justice must provide information and statements on legal issues to the President, the Government and ministries upon request. The Chancellor of Justice oversees the Government and the President of the Republic by attending the Government plenary sessions and the Presidential sessions of the Government.¹¹ The Chancellor of Justice must submit an annual report on his or her official duties and observations on legality to Parliament and the Government.¹² The Chancellor of Justice examines the legality of the activities of authorities based on submitted complaints or on his or her own initiative, conducts inspections and issues statements. As measures, the Chancellor of Justice may issue reprimands or corrections and order the initiation of a police or preliminary investigation.

Parliamentary Ombudsman

Provisions on the duties of the Parliamentary Ombudsman¹³ are laid down in section 109 of the Constitution of Finland. Moreover, provisions on the Ombudsman's activities are laid

down in the Parliamentary Ombudsman Act¹⁴, the Staff Regulations of the Parliamentary Ombudsman¹⁵ and the Rules of Procedure of the Office of the Parliamentary Ombudsman. Provisions on the division of duties between the Ombudsman and the Chancellor of Justice are laid down in the Act on the Distribution of Duties.¹⁶ The Office of the Parliamentary Ombudsman operates administratively in connection with the Finnish Parliament but is not a part of it.¹⁷ In addition to the Chancellor of Justice, the Ombudsman is the supreme overseer of legality.

Under the Constitution of Finland, the Parliamentary Ombudsman shall ensure that the courts of law, other authorities and civil servants, public employees and other persons obey the law and fulfil their obligations when performing public tasks. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights. Under the Constitution of Finland, the Ombudsman is obligated to submit an annual report to the Parliament on the work of the office of the Parliamentary Ombudsman, including observations on the state of the administration of justice and on any shortcomings in legislation.¹⁸ According to the Act on the Division of Duties, the Ombudsman is obligated to oversee the operators that are not, based on the exemption made to his or her duties, supervised by the Chancellor of Justice.¹⁹

The Ombudsman has served as the National Preventive Mechanism (NPM) under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punish-

¹⁰ Act on the Division of Duties (n 6), section 1.

¹¹ Constitution of Finland (n 2), section 111.

¹² Constitution of Finland (n 2), section 108; Act on the Chancellor of Justice of the Government (n 3), section 1.

¹³ Website of the Parliamentary Ombudsman <https://www.oikeusasiames.fi/en>.

¹⁴ Parliamentary Ombudsman Act 197/2002 <https://www.finlex.fi/fi/laki/kaannokset/2002/en20020197.pdf>.

¹⁵ Staff Regulations of the Parliamentary Ombudsman 209/2002 <https://www.finlex.fi/fi/laki/alkup/2002/20020209> (in Finnish).

¹⁶ Act on the Division of Duties (n 6).

¹⁷ Report of the Ministry of Justice (n 8), 17-19.

¹⁸ Constitution of Finland (n 2), section 109.

¹⁹ Act on the Division of Duties (n 6), section 1.

ment since 2014.²⁰ The Ombudsman supervises the implementation of children's rights as its focus area.²¹ In addition, the Ombudsman supervises the implementation of the rights of the elderly. The Ombudsman oversees the legality of actions taken by the authorities primarily by investigating complaints received, investigating matters on his or her own initiative and carrying out inspections. The Ombudsman can issue reprimands, opinions and recommendations, inform the authorities of his or her decisions, order a preliminary investigation and bring charges against public officials.²²

Together with the Human Rights Centre and the Human Rights Delegation, the Parliamentary Ombudsman forms the National Human Rights Institution of Finland, whose task is to promote and safeguard human rights.²³ The National Human Rights Institution of Finland has been assigned with a joint statutory task of promoting, safeguarding and monitoring the implementation²⁴ of the UN Convention on the Rights of Persons with Disabilities.²⁵

20 Parliamentary Ombudsman Act (n 13), chapter 1 a.

21 The Government's act proposal to the Parliament on amending the Constitution Act of Finland and the other fundamental laws with the aim of introducing a system of two deputy ombudsmen HE 129/1997 vp <https://www.eduskunta.fi/FI/Vaski/sivut/trip.aspx?triptype=ValtiopaivaAsiat&docid=he+129/1997> (in Finnish); Report of the Constitutional Law Committee 5/1997 vp https://www.eduskunta.fi/FI/vaski/Mietinto/Documents/pevm_5+1997.pdf (in Finnish).

22 Report of the Ministry of Justice (n 8), 17-19.

23 Human Rights Centre (HRC), National Human Rights Institution (NHRI) <https://www.humanrightscentre.fi/about-us/national-human-rights-institution/>.

24 HRC, Rights of persons with disabilities <https://www.humanrightscentre.fi/rights-of-persons-with-disabilit/>.

25 Convention on the Rights of Persons with Disabilities (CRPD) 27/2016 https://www.finlex.fi/fi/sop-imukset/sopsteksti/2016/20160027/20160027_2, available in English here: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

Human Rights Centre

Provisions on the duties of the Human Rights Centre²⁶ are laid down in the Parliamentary Ombudsman Act.²⁷ The Human Rights Centre (HRC) is an autonomous and independent operator. It is administratively connected to the Office of the Parliamentary Ombudsman.

The task of the Human Rights Centre is to promote and monitor the implementation of fundamental and human rights and to increase cooperation and exchange of information between various actors. The HRC's duties include promoting education, training, research and distribution of information related to fundamental and human rights, preparing reports on the implementation of fundamental and human rights, submitting initiatives, and issuing statements with the aim of promoting and implementing fundamental and human rights. The HRC monitors compliance with international human rights conventions in Finland, the implementation of recommendations and conclusions issued by international monitoring bodies on Finland, and the execution of judgments and other decisions of the European Court of Human Rights and other international treaty bodies. The HRC participates in European and international cooperation associated with promoting and safeguarding fundamental and human rights. The HRC does not handle complaints or other individual cases.²⁸

The Human Rights Centre has a statutory special task to promote, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities together with the Parliamentary Ombudsman and the Human Rights Delegation.²⁹ In addition, the focus area of the HRC is to monitor and promote the rights of older persons in collaboration with the Parliamentary Ombudsman.³⁰

26 HRC's website <https://www.humanrightscentre.fi/>.

27 Parliamentary Ombudsman Act (n 13), chapter 3a.

28 HRC, About us - Human Rights Centre <https://www.humanrightscentre.fi/about-us/human-rights-centre/>.

29 Ibid.

30 HRC, Rights of older persons <https://www.humanrightscentre.fi/rights-of-older-persons/>.

Human Rights Delegation

Provisions on the duties of the Human Rights Delegation³¹ are laid down in the Parliamentary Ombudsman Act.³² The Human Rights Delegation is a national cooperative body of the Human Rights Centre, chaired by the Director of the HRC. The Human Rights Delegation has 20–40 members who represent the Finnish human rights actors. The Parliamentary Ombudsman appoints the Delegation for a four-year term at a time.³³ All Ombudsmen and the Sámi Parliament of Finland are members by virtue of office.³⁴

The Human Rights Delegation promotes the sharing of information between different actors and deals with fundamental and human rights matters that are of far-reaching significance and principal importance. The Human Rights Delegation serves as a national cooperative body for actors in the sector of fundamental and human rights. The Human Rights Delegation promotes, protects and monitors the implementation of the UN Convention on the Rights of Persons with Disabilities together with the Human Rights Centre (HRC) and the Parliamentary Ombudsman. It has a permanent division dedicated to the task. The Human Rights Delegation approves the HRC's plan of action and annual report each year.³⁵

31 HRC, About us - Human Rights Delegation <https://www.humanrightscentre.fi/about-us/human-rights-delegation/>.

32 Parliamentary Ombudsman Act (n 13), chapter 3a, section 19e.

33 Ibid, chapter 3a, section 19e.

34 Government's proposal to Parliament for acts amending the Parliamentary Ombudsman Act and the Act on the Chancellor of Justice of the Government 205/2010 vp https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_205+2010.pdf, 26–27 (in Finnish).

35 Parliamentary Ombudsman Act (n 13), chapter 3a, section 19e and chapter 3b, section 19f; HRC, About us - Human Rights Delegation (n 30).

Ombudsmen

Ombudsman for Children

Provisions on the duties of the Ombudsman for Children³⁶ are laid down in the Act on the Ombudsman for Children³⁷. The eligibility requirements for the Ombudsman for Children are laid down in the Government Decree on the Ombudsman for Children.³⁸ The Ombudsman for Children is an autonomous and independent actor operating in connection with the Ministry of Justice, tasked with ensuring that the position and rights of children are taken into account in legislation and social decision-making. Under the Act on the Ombudsman for Children, the tasks of the Ombudsman include assessing the realisation of the rights and best interests of children, monitoring the well-being of children and young people, monitoring the legislation and social decision-making and assessing their impact on the well-being of children, developing social decision-making in matters concerning children and promoting the realisation of the best interests of children in the society through initiatives, guidance and advice.³⁹

Moreover, the Ombudsman for Children shall communicate with children and young people and forward information received from them to the decision-makers, develop cooperation between different actors, and forward information on children to the children, parties working with children, authorities and the rest of the population. The Ombudsman for Children shall promote the implementation⁴⁰

36 Website of the Ombudsman for Children <https://lapsiasia.fi/en/front-page>.

37 Act on the Ombudsman for Children 1221/2004 <https://finlex.fi/fi/laki/ajantasa/2004/20041221> (in Finnish).

38 Government Decree on the Ombudsman for Children 274/2005 <https://www.finlex.fi/fi/laki/alkup/2005/20050274> (in Finnish).

39 Act on the Ombudsman for Children (n 36), section 2.

40 Ibid, sections 1 and 2.

of the Convention on the Rights of the Child⁴¹ adopted by the UN General Assembly. The Ombudsman for Children does not handle individual complaints. The Ombudsman for Children shall provide the Finnish Government an annual report on its activities and provide a report to the Parliament on its activities once every four years.⁴²

Ombudsman for Equality

Provisions on the duties of the Ombudsman for Equality⁴³ are laid down in the Equality Act⁴⁴ and the Act on the Ombudsman for Equality⁴⁵. The Ombudsman for Equality is an autonomous and independent actor who works in connection with the Ministry of Justice. The tasks of the Ombudsman for Equality include supervising compliance with the Equality Act and primarily the prohibition of discrimination and discriminatory reporting, promoting the implementation of the objectives of the Equality Act by means of initiatives, advice and guidance, providing information on legislation on gender equality and its practical applications, monitoring the implementation of equality in different areas of social life, and taking measures to achieve reconciliation in matters concerning discrimination as referred to in the Equality Act.⁴⁶ The Equality Act, and therefore the mandate of the Ombudsman for Equality, also cov-

ers discrimination based on gender diversity.⁴⁷ The Ombudsman for Equality has the authority to deal with discrimination issues in working life.⁴⁸ In addition, the Ombudsman for Equality can assist victims of discrimination in safeguarding their rights. If necessary, the Ombudsman may also assist victims of discrimination in legal proceedings concerning the payment of compensation or damages if the Ombudsman considers that the matter is of significant importance for the application of the law.⁴⁹

The Ombudsman for Equality reports on his or her activities to the Finnish Government once a year. In addition, the Ombudsman for Equality submits a report to the Parliament every four years on the enforcement of equality. This report can be submitted in collaboration with the Non-Discrimination Ombudsman.⁵⁰

Intelligence Ombudsman

Provisions on the duties of the Intelligence Ombudsman⁵¹ are laid down in the Act on the Oversight of Intelligence Gathering⁵², the Amendment to the Police Act⁵³, the Act on Telecommunication Intelligence in Civilian Intelligence⁵⁴ and the Act on Military Intelligence⁵⁵. The Intelligence Ombudsman is an autonomous and independent authority, who operates in connection with the Office of the Data Protection Ombudsman.⁵⁶

41 Convention on the Rights of the Child 60/1991 https://finlex.fi/fi/sopimukset/sopsteksti/1991/19910060/19910060_2, available in English here: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

42 Ibid, section 3.

43 Website of the Ombudsman for Equality <https://tasa-arvo.fi/en/front-page>.

44 Act on Equality between Women and Men 609/1986 (the Equality Act) https://www.finlex.fi/fi/laki/kaannokset/1986/en19860609_20160915.pdf.

45 Act on the Ombudsman for Equality 1328/2014 <https://finlex.fi/fi/laki/ajantasa/2014/20141328> (in Finnish).

46 Ibid, section 2.

47 Ibid, section 3, subsection 7.

48 Equality Act (n 42), section 16, see also section 8.

49 Act on the Ombudsman for Equality (n 43), section 3.

50 Ibid, section 5.

51 Website of the Intelligence Ombudsman <https://tiedusteluvalvonta.fi/en/home>.

52 Act on the Oversight of Intelligence Gathering 121/2019 <https://www.finlex.fi/fi/laki/alkup/2019/20190121> (in Finnish).

53 Amendment to the Police Act 581/2019 <https://www.finlex.fi/fi/laki/alkup/2019/20190581#Lidp446355856> (in Finnish).

54 Act on Telecommunication Intelligence in Civilian Intelligence 582/2019 <https://www.finlex.fi/fi/laki/ajantasa/2019/20190582> (in Finnish).

55 Act on Military Intelligence 590/2019.

56 Act on the Oversight of Intelligence Gathering (n 50), section 5.

The Intelligence Ombudsman is the supervisor of the legality of intelligence activities, and the Ombudsman is tasked with supervising the legality of the use of intelligence gathering methods and intelligence information as well as other intelligence activities, supervising the realisation of basic and human rights in intelligence activities, promoting the realisation of legal protection and the related best practices in intelligence activities, and monitoring and assessing the functionality of legislation within the Ombudsman's purview and making development proposals that the Ombudsman considers necessary. The Intelligence Ombudsman may order the use of an intelligence gathering method to be interrupted or discontinued, issue reprimands, inform authorities of its decisions and submit cases for preliminary investigation.⁵⁷

The Intelligence Ombudsman submits an annual report on its activities to Parliament, the Parliamentary Ombudsman and the Government.⁵⁸

Data Protection Ombudsman

Provisions on the duties of the Data Protection Ombudsman⁵⁹ are laid down in the EU's General Data Protection Regulation⁶⁰ and the Data Protection Act.⁶¹ The Data Protection Ombudsman is an autonomous and independent national supervisory authority as referred to

in the EU's General Data Protection Regulation, who operates in connection with the Ministry of Justice.

The duties of the Data Protection Ombudsman include monitoring compliance with data protection legislation and other laws on the processing of personal data and promoting awareness of the risks, rules, safeguards, obligations and rights associated with the processing of personal data. In addition, the Data Protection Ombudsman carries out investigations and inspections and issues statements on matters concerning the processing of personal data and receives reports of personal data breaches. The Data Protection Ombudsman may impose a conditional fine to enforce compliance with his or her order.⁶² The Data Protection Ombudsman does not supervise the activities of the Chancellor of Justice of the Government or the Parliamentary Ombudsman. The Data Protection Ombudsman must submit an annual report to Parliament and the Government.⁶³

Non-Discrimination Ombudsman

Provisions on the duties of the Non-Discrimination Ombudsman⁶⁴ are laid down in the Act on the Non-Discrimination Ombudsman.⁶⁵ The Non-Discrimination Ombudsman is an autonomous and independent authority operating in connection with the Ministry of Justice, tasked with promoting equality, preventing discrimination and monitoring compliance with the Non-Discrimination Act.

It is the duty of the Non-Discrimination Ombudsman to promote equality and tackle discrimination in accordance with the Non-Discrimination Act.

57 Ibid, sections 7, 15-18.

58 Ibid, section 19.

59 Website of the Data Protection Ombudsman <https://tietosuojafi/en/home>.

60 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=FI>, Articles 55-59.

61 Data Protection Act 1050/2018 <https://www.finlex.fi/fi/laki/kaannokset/2018/en20181050.pdf>, chapter 3 (in Finnish).

62 Ibid, section 14; General Data Protection Regulation (n 58), Articles 55-59; Data Protection Ombudsman, Duties <https://tietosuojafi/en/duties>.

63 Data Protection Act (n 59), section 14; General Data Protection Regulation (n 58), Article 59.

64 Website of the Non-Discrimination Ombudsman <https://syrijinta.fi/en/front-page>.

65 Act on the Non-Discrimination Ombudsman 1326/2014 <https://finlex.fi/fi/laki/alkup/2014/20141326> (in Finnish).

crimination Act. The Non-Discrimination Ombudsman prepares and commissions reviews, publishes reports and takes initiatives, provides counselling and statements, promotes information, education and training, and carries out tasks assigned to him or her elsewhere in legislation. The Non-Discrimination Ombudsman also monitors within his or her remit Finland's compliance with international human rights obligations and the effectiveness of national legislation and participates in European and international co-operation.⁶⁶ The Ombudsman is not authorised to intervene in individual cases of discrimination in working life. Issues related to occupational safety and health are handled by the Regional State Administrative Agency.

The Non-Discrimination Ombudsman also acts as the National Rapporteur on Trafficking in Human Beings and monitors phenomena related to human trafficking. The Non-Discrimination Ombudsman may assist potential victims of human trafficking and victims of discrimination in safeguarding their rights, or obtain legal aid for them.⁶⁷ Under the Aliens Act, the Non-Discrimination Ombudsman monitors and promotes the status and rights of foreigners and monitors the enforcement of removal from the country.⁶⁸ In addition, the Ombudsman may bring individual matters concerning discrimination to the National Non-Discrimination and Equality Tribunal or a court of law.⁶⁹

The Non-Discrimination Ombudsman shall report annually to the Government on his or her activities and to Parliament once every four years on the implementation of the Non-Discrimination Act and on phenomena related to human trafficking.⁷⁰

66 Ibid, section 3.

67 Ibid, sections 3 and 7.

68 Aliens Act 310/2004 <https://www.finlex.fi/fi/laki/kaannokset/2004/en20040301.pdf>, sections 152b, 208 and 209.

69 Act on the Non-Discrimination Ombudsman (n 63), sections 7 and 11.

70 Ibid, section 8.

Other authorities

Regional State Administrative Agency

Provisions on the duties of the Regional State Administrative Agencies⁷¹ are laid down in the Act on Regional State Administrative Agencies⁷², and provisions on their operating areas are laid down in the Government Decree on Regional State Administrative Agencies⁷³. Other acts applied to the organisation of the operation and duties of the Regional State Administrative Agencies include the Act on Occupational Safety and Health Administration⁷⁴, the Act on the Processing of Environmental Protection and Water Matters by the Regional State Administrative Agencies⁷⁵ and the Rescue Act⁷⁶.

According to the Act on Regional State Administrative Agencies, the mission of the Regional State Administrative Agencies is to promote regional equality by carrying out legislative implementation, steering and supervision tasks in the regions. The operating areas of the Regional State Administrative Agencies include social welfare and health care, environmental health, education, child day care, library, sports and youth services, promotion and enforcement of legal protection, permits and other application matters in the field of environmental protection and water legislation, rescue services, monitoring and development of occupational safety and health services, product control of products used at work, moni-

71 Website of the Regional State Administrative Agency <https://avi.fi/en/frontpage>.

72 Act on Regional State Administrative Agencies 896/2009 <https://www.finlex.fi/fi/laki/ajantasa/2009/20090896> (in Finnish).

73 Government Decree on Regional State Administrative Agencies 906/2009 <https://www.finlex.fi/fi/laki/ajantasa/2009/20090906> (in Finnish).

74 Act on Occupational Safety and Health Administration 16/1993 <https://www.finlex.fi/fi/laki/ajantasa/1993/19930016> (in Finnish).

75 Act on the Processing of Environmental Protection and Water Matters by the Regional State Administrative Agencies 898/2009 <https://www.finlex.fi/fi/laki/ajantasa/2009/20090898> (in Finnish).

76 Rescue Act 379/2011 <https://www.finlex.fi/fi/laki/kaannokset/2011/en20110379.pdf>.

toring compliance with occupational safety and health legislation as the occupational safety and health authority, and consumer and competition administration.⁷⁷ The Regional State Administrative Agencies carry out inspections as part of their supervisory duties. The Regional State Administrative Agency may obligate the person concerned to comply with the order or prohibition by means of a conditional fine, notice of enforced compliance or notice of enforced suspension. Decisions of the Regional State Administrative Agency can be appealed to the Administrative Court.⁷⁸

National Non-Discrimination and Equality Tribunal

Provisions on the duties of the National Non-Discrimination and Equality Tribunal⁷⁹ are laid down in the Act on the National Non-Discrimination and Equality Tribunal of Finland⁸⁰, the Equality Act⁸¹ and the Non-Discrimination Act⁸².

The National Non-Discrimination and Equality Tribunal is an impartial and independent judicial body operating in connection with the Ministry of Justice, tasked with processing and resolving matters assigned to it under the Equality Act and the Non-Discrimination Act.⁸³ It monitors compliance with the Non-Discrimination Act and the Equality Act both in private activities and in public administration and business. However, the Tribunal does not monitor compliance with the Non-Discrimination Act

in matters related to working life. The Tribunal gives legal protection to those who have been discriminated against or subjected to prohibited countermeasures related to discrimination. The Tribunal may impose a conditional fine to enforce compliance with its orders and injunctions and order payment of such a fine.⁸⁴ Decisions of the Tribunal can be appealed to the Administrative Court.⁸⁵

Finnish Council of Regulatory Impact Analysis

Provisions on the duties of the Finnish Council of Regulatory Impact Analysis⁸⁶ are laid down in the Government Decree on the Finnish Council of Regulatory Impact Analysis.⁸⁷ The Council is an impartial and independent body operating in connection with the Prime Minister's Office.

According to the Government Decree, the task of the Council is to issue statements on impact assessments related to drafts for government proposals. The Council may also issue statements on the impact assessments of other draft legislation, submit initiatives aimed at improving especially the quality and measures of impact assessments in law drafting, and following the entry into force of statutes, assess whether the impact of legislation has been as intended. In addition, the Council monitors the development of the quality of impact assessments and assesses the effectiveness of its own activities. The Council shall provide the Prime Minister's Office with an annual review of its activities.⁸⁸

77 Act on Regional State Administrative Agencies (n 70), section 4.

78 Ibid, sections 20 and 23.

79 Website of the National Non-Discrimination and Equality Tribunal <https://www.yvttk.fi/en/index.html>.

80 Act on the National Non-Discrimination and Equality Tribunal of Finland 1327/2014 <https://www.finlex.fi/fi/laki/alkup/2014/20141325> (in Finnish).

81 Equality Act (n 42).

82 Non-Discrimination Act 1325/2014 <https://www.finlex.fi/fi/laki/kaannokset/2014/en20141325.pdf>.

83 Act on the National Non-Discrimination and Equality Tribunal of Finland (n 78), section 1.

84 Equality Act (n 42), sections 15-16 and 20-21; Non-Discrimination Act (n 80), sections 20-22; Website of the National Non-Discrimination and Equality Tribunal (n 77).

85 Act on the National Non-Discrimination and Equality Tribunal of Finland (n 78), section 13.

86 Prime Minister's Office, Finnish Council of Regulatory Impact Analysis <https://vnk.fi/en/council-of-regulatory-impact-analysis>.

87 Government Decree on the Finnish Council of Regulatory Impact Analysis 1735/2015 <https://finlex.fi/fi/laki/alkup/2015/20151735> (in Finnish).

88 Ibid, sections 1 and 2.

Future authorities⁸⁹

Ombudsman for Older Persons

Based on the Government Programme adopted by Prime Minister Sanna Marin, a post for an Ombudsman for Older Persons will be established with the aim of promoting the rights and status of older persons. The task of the Ombudsman for Older Persons will be to monitor the implementation of the rights of older persons in all sectors of the society and to introduce his or her findings to public debate and decision-making. In addition, the Ombudsman for Older Persons will be tasked with monitoring the impact of legislation and societal decision-making on the rights and status of older persons. The Ombudsman for Older Persons will not be authorised to solve complaints or handle individual cases. Instead, the Ombudsman for Older Persons would introduce initiatives and issue statements, reviews and reports. The Ombudsman for Older Persons is intended to be an independent and impartial authority operating in connection with the Office of the Non-Discrimination Ombudsman.⁹⁰ Developments in the establishment of the post of an Ombudsman for Older Persons can be followed on the website of the Ministry of Justice⁹¹.

89 Government Decrees on the establishment of these posts exist, but they have not yet been established.

90 Ministry of Justice, Summary of statements on the Government draft proposal for the act on the Ombudsman for Older Persons VN/549/2020 https://api.hankeikkuna.fi/asiakirjat/126339d7-068e-45e9-8bb6-59d8dcef79b5/0b4b5d65-c619-4dec-8d72-230357010ad2/YHTEENVE-TO_20210121130047.PDF (in Finnish).

91 Ministry of Justice, Government proposal for Act on the Ombudsman for Older Persons OM009:00/2020 <https://oikeusministerio.fi/hanke?tunnus=OM009:00/2020> (in Finnish).

Rapporteur on Violence Against Women

Based on the Government Programme adopted by Prime Minister Sanna Marin, a post for a Rapporteur on Violence Against Women is to be established. The Rapporteur would be tasked with monitoring and assessing the operating principles and measures used to prevent and tackle violence against women. The Rapporteur would also monitor comprehensively the effectiveness of national legislation, the enforcement of the rights of victims of violence against women, and the fulfilment of international obligations. The Rapporteur would not handle individual cases nor provide legal counselling. The goal is to assign the task to an existing authority, even if the task in itself would be independent and impartial.⁹² Developments in the establishment of the post of a Rapporteur on Violence Against Women can be followed on the website of the Ministry of Justice⁹³.

92 Ministry of Justice, Request for statements on a Government draft proposal to Parliament on amending the Act on the Non-Discrimination Ombudsman VN/547/2020 https://api.hankeikkuna.fi/asiakirjat/b3de8cb9-e8d0-48ad-b8f0-05b12d5b37f0/e2e8bd62-50ee-4239-9e77-00e8e9b52354/LAUSUNTOPYYN-TO_20210122111259.PDF (in Finnish).

93 Ministry of Justice, Establishment of the post of a Rapporteur on Violence Against Women OM010:00/2020 <https://valtioneuvosto.fi/hanke?tunnus=OM010:00/2020> (in Finnish).

Observations and challenges per fundamental right

1 Equality

According to section 6 of the Constitution of Finland, everyone is equal before the law and no one shall be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns their person without an acceptable reason.⁹⁴

The best interests of the child and equality of children

According to the Ombudsman for Children, children with immigrant backgrounds and of language and cultural minorities as well as children with disabilities and of sexual and gender minorities face significantly more discrimination than other children.⁹⁵ The Human Rights Centre (HRC) also notes that children belonging to minorities are more likely to be

subjected to sexual harassment or violence, for example.⁹⁶ The Ombudsman for Children has highlighted the especially vulnerable position of children belonging to gender and sexual minorities in the implementation of equality, the need to improve the equal participation of children with disabilities and the social and structural discrimination the Roma face, which is also reflected in Roma children. Special attention should also be paid to the equal treatment of undocumented children and the children of refugees and asylum seekers, especially in legal consideration and accessibility of services.⁹⁷ Although the Government Programme for 2019 has committed to preventing and combating the issue of undocumented individuals, it does not contain any means of improving children's access to early childhood education and care or the problems related to the registration and

⁹⁴ The Constitution of Finland 731/1999 (11 June 1999), section 6 <https://www.finlex.fi/fi/laki/kaanokset/1999/en19990731>

⁹⁵ The Ombudsman for Children, Lapsiasia-valtuutetun vuosikirja 2020 - Lapsen etua etsimässä (Ombudsman for Children 2020) <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162991/LAPS-vuosikirja-2020-FI.pdf?sequence=1&isAllowed=y>, 18 (in Finnish).

⁹⁶ The Human Rights Centre's statement to the UN on issues on the implementation of the Convention against Torture HRC/35/2019 (24 June 2019) <https://www.humanrightscentre.fi/uutiset/hrc-submits-its-report-to-un-commit/> (HRC/35/2019), 17.

⁹⁷ Ombudsman for Children 2020 (n 95), 18, 22-23.

citizenship of Finnish children born abroad.⁹⁸

The Non-Discrimination Ombudsman commented on cases where children's and young people's access to libraries was restricted after a certain time due to the vandalism and disruptive behaviour of some young people. According to the Non-Discrimination Ombudsman, such a ban on young people's use of the library is a form of an unacceptable group sanction. In the Non-Discrimination Ombudsman's opinion, an age restriction interferes with the minors' fundamental right to civilise themselves, and an age restriction at libraries would also interfere with the equality of children and young people. In order to limit these rights, libraries should have a legally acceptable reason. However, the poor behaviour of one or a few people is not such an acceptable reason.⁹⁹ The Deputy-Ombudsman has also considered similar restrictions on young people's access to library services direct discrimination.¹⁰⁰

98 Programme of Prime Minister Antti Rinne's Government 6 June 2019: Inclusive and competent Finland - A socially, economically and ecologically sustainable society, Publications of the Finnish Government 2019:25 (Prime Minister Sanna Marin has adopted Prime Minister Rinne's programme as the Government Programme on 10 December 2019) https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161664/Inclusive%20and%20competent%20Finland_2019_WEB.pdf?sequence=7&isAllowed=y.

99 Non-Discrimination Ombudsman, The Non-Discrimination Ombudsman's Annual Report 2019 (2019) (Non-Discrimination Ombudsman 2019) <https://syrijinta.fi/documents/25249352/54196129/The+Non-Discrimination+Ombudsman%27s+Annual+Report+2019.pdf/2dd5c818-4e39-d28f-0f2d-10b07f33aaf6/The+Non-Discrimination+Ombudsman%27s+Annual+Report+2019.pdf?version=1.1&t=1609834185695>, 30.

100 Parliamentary Ombudsman, Kirjastopalvelun saamisen rajaaminen iän perusteella oli syrjintää EOAK/328/2018 (6 March 2019) <https://www.oikeusasiamies.fi/rfi/ratkaisut/-/eoar/328/2018> (in Finnish).

Discrimination against sexual and gender minorities

Transgender people continue to face discrimination due to transphobia, gender stereotypes and discriminatory legislation. Finnish legislation contains a requirement for infertility. When legally confirming their gender, a transgender person must provide medical evidence that they have been sterilised or are otherwise unable to reproduce. The European Court of Human Rights has considered this requirement a violation of human rights.¹⁰¹ The 2019 Government Programme contains a plan for the reform of the Trans Act, and the Ministry of Social Affairs and Health appointed a working group to prepare it for the period from 1 May 2019 to 31 January 2020. The working group's final report on alternative regulatory models was completed in 2020.¹⁰² However, no legislative amendments have yet been introduced. In addition, the unnecessary genital surgery of intersex children is still in use in Finland.¹⁰³

In 2018 and again for the government term 2019-2023, the Human Rights Delegation recommended that the Trans Act be reformed in its entirety and the requirement of infertility

101 A.P. Garçon and Nicot v. France (application nos. 79885/12, 52471/13 and 52596/13), European Court of Human Rights, Press release ECHR 121 (2017) (6 April 2017) <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22A.P.%20Garçon%20and%20Nicot%20v.%20France%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D,%22itemid%22:%5B%222001-172913%22%5D%7D>.

102 Preparatory group for the renewal of trans legislation, Ministry of Social Affairs and Health, 'Vaihtoehtoiset sääntelymallit sukupuolivähemmistöjen oikeudellisen aseman järjestämiseksi' (2020) https://api.hankeikkuna.fi/asiakirjat/3e8dd589-9843-4fb7-bef9-bdae9e5746be/d48353e1-bab9-4404-8066-b0c5a6bf82e6/RAPORT-TI_20200207144129.pdf (in Finnish).

103 HRC/35/2019 (n 96), 12-13.

be removed from it.¹⁰⁴ Discrimination against sexual and gender minorities in employment is addressed in the section “Occupational discrimination”.

Discrimination based on ethnicity

The bodies monitoring the implementation of international human rights conventions have repeatedly criticised Finland for discrimination based on ethnicity, such as against the Roma. The Council of Europe’s European Commission against Racism and Intolerance (ECRI) has highlighted structures preventing the inclusion and equal treatment of the Roma.¹⁰⁵

The Non-Discrimination Ombudsman has also often addressed discrimination against the Roma and mentioned the importance of addressing structural barriers that slow down the improvement of the socio-economic situation of the Roma. The Roma contact the Non-Discrimination Ombudsman mostly due to housing problems. Suspected cases of discrimination often relate to denying a service, offering a service with restrictions or providing a service on offensive terms. For example, the Non-Discrimination Ombudsman issued a statement on a criminal case under consideration of charges in which the operator of an amusement park ride had offended a Roma family’s human dignity. When the family arrived, the operator of the device had started playing a song that has lyrics insulting the Roma, which drew the other cus-

tomers’ attention on the family. The prosecutor brought charges in the case in accordance with the Non-Discrimination Ombudsman’s statement, and the act was condemned as discrimination and slander.¹⁰⁶

The Non-Discrimination Ombudsman considers it particularly important that the practices of security authorities, such as the police, the Border Guard and Customs, do not violate the prohibition of ethnic discrimination. Due to the authorities’ special obligation to promote equality, the authorities must ensure that their personnel have sufficient training to be able to act in accordance with the prohibition of discrimination. The Non-Discrimination Ombudsman has stated that if a security authority considers giving meaning to a person’s presumed skin colour, the relation of the acceptable objective and the method used must always be considered.¹⁰⁷

Occupational discrimination

Occupational discrimination is a significant obstacle to employment and advancing at work in Finland. Discrimination also has a negative impact on the well-being of employees. According to the Non-Discrimination Ombudsman, the fragmentation of legislation concerning supervision is a major reason for the current situation. Measures that address discrimination in work are separate, and failure to comply with statutory obligations does not always lead to consequences. Moreover, the implementation of the employers’ obligation to promote equality has not been reported on extensively. The Non-Discrimination Ombudsman has proposed that it should have the power to investigate individual cases of discrimination and to monitor employers’ promotion obligation to improve the promotion of occupational equality.¹⁰⁸ The

104 The Human Rights Delegation’s recommendations for the government term 2019-2023 (2019) <https://www.humanrightscentre.fi/uutiset/human-rights-delegation-s-recommend/> (Human Rights Delegation’s recommendations), 1; Human Rights Delegation, *Perus- ja ihmisoikeustilanne Suomessa - Ihmisoikeusvaltuuskunnan suosituksset halituskaudelle 2019-2013* (Human Rights Delegation’s recommendations’ background material, 2019), 6 (in Finnish).

105 The Council of Europe’s European Commission against Racism and Intolerance (ECRI), *Fifth report on Finland* (10 September 2019) <https://www.ecoi.net/en/file/local/2015867/FIN-CBC-V-2019-038-ENG.pdf>, 28-29.

106 Non-Discrimination Ombudsman 2019 (n 99), 12-14.

107 *Ibid.*, 8-10.

108 *Ibid.*, 17-18.

Human Rights Delegation has also recommended extending the Non-Discrimination Ombudsman's powers to cover cases of occupational discrimination and to prevent discrimination in employment and education more effectively.¹⁰⁹

The Non-Discrimination Ombudsman has drawn attention to the fact that Finnish non-discrimination legislation does not encourage social partners to promote the implementation of equality, even though the EU directives so require. The Non-Discrimination Act should therefore mention the possibility for social partners to agree on measures related to the employer's promotion obligation, as required by the EU directives.¹¹⁰ The results of the VNTEAS-funded evaluation project under the Non-Discrimination Act were published in November 2020.¹¹¹

In addition to occupational discrimination, the Non-Discrimination Ombudsman has been contacted about discrimination during schoolchildren's introduction to working life. These contacts have concerned cases where Roma youth and wheelchair users have encountered discrimination at work already in upper comprehensive school. For example, a young person's work placement was cancelled without considering reasonable accommodation and arrangements due to a wheelchair and needing an assistant. As the pupil is in a weaker position compared to the training place due to being underaged and having less knowledge and experience, the school must act on behalf of the pupil and promote the realisation of equality in all its activities and identify discriminatory situations and support the pupil in the event of

discrimination.¹¹²

According to the Ombudsman for Equality, discrimination related to pregnancy and parenthood in employment has continued for decades. Typical situations in which discrimination occurs include inappropriate questions related to the family situation and plans when applying for work, problems when returning to work after family leave and treatment at the workplace when family leave plans come to light. According to the Ombudsman for Equality, the costs of maternity leave or getting a substitute are not acceptable reasons to overlook a pregnant person in recruitment.¹¹³

The Ombudsman for Equality has constantly been contacted about job advertisements, in which only men or only women are sought for the position. A job vacancy cannot be announced only for certain genders if the quality of the work or task does not require it for a weighty and acceptable reason. The Ombudsman for Equality has also stated that when comparing salaries, the employer cannot acceptably justify the lower salary of an employee in comparison to another by lack of financial resources if the tasks of both employees are considered equally demanding.¹¹⁴

In the recruitment forms, the employer may ask about the gender of the jobseeker using the options woman and man, as the legal gender is public information. However, the employer cannot add "other" to the question concerning gender, as being of a gender minority is a matter of privacy that may expose the jobseeker to discrimination due to gender

109 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 12.

110 Non-Discrimination Ombudsman 2019 (n 99), 17-18.

111 Government's analysis, assessment and research activities, Aidosti yhdenvertaiset, Yhdenvertaisuuslain arviointi (25 November 2020) <https://tietokayttoon.fi/julkaisut/raportti?pubid=URN:ISBN:978-952-287-959-2> (in Finnish).

112 Non-Discrimination Ombudsman 2019 (n 99), 18-19.

113 Tasa-arvoaltuutetun vuosikertomus 2019, Publications on equality 2020:1 (Ombudsman for Equality 2019) <https://tasa-arvo.fi/documents/25249985/34307235/Tasa-arvoaltuutetun+vuosikertomus+2019.pdf/85fe4fb1-1ce0-491b-95ca-dee2e6268ab7/Tasa-arvoaltuutetun+vuosikertomus+2019.pdf?t=1594816157150>, 12, 14 (in Finnish).

114 Ibid., 23-24.

identity. Being the target of discrimination is a high risk to persons of a gender minority, and they may have to assume a gender against their own gender identity. The Ombudsman for Equality has proposed to add a mention in the jobseeking forms that the gender refers to the legal gender of the applicant and to encourage persons with other gender identities to apply for the position regardless of this. Gender, gender identity or their expression must not affect the recruitment decision if the quality of the work does not require it.¹¹⁵

The right to equality of persons with disabilities

An accessible environment is a prerequisite for an equal and independent life for persons with disabilities. In several cases, the National Non-Discrimination and Equality Tribunal has addressed, amongst others, the accessibility of schools and public events. For example, a university, a television station and a company had discriminated against people in a wheelchair by organising public events in facilities that could not be accessed with a wheelchair.¹¹⁶ The National Non-Discrimination and Equality Tribunal stated that businesses discriminate against wheelchair users if the facilities have no

ramp on which the person using the wheelchair can use to enter.¹¹⁷

The National Non-Discrimination and Equality Tribunal has also addressed the shortcomings of reasonable accommodation in the activities of the Social Insurance Institution (Kela). The cases have concerned particularly persons with hearing impairment who have been granted interpretation through Kela's interpreter service. In these cases, Kela failed to offer the applicants an interpretation service that they are entitled to due to inadequate reasonable accommodation.¹¹⁸

During its inspection visits, the Parliamentary Ombudsman has observed shortcomings in the accessibility of premises, accessibility of services and the implementation of reasonable

¹¹⁵ Ibid., 31.

¹¹⁶ The National Non-Discrimination and Equality Tribunal, cases 653/2019 (28 October 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/CWBrzwn1t/YVTltk-tapausseloste-28.10.2019-saavutettavuus-yleisolle_avoin_luentotilaisuus-valillinen_syrjinta.pdf, 391/2018, 414/2018, 424/2018, 439/2018, 488/2018 (13 February 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/tt9K7nETJ/YVTltk-tapausseloste-13.2.2019-Saavutettavuus-yleisotilaisuus.pdf and 442/2018, 450/2018, 462/2018, 471/2018, 472/2018, 475/2018, 550/2018, 557/2018, 563/2018, 568/2018, 575/2018, 580/2018, 591/2018, 594/2018, 603/2018 and 626/2019 (18 April 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/ApqHRaA4P/YVTltk-tapausseloste-18.4.2019-saavutettavuus-yleisotilaisuus.pdf (in Finnish).

¹¹⁷ The National Non-Discrimination and Equality Tribunal, cases 395/2018 (18 April 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/plFr7gyNF/YVTltk-tapausseloste-18.4.2019-kohtuulliset_mukautukset-uhkasakko.pdf, 400/2018 (18 April 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/huQ2Dw4iH/YVTltk-tapausseloste-18.4.2019-kohtuulliset_mukautukset-aika-uhkasakko.pdf and 509/2018 (18 April 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/0m0tahg4X/YVTltk-tapausseloste-18.4.2019-kohtuulliset_mukautukset-kohtuulinen_aika.pdf (in Finnish).

¹¹⁸ The National Non-Discrimination and Equality Tribunal, cases 423/2018 (14 November 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/rO1HoxNoP/YVTltk-tapausseloste-14.11.2019-tulkkauspalvelu-joustamaton_ohje-valillinen_syrjinta.pdf, 441/2018 (14 November 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/ncwTiLHnV/YVTltk-tapausseloste-14.11.2019-hankintasopimus-valillinen_syrjinta.pdf and 449/2018 (14 November 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/ozjjSuwf3/YVTltk-tapausseloste-14.11.2019-tulkkauspalvelu-yksilollinen_tarve-joustamaton_ohje-.pdf (in Finnish).

accommodation.¹¹⁹ There have been shortcomings in care and housing units for older people, housing units for persons with intellectual disabilities and other disabilities, teaching facilities, healthcare facilities, polling stations, reception centres, detention units, parking sites and prisons. For example, small toilet facilities and lack of lifts as well as passages to public facilities that were not designed accessible make it difficult for persons with disabilities to access services. There are also significant shortcomings in the equal participation opportunities of persons with disabilities.

The Non-Discrimination Ombudsman has commented on the Matriculation Examination Board's draft for a new regulation on reasonable accommodation in matriculation examinations. The Non-Discrimination Ombudsman has stressed that the need for and implementation of reasonable accommodation is always individual, and the reasonable accommodation during matriculation examinations cannot be prevented by the fact that the required arrangement is not possible in all general upper secondary schools. The need for a separate small group or personal space must also be assessed individually. Furthermore, according to the Non-Discrimination Ombudsman, the accommodation measure the candidate needs may be some other individual measure than those mentioned in the Matriculation Examination Board's regulation. The threshold for granting reasonable accommodation should not be set too high if there is a clear need for accommodation. In its statement, the Non-Discrimination Ombudsman has considered it somewhat problematic that there are no alternatives to hearing impaired candidates other than excluding the listening comprehension test, even though the degree of hearing impairment varies. The Non-Discrimination Ombudsman has pointed out

the lack or refusal of reasonable accommodation in cases where practical adaptations have not been implemented or they have not been implemented adequately at higher education institutions and school transport.¹²⁰

The Human Rights Delegation has issued several recommendations for the government term 2019-2023 that would improve inclusion and accessibility for persons with disabilities. Accessibility should be extensively promoted in all areas of society. The government should also support the development of European legislation on accessibility more ambitiously than currently. The government should develop new forms of action that enable the comprehensive inclusion of persons with disabilities, including children, in societal discussion and decision-making. The position of persons with disabilities as interested parties in disability services, including market-based services, should be strengthened. In addition, the training and inclusion in labour market of persons with disabilities should be improved by various means.¹²¹

120 Non-Discrimination Ombudsman 2019 (n 99), 20-22.

121 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 18-19.

119 Parliamentary Ombudsman Annual Report 2019 K/15/2020 vp (Parliamentary Ombudsman 2019) <https://www.oikeusasiamies.fi/documents/20184/42383/2019-fi/51758de7-f75b-449c-8967-a5372e40df0b>, 63-68 (in Finnish).

Equality of blood donation restrictions

There are shortcomings in the equality of blood donation restrictions. The Non-Discrimination Ombudsman has commented on Fimea's draft for renewing the provisions on eligibility for blood donation and found that the blood donation restriction related to sex between men is problematic in its current form. The current provision requires a temporary ban on blood donation for a period of 12 months after a man has practised sex with a new male partner. A man in a relationship with another man is in a permanent donation ban during the relationship, but a man in a relationship with a woman does not have a permanent donation ban. A new sex partner (relationship between a man and a woman or between two women) causes a four-month blood donation ban.¹²²

According to the Non-Discrimination Ombudsman, the restriction on blood donation should be reassessed in the light of the testing methods and research data currently in place, so that any different treatment is proportionate to the means used. The Non-Discrimination Ombudsman has stated that preparations for changes to the restrictions on blood donation will continue by examining whether two men living in a relationship have an increased risk of infectious diseases in the light of current research and how the potential risk could be prevented in a proportionate manner. As the Non-Discrimination Ombudsman is not aware of a study demonstrating the need for a permanent blood donation ban for the 12 months or when in a relationship, the Non-Discrimination Ombudsman has recommended harmonising safety periods so that sex between men would be subject to a four-month ban on blood donation when the partner is new and the permanent ban on blood donation when in a relationship would be removed.¹²³

¹²² Non-Discrimination Ombudsman 2019 (n 99), 24-25.

¹²³ Ibid.

Hate speech and hate crimes

The Non-Discrimination Ombudsman has assessed the racist tweet published by the Finns Party Youth from the perspective of freedom of expression. According to the Non-Discrimination Ombudsman, the tweet by the Finns Party Youth urged people to vote for the Finns Party to have less dark-skinned people living in Finland in the future. The update itself violated the dignity of people with dark skin and the comments related to it were mainly racist and ethnonationalist. The debate had therefore created a hostile, degrading and humiliating atmosphere for dark-skinned people. According to the Non-Discrimination Ombudsman's assessment, freedom of expression can be restricted if it is necessary due to weighty societal reasons. The Non-Discrimination Ombudsman relied on the decision policy of the European Court of Human Rights when it stated that activities aimed at opposing tolerance and non-discrimination or aimed at exhausting human rights do not enjoy the protection of freedom of expression.¹²⁴

The Human Rights Delegation has issued a recommendation for the government term 2019-2023, according to which the government must develop new methods for combating hate crime based on anti-Semitism and islamophobia, and extensively implement the proposals of the government's working group on hate speech. Measures must also be taken to improve the language atmosphere and support the visibility of minorities and minority languages in society.¹²⁵

¹²⁴ Ibid., 11.

¹²⁵ Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 12-14.

Equality in digital services

The Chancellor of Justice has repeated its concern¹²⁶ expressed in the 2018 annual report on the usability and accessibility of electronic services. Problems with online services have related to the difficult availability of services and the fact that not all user groups or different devices have been taken into account when introducing digital services. The lacking digitalisation of services is still a real risk for an equal access to services. According to the Chancellor of Justice, the problems in accessibility due to digital services can be prevented partly in advance by investing in the quality of legislation. Risks and their anticipation must also be taken into account when planning and reforming information systems for public services and administration.¹²⁷ On the other hand, the Parliamentary Ombudsman has pointed out that the transformation of services into electronic format poses a risk for the availability of services from the perspective of older people in particular.

The Human Rights Delegation has recommended that the government take accessibility and equality into account in the digitalisation projects.¹²⁸

126 The Chancellor of Justice annual report 2018 https://www.okv.fi/media/filer_public/8c/77/8c77eebb-f36c-4361-b8b5-048a7f-f4cefc/okv_kertomus2018_suomi_netti.pdf, 92-95 (in Finnish).

127 The Chancellor of Justice annual report 2019 K 12/2020 vp (Chancellor of Justice 2019) https://www.okv.fi/media/filer_public/a1/44/a14476e4-1d91-434e-b2fb-d38fdb340d4c/okv_kertomus_2019_fi_low.pdf, 86-87 (in Finnish).

128 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 22-23.

Equality in fertility treatments

The National Non-Discrimination and Equality Tribunal has addressed the equality of access to fertility treatments.¹²⁹ A woman living alone felt discriminated against when she had been denied access to fertility treatments in public healthcare. The applicant applied for infertility treatments on medical grounds. In accordance with the hospital's policy, public healthcare units did not make financial commitments to private clinics for gamete donation treatment due to a shortage of resources, and public sector does not provide infertility treatments on non-medical grounds. The National Non-Discrimination and Equality Tribunal has stated that such a policy excludes treatment of all patient groups that use donated gametes and thus places independent women in a disadvantaged position. It had not been established whether there would be other means that would not lead to discrimination against a particular group and which would ensure the adequacy of public healthcare resources. According to the National Non-Discrimination and Equality Tribunal, the respondent's actions were not appropriate or necessary to achieve the objective of ensuring resources and it stated that the applicant had been discriminated against on the basis of her family situation when her access to fertility treatment in public healthcare was completely denied.¹³⁰

129 The National Non-Discrimination and Equality Tribunal case 348/2017 (14 June 2019) https://www.yvtltk.fi/material/attachments/ytaltk/liitteet_ytaltk/MCtzdku8t/YVTltk-tapausseloste-2019-hedelmoityshoito-syrjinta.pdf (at the time of writing on 30 October 2020, the decision is not legally valid), (in Finnish).

130 Ibid.

Equality in sports

According to the Ombudsman for Equality, the equal treatment, attitudes and practical actions should be emphasised evenly in sports and exercise. All gender representatives should also be provided with equal opportunities and resources. In addition, decision-making related to sports and exercise should always take into account the realisation of factual equal opportunities. Consequently, practical work should also promote effective gender equality in sports.¹³¹

In order to ensure equality in swimming pools, the recommendation of the Finnish Swimming Teaching and Lifesaving Federation, Finnish Swimming Federation and the swimming hall and spa association (Uimahalli- ja kylpylätekninen yhdistys) to allow burkinis and swim shorts in swimming pools should be introduced. The Non-Discrimination Ombudsman handled cases in which Muslim women and girls wearing burkinis were denied access to a swimming pool. The Non-Discrimination Ombudsman considers it important that Muslim women and girls also have equal access to the swimming pool. The burkini must be made of material meant for swimming, and the burkini design can be restricted for safety reasons, such as banning any flapping parts. Although each swimmer may be expected to wash before entering the pool, the assumption of a person's hygiene is not an acceptable reason to prohibit or restrict the use of a burkini. Consequently, the Non-Discrimination Ombudsman has recommended that burkinis should be allowed in all swimming pools.¹³²

The construction of private washing facilities is recommended to promote equality between all groups of people and persons. For example, the actual equality of persons with disabilities can be endangered without a private washing or dressing space. Private washing facilities would also promote the equality of persons belonging to gender minorities and different religious communities.¹³³

Equality at regional and local level

According to the Human Rights Delegation, services must be available in sparsely populated areas and at reasonable distances from population centres, in accordance with the Constitution's principle of equality. In particular, healthcare and treatment services, social services, services related to public security and public transport and other transport services are services that must be equally available nationally.¹³⁴

According to the Human Rights Delegation, municipalities have no clear structures to coordinate fundamental and human rights work. The local level should also be linked more closely to the debate on fundamental and human rights.

The commitment of regional and local administrative organs to the implementation of fundamental and human rights should be promoted by extending the coordination of fundamental and human rights and related structures to the regional and local level.¹³⁵

134 Human Rights Delegation's recommendations (n 12), 2; Human Rights Delegation's recommendations' background material (n 12), 16

135 Human Rights Delegation's recommendations (n 12), 1; Human Rights Delegation's recommendations' background material (n 12), 7-8

131 Ombudsman for Equality 2019 (n 113), 36.

132 Non-Discrimination Ombudsman 2019 (n 99), 27-29.

133 Ibid., 27-28.

2 Right to life and personal liberty and integrity

Section 7 of the Constitution of Finland ensures the right to life, personal liberty and integrity. The right to personal liberty and integrity also contains prohibition of death sentences, torture and treating people in a manner that otherwise violates their human dignity.¹³⁶

Rights of children placed in care outside the home

There are shortcomings in the restrictive measures used on children that are placed in care outside their home. According to the Parliamentary Ombudsman, restrictive measures have been used in ways or situations that are not permitted by the Child Welfare Act. The restriction of children's fundamental rights in substitute care units and by social workers have often been considered acceptable from the perspective of educational rules. During its inspection visits, the Parliamentary Ombudsman has observed that the difference between

restrictive measures and approved educational methods is not always recognised. Instead, children are restricted on educational grounds without making an appealable decision. In other words, substitute care units and social workers do not always have the ability to distinguish between what is acceptable educational restriction and what is restriction of the child's fundamental rights as referred to in law.¹³⁷

The Parliamentary Ombudsman has observed unlawful restrictive measures during several visits. In some units, the freedom of movement of children was restricted by a private caretaker's decision as a punishment for the children's behaviour, and at the same time, the children's communication was restricted by taking possession of their phones and disconnecting the internet. Neither did the children receive the funds they would have been entitled to under the Child Welfare Act. The Parliamentary Ombudsman has stressed that inappropriate and demeaning treatment of children seriously endangers the interests and rights of the child placed in care, and that the rights safeguarded by the Constitution were

¹³⁶ Constitution of Finland (n 3), section 7.

¹³⁷ Parliamentary Ombudsman 2019 (n 119), 102, 129-130.

not fully realised in this case.¹³⁸ One institution unfoundedly restricted children's freedom of movement, social life and self-determination. The children of another facility had to knock on the door of their room if they wanted to leave it. The children were not always allowed to leave. According to the Deputy-Ombudsman, this seemed to be "room arrest", a practice that was demeaning to children. A visit revealed that children's social relationships were restricted or banned entirely by, for example, prohibiting discussions between the children in different situations. The Deputy-Ombudsman has also drawn attention to the fact that the duration of isolation laid down in law is absolute and cannot be exceeded. A child can only be isolated if the legal requirements are met.¹³⁹

138 Ibid., Parliamentary Ombudsman 2019 (n 119), 135.

139 Parliamentary Ombudsman 2019 (n 119), 104-110.

Right to self-determination of persons living in institutional care

The Parliamentary Ombudsman has expressed its concern about shortcomings in the right to self-determination in the care for older people and for persons living in institutional care. The used restrictive measures may be unjustified and without legal grounds. The restrictive measures may also be excessive or inconsistent. In addition, there are shortcomings in the monitoring of restrictive practices and controllability of the measures. The Parliamentary Ombudsman states that restrictive measures should be based on law.¹⁴⁰

There has been uncertainty, shortcomings and negligence in practices to restrict the right to self-determination of institutionalised persons with disabilities. According to the Parliamentary Ombudsman, the amendment to the restrictive measures provision of the act on special care for persons with intellectual disabilities has improved the situation, but the restrictive practices still vary between the institutions.¹⁴¹

HRC has also pointed out the lack of legislation regulating measures that restrict the right to self-determination.¹⁴² In many areas of social welfare and healthcare, the right to self-determination is restricted without legal grounds. According to HRC, there is a common understanding of the need for new legislation.¹⁴³

140 Ibid., 129-130.

141 Ibid., 130.

142 Human Rights Centre, Ikäntyneiden henkilöiden oikeudet - keskeiset kansainväliset sopimukset ja kansallinen lainsäädäntö, HRC's publications 1/2019 (HRC 1/2019) <https://www.ihm-isoikeuskeskus.fi/julkaisut/2/ihmisoikeuskeskuksen-julkaisut/>, 25 (in Finnish).

143 HRC/35/2019 (n 96), 14.

Children's rights in international warfare

In its decision, the Chancellor of Justice has considered whether the authorities or the government has an obligation to repatriate the Finns or persons with a permanent residence permit in Finland from the al-Hol refugee camp. The Chancellor of Justice has received several complaints criticising the Finnish government, the concurrent Prime Minister Antti Rinne, the Minister for Foreign Affairs Pekka Haavisto and the Ministry for Foreign Affairs, and the Minister of the Interior Maria Ohisalo for not initiating repatriations in accordance with Finnish legislation and the international obligations binding Finland. According to the Chancellor of Justice, the matter is legally complex.

The Chancellor of Justice has weighed the matter from the perspectives of the persons at the camp, especially children, fundamental and human rights and the safety of people living and residing in Finland. In its decision, the Chancellor of Justice stated that the government and ministers have acted lawfully in the matter of repatriating Finnish women and children from the Syrian camp.¹⁴⁴

Complaints related to Pekka Haavisto, the Minister for Foreign Affairs, mostly related to the alleged pressurisation and transfer to other duties of an official of the Ministry for Foreign Affairs. In its decision, the Chancellor of Justice has stated that it does not investigate the actions of Haavisto, as the matter is pending in the Parliament's Constitutional Law Commit-

tee.¹⁴⁵ In December 2020, the Constitutional Law Committee made a statement that the Minister for Foreign Affairs has not acted unlawfully in their official duties in this matter within the meaning of section 116 of the Constitution. The Constitutional Law Committee thus considers that there are no prerequisites for prosecution.¹⁴⁶

In its annual report, the Ombudsman for Children has considered the position of the child in international warfare in the case of the al-Hol refugee camp. The opinion of the Ombudsman for Children has been that the right to life of the children in the camp and the full conditions for development should be ensured without discrimination based on the background of their parents or other guardians. Finland should be ready to act if the child's situation is assessed to be endangered to the extent that they need immediate protection. The Ombudsman for Children has emphasised the importance of the child's best interests and the importance of individual and situation-specific consideration in the planning of measures. It should be possible to return children to Finland both with and without the parent on a case-by-case basis. According to the Ombudsman for Children, children cannot be held responsible for their parents taking them to battle zones. Thus, the government must ensure the well-being and safety of children even when a Finnish child is abroad. The Ombudsman for Children has stated that, due to the obligations

144 The Chancellor of Justice, 'Oikeuskansleri Tuomas Pöystiltä ratkaisu kanteluihin Syyriassa leirillä olevien kotiuttamiseksi' (10 October 2019) <https://www.okv.fi/fi/tiedotteet-ja-puheenvuorot/520/oikeuskansleri-tuomas-poystilta-ratkaisu-kanteluihin-syyriassa-leirilla-olevien-kotiuttamiseksi/> (in Finnish); The Chancellor of Justice/998/1/2019 (9 October 2019) https://www.okv.fi/media/filer_public/83/3e/833e7e8c-340d-48d8-b393-f976fe41f067/okv_998_1_2019_jne.pdf (in Finnish).

145 Yle, 'Oikeuskansleri ei ryhdy toimiin Pekka Haavistosta tehdyissä al-Hol-kanteluissa' (2 January 2020) <https://yle.fi/uutiset/3-11142126> (in Finnish).

146 The Parliament, 'Perustuslakivaliokunnan mietintö muistutuksesta ulkoministeri Pekka Haaviston virkatoimen lainmukaisuuden tutkimisesta on valmistunut' (9 December 2020) <https://www.eduskunta.fi/FI/tiedotteet/Sivut/Perustuslakivaliokunnan-mietinto-muistutuksesta-ulkoministeri-Pekka-Haaviston-virkatoimen-lainmukaisuuden-tutkimisesta-.aspx> (in Finnish).

laid down by the Convention on the Rights of the Child and the special situation of the children, it is justified to make every effort to get the children out of the battle zones. Of some 30 children with a Finnish background, two orphans have been brought back to Finland with the assistance of the Ministry for Foreign Affairs. For the other children, the Ombudsman for Children has considered the situation unsustainable and has stated that in such an exceptional situation, solutions that safeguard the best interests of the child and the right to special protection, survival and development should be sought.¹⁴⁷

Violence and discrimination against children

According to the Ombudsman for Children, the impact that measures aimed at eradicating violence against children have on the realisation of children's rights should be assessed regularly, and development work should be based on researched data. The Ombudsman for Children considers it essential to ensure the availability and quality of support services for children who have been victims of sexual offences. Currently, the services of the support centres for victims of sexual offences (SERI support centres) are only for those aged 16 or over. As part of the measures related to the eradication of violence, there is a proposal for legislation that would enable the investigation of the criminal background of persons working with children in employment relationships lasting less than three months. The Ombudsman for Children has pointed out that legislation should contain the possibility of investigating the criminal background at regular intervals when the task is long term, such as every three years.¹⁴⁸

Mental and physical violence by parents or other caring adults is considerably more common in children and young people that con-

sider themselves to be of gender and sexual minorities. According to the Ombudsman for Children, the reform of the Trans Act must take into account children and young people, and legislation related to the legal confirmation of gender must support the healthy growth of the child's identity, protect the child from hostile attitude in their environment and ensure the child's rights. In addition, the Ombudsman for Children has stated that also intersex children and their families must be ensured timely, high-quality and adequate care and support services. According to the Government Programme for 2019, the right to self-determination of intersex children is strengthened and cosmetic non/medical genital surgery of small children will be abandoned, which the Ombudsman for Children considers a positive measure.¹⁴⁹ However, the entry has not yet led to concrete measures, even though a study commissioned by the Ministry of Justice was completed in early 2019, investigating how decisions made in connection with the birth of intersex children and treatment during childhood and youth have affected their lives¹⁵⁰.

The Ombudsman for Children has investigated the bullying, discrimination and inappropriate treatment encountered by children and young people. The Ombudsman for Children has emphasised that all children and young people should be allowed the opportunity to have hobbies and spend their free time safely in an environment that respects their rights, as leisure time is a key area of children's life.¹⁵¹ According to the Ombudsman for Children, the Ministry of Education and Culture must coordinate a national programme to prevent violence, inappropriate treatment and harassment in

149 Ibid., 21-22.

150 Government, 'Selvitys intersukupuolisten ihmisten kokemuksista valmistunut' (28 February 2019) <https://valtioneuvosto.fi/-/selvitys-intersukupuolisten-ihmisten-kokemuksista-valmistunut> (in Finnish).

151 Ombudsman for Children 2020 (n 95), 38-39.

147 Ombudsman for Children 2020 (n 95), 51-53.

148 Ibid., 28-29.

sports and cultural activities. In addition, the hobby guarantee¹⁵² introduced as an objective during the previous government term should be reintroduced in the discussion on the leisure time of children and young people, as the hobby guarantee has not been realised in three out of the four municipalities examined. The objective registered for this government term is to apply the Icelandic model, which aims to enable each child to engage in hobbies during the school day, strengthens even free-form hobbies in addition to goal-oriented hobbies. However, the Ombudsman for Children has criticised the Icelandic model's adult-based lead and the moderate inclusion of children. The Ombudsman for Children has thus emphasised that children and young people should be included in the planning of leisure time when making reforms in sports and cultural matters.¹⁵³

Violence against women

The Supreme Court's decision KKO:2019:17 concerned a situation in which the injured party refused to testify in a matter related to intimate partner violence because they had been married to the defendant and had two children together. The Supreme Court noted that the injured party had no right to refuse to give evidence under chapter 17, section 18, subsection 2 of the Code of Judicial Procedure, as the defendant's previous violence against the injured party gave reason to suspect that the injured party had not decided to exercise the right to refuse to give evidence themselves. The Supreme Court thus suspected that the injured

party's decision was a result of being pressured. The injured party's pre-trial investigation report could be taken into account in the trial and the police that had been at the scene was heard about what the injured party had told them.¹⁵⁴

The Chancellor of Justice has urged the National Police Board to supplement its guidelines on domestic violence. In order to better comply with the requirements of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), the special characteristics of domestic violence and the vulnerable status of victims of violence should be taken into account. According to the Chancellor of Justice, the guidelines do not indicate clearly enough that the authority must, on its own initiative, provide the victim with information on support services and assess the victim's need for protection in the early stages. The assessment of need for protection must be able to take into account the typical recurrence of intimate partner violence, its aggravation and other risk factors. The guidelines concerning restraining orders are also lacking, as they do not mention intimate partner violence as a type of crime, for example.¹⁵⁵ Although victims of intimate partner violence and applicants for a restraining order may be men, the victim or applicant for a restraining order is usually a woman.

The HRC has expressed its concern about the frequency of violence against women. Every fifth woman has encountered violence

152 Promoting children and young people's possibilities for recreational activities - Central government grant practices and facilitating voluntary activities (2017) Publications of the Ministry of Education and Culture 10/2017 http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/79521/OKM_10_2017.pdf?sequence=1&isAllowed=y (26 June 2020), (in Finnish).

153 Ombudsman for Children 2020 (n 95), 39.

154 Supreme Court, KKO:2019:17 (28 February 2019) <https://korkeinoikeus.fi/fi/index/ennakokopaatokset/1551266450080.html> (in Finnish).

155 Chancellor of Justice, 'Parisuhdeväkivallan erityispiirteet jäävät vähälle huomiolle Poliisihallituksen ohjeissa - apulaisoikeuskansleri kehottaa parantamaan ohjeistusta' (28 November 2019) <https://www.okv.fi/fi/tiedotteet-ja-puheenvuorot/526/parisuhdevakivallan-erityispiirteet-jaavat-vahalle-huomiolle-poliisihallituksen-ohjeissa-apulaisoikeuskansleri-kehottaa-parantamaan-ohjeistusta/> (in Finnish).

by their spouse. About 30% of women and girls are concerned about sexual violence. Sexual violence, domestic violence, intimate partner violence, sexual harassment, and the silent acceptance of the above are disturbingly common in Finland. Therefore, according to the HRC, gender equality is not realised in terms of personal safety. The HRC has stated that the funding and resources allocated to combating violence against women are insufficient. There are also shortcomings in how the police registers cases of domestic violence and in the support services for the victims. Especially immigrant women and other particularly vulnerable women suffer the most from these shortcomings.¹⁵⁶

In 2018 and again for the government term 2019–2023, the Human Rights Delegation recommended that the funding and coordination of work against violence against women and domestic violence should be improved. The Human Rights Delegation has also recommended developing services for people who have experienced domestic violence and ensuring sufficient special expertise in different parts of Finland. Violence against women should be combated with legislative measures, such as by reforming the legislation related to sexual crimes.¹⁵⁷

Restrictive measures and use of force in healthcare

In accident and emergency healthcare units, there are so-called safe rooms which are used to detain aggressive or intoxicated patients. The use of the safe rooms is not legislated. The Parliamentary Ombudsman has considered that the conditions, duration, decision-making procedure, decision-maker and legal remedies for the deprivation of liberty due to the use

of safe rooms should be laid down by law in such a way that the prerequisites for restricting fundamental rights are met.¹⁵⁸

The Mental Health Act lacks a legal basis for the nursing staff's use of force to restrict a patient's freedom of movement outside the hospital area and to collect a patient from outside the hospital area. There is no legal basis for transporting a psychiatric patient to areas other than healthcare units, the treatment and conditions of the patient during transport and the powers of the escorts. In addition, psychiatric hospitals can use private security companies to carry out tasks for which they are not legally qualified. According to the Parliamentary Ombudsman, these legislative shortcomings are constantly causing problems and potential hazards.¹⁵⁹

The Deputy-Ombudsman has considered that binding an aggressive patient at the emergency unit with restraints and sheets violated the complainant's personal liberty.¹⁶⁰ According to the Deputy-Ombudsman, a restrictive measure is only allowed for the duration of the emergency and must be stopped as soon as it is no longer necessary. The use of sheets as a binding device did not meet the authority's safety requirements, and the sheets should therefore not be used to bind a patient under any circumstances.¹⁶¹

158 Parliamentary Ombudsman 2019 (n 119), 131.

159 Ibid.

160 Parliamentary Ombudsman, Potilaan hoito ja kohtelu EOAK/5485/2018 (13 December 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/5485/2018> (in Finnish).

161 Ibid.; Parliamentary Ombudsman 2019 (n 119), 136, 240–241.

156 HRC/35/2019 (n 96), 5–8.

157 Human Rights Delegation's recommendations (n 104), 1–2; Human Rights Delegation's recommendations' background material (n 104), 6 and 16.

Rights of prisoners and remand prisoners

The Parliamentary Ombudsman stated in its 2018 and 2019 annual reports that in closed wards, the time prisoners spend outside their cells is below the recommended eight hours per day.¹⁶² The lack of activities is also a problem in many prisons. The EOA has pointed out that remand prisoners and prisoners who are serving a sentence are not placed separately as required by law. In addition, minors should not be placed in the same wards as adults, but there are no separate wards for minors.¹⁶³

For over 20 years, the Council of Europe Committee for the Prevention of Torture (CPT) has criticised Finland for the excessive retention of remand prisoners in police prisons. The Remand Imprisonment Act was amended in 2019 so that a remand prisoner may not be held in police custody for more than seven days without a weighty reason. According to the Parliamentary Ombudsman, the detention periods of remand prisoners in police prisons have reduced because of the amendment.¹⁶⁴

The Deputy-Ombudsman has commented on the treatment of a prisoner in the observation cell. The complainant was placed in the observation cell's isolation space naked and

with their hands tied behind their back. According to the Deputy-Ombudsman, the complainant's circumstances were unlawful and violated their human dignity. The complainant had been denied clothes and bedding in the observation cell, and a person of the opposite sex had also been present in the strip search. The long-lasting duration of the procedure and its occurrence under camera surveillance have made it more reprehensible. According to the Deputy-Ombudsman, the complainant's right to personal liberty and privacy had been violated.¹⁶⁵ Furthermore, the Deputy-Ombudsman has not ruled out the violation of rights under the European Convention on Human Rights¹⁶⁶ Article 3 concerning the ban on torture, at least from the point of view of degrading treatment.¹⁶⁷

According to the HRC, remand prisoners are not always provided with proper and adequate healthcare in police prisons. For example, there are cases of missing medication and treatment for remand prisoners with diabetes.¹⁶⁸ In addition, persons with disabilities held on remand or in prison are particularly vulnerable due to the lack of reasonable accommodation.¹⁶⁹

162 Parliamentary Ombudsman Annual Report 2018 K/11/2019 vp <https://www.oikeusasiamies.fi/documents/20184/42383/2018-fi/d41f123c-55c8-465e-9dd7-a154c59bc4fc>, 89 and 122 (in Finnish).

163 Parliamentary Ombudsman 2019 (n 119), 131 and 213.

164 Ibid., 131; Remand Imprisonment Act 23 September 2005/768 <https://finlex.fi/fi/laki/kaanokset/2005/en20050768>, chapter 2, section 1; Act on amending chapter 2, section 1 and chapter 3, section 8 of the Remand Imprisonment Act 103/2018 (30 January 2018) <https://www.finlex.fi/fi/laki/alkup/2018/20180103>, chapter 2 section 1 (in Finnish).

165 Parliamentary Ombudsman, Tarkkailuun sijoittaminen ja olosuhteet sen aikana EOAK/5960/2018 (19 August 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/5960/2018> (in Finnish).

166 European Convention on Human Rights (4 March 1950, entered into force in Finland in 1990) https://www.echr.coe.int/documents/convention_eng.pdf, Article 3.

167 EOAK/5960/2018 (n 165); Parliamentary Ombudsman 2019 (n 119), 139.

168 HRC/35/2019 (n 96), 16.

169 Ibid., 16.

3 Protection of privacy

Section 10 of the Constitution of Finland ensures the right to private life, honour and sanctity of home to everyone. The protection of privacy also includes the secrecy of letters, phone calls and other confidential communications.¹⁷⁰

Older people's right to privacy

According to the Parliamentary Ombudsman, privacy should be guaranteed while processing lifecycle data and providing treatment for older people in institutional care, especially if two or more persons reside in the same room. Older people who need long-term institutional care should have their own room and sanitary facilities. Persons who do not know each other should not be placed in twin rooms against their will.¹⁷¹

Children's right to privacy

The Deputy-Ombudsman has considered children's right to privacy as residents of a children's home. The personnel had photographed the children for picture books of memories made for them. The Deputy-Ombudsman's decision weighed whether photos of children taken in a children's home are confidential per-

sonal data, or whether they can be given to the children as personal memories of childhood. Being a customer of child welfare services is confidential information, and the images might indicate the identity of other residents. After consideration, the Deputy-Ombudsman supported giving the photos to the children on the grounds that the prerequisites for the disclosure of photos and the risk of their publication must be assessed separately in the legal review. Giving the photos to the children cannot be prevented only because of their possible publication.¹⁷²

During inspection visits, the Deputy-Ombudsman has noticed several shortcomings in the right to privacy of children living in institutions. An inspection revealed that girls living in the facility were not allowed to decide which hygiene products they would use during their menstrual period. They also did not have the opportunity to buy the hygiene products they wanted. According to the Deputy-Ombudsman, the institution's practice concerning period products restricted the girls' right to make decisions on their own body and to decide on personal and privacy matters. It was also demeaning to the girls. At another institution, children were stripped naked during a per-

¹⁷⁰ Constitution of Finland (n 3), section 10.

¹⁷¹ Parliamentary Ombudsman 2019 (n 119), 146, 275-277.

¹⁷² Parliamentary Ombudsman, Valokuvien luovuttaminen lastenkodin lapsille EOAK/6465/2019 (31 December 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/6465/2019>; Parliamentary Ombudsman 2019 (n 119), 265-268 (in Finnish).

sonal check, while the instructors examined the child's body, even though the Child Welfare Act does not justify removing the clothes of a child during a personal check. The Deputy-Ombudsman has stated that when carrying out a personal check, the chosen method of implementation must cause as little harm to the child as possible. The Deputy-Ombudsman has also demanded that the practice of removing a child's clothes be abandoned immediately.¹⁷³ In addition, the Deputy-Ombudsman has intervened in the prohibitions on make-up, hair dye, piercings and the use of clothes that the institution considers inappropriate. According to the Deputy-Ombudsman, the provisions on the appearance of a child in institutions interferes with the children's right to self-determination and protection of privacy.¹⁷⁴

The guardians' right and responsibility for protecting the child's privacy in social media and for the child's own behaviour in social media have aroused discussion. According to the Ombudsman for Children, monitoring and spy software installed on a child's phone might not only infringe the child's right to privacy, but also jeopardise the child's trust in their guardians. The Ombudsman for Children has also commented on the guardians' right to publish photos and videos of their children, for example on social media, stating that guardians must refrain from publishing photos that violate the child's privacy. However, the situations require case-by-case interpretation due to the diversity of the matter. The Ombudsman for Children has stated that guardians need information on the child's right to privacy and concrete instructions for its application. The national implementation programme of the Lanzarote Convention¹⁷⁵

included in the Government Programme 2019 should pay particular attention to online harassment and abuse.¹⁷⁶

Prisoners' right to privacy

In its inspection visits to police prisons and prisons, the Parliamentary Ombudsman has noticed several shortcomings in the implementation of prisoners' privacy. There have been shortcomings in the realisation of privacy in toilets. For example, in some police prisons, the inmates placed in cells have had to relieve themselves in sight of the others placed in the cells. Several prisoners should only be kept in the same cell at the same time if the cell's toilet seat is separated from the rest of the space, or there are separate toilet facilities. According to the Parliamentary Ombudsman, camera surveillance cannot be considered acceptable during a prisoner's visits to the toilet or when washing, even if monitoring the prisoner with cameras is otherwise permitted. Camera surveillance during a visit to the toilet is only permitted if the prisoner is under isolation observation. However, even then there must be arrangements to maintain at least some privacy.¹⁷⁷

The privacy of persons deprived of their liberty should be protected at the entrances of police prisons and in outdoor recreational facilities, so that third parties have no direct visual contact with these places. In case of sampling related to substance abuse control, the prisoner's privacy should be protected in the best possible way in view of the circumstances. In addition, phones allocated to prisoners should be protected so that outsiders cannot listen to conversations held with normal volume by the telephone booths.¹⁷⁸

173 Parliamentary Ombudsman 2019 (n 119), 107-110.

174 *Ibid.*, 107.

175 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, entered into force on 1 July 2010, and in Finland on 1 October 2011) <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084822>.

176 Ombudsman for Children 2019 (n 95), 26.

177 Parliamentary Ombudsman 2019 (n 119), 145-147, 211-212.

178 *Ibid.*, 146.

Protection of privacy in authorities' premises and procedures

The Parliamentary Ombudsman's theme for 2019 was the right to privacy. In relation to the special theme, the Parliamentary Ombudsman paid attention to the appropriateness of the premises used by authorities and the realisation of the privacy of customers or persons placed in the premises. According to the Parliamentary Ombudsman, authorities' premises must always be suitable for handling confidential information and confidential discussions. Attention must be paid to the equipment and supervision of the premises if the facilities are used for keeping people in custody. There should also be enough habitable rooms.¹⁷⁹

According to the Parliamentary Ombudsman, the authority's employee must know the grounds for the measures restricting the freedom of action of the person subject to the measure, the methods of implementation, alternative operating models and the confidentiality and secrecy provisions of its administrative branch in order for the authority to exercise the right to privacy in concrete terms. In addition, the authority's employees must be familiar with the processing methods of confidential data. The Parliamentary Ombudsman has pointed out problems in the police announcements, for example.¹⁸⁰

The Human Rights Delegation has recommended that the government ensure information security and the protection of data and privacy in the implementation and utilisation of digitalisation and new technologies.¹⁸¹

179 Ibid., 145-146.

180 Ibid, 147, 176-177.

181 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 22-23.

Privacy and activities of the intelligence authority

In its first annual report after starting work in 2019, the Intelligence Ombudsman discussed the intelligence methods' relation to respecting fundamental and human rights. When using intelligence methods, it is necessary to balance the protection of privacy and other fundamental and human rights of the individuals who are the subjects of intelligence against the general national security. According to the Intelligence Ombudsman, intelligence methods should be used in accordance with the principle of minimum harm, respecting fundamental and human rights. The principle of minimum harm means that the exercise of intelligence powers must not interfere with anyone's rights nor cause more harm or damage to anyone than is necessary. The intelligence authority must also choose the alternative that best promotes the implementation of fundamental and human rights when exercising their powers.¹⁸²

182 The Intelligence Ombudsman's annual report 2019, K 14/2020 vp (Intelligence Ombudsman 2019) <https://tiedusteluvalvonta.fi/documents/12994206/22784442/Tiedusteluvalvontavaltuutetun+kertomus+vuodelta+2019/60544677-62f2-04f6-1c86-a54e7b66e102/Tiedusteluvalvontavaltuutetun+kertomus+vuodelta+2019.pdf>, 22, 27, 29 (in Finnish).

4 Freedom of religion and conscience

Freedom of religion and conscience is safeguarded in section 11 of the Constitution of Finland. Freedom of religion and conscience entails the right to profess and practice a religion, the right to be a member of or decline to be a member of a religious community and the right to express one's convictions.¹⁸³

Freedom of religion in education

The Parliamentary Ombudsman issued a statement about the way schools organise their Christmas celebrations. The rights to freedom of religion and equality laid down in the Constitution require that pupils must not be forced to participate in the exercise of religion against their will. The Christmas celebrations are part of the teaching and school activities in which pupils must participate. If the Christmas celebrations are organised as a religious event, the school may violate the freedom of religion and conscience of the pupil and their guardians, as well as equal access to the school's Christmas celebrations. The school's Christmas or end-of-year celebrations cannot thus be religious events. Instead, they must be organised so that all pupils in the school can participate regardless of their conviction. The Deputy-Ombudsman also considers it problematic that

end-of-term celebrations are organised at a church, as it is a place intended for religious services and the church itself conveys religious connotations.¹⁸⁴

According to the current legislation on religious education, a child belonging to a religious community cannot participate in ethics teaching if the school provides teaching in their religion.¹⁸⁵ In Finland, therefore, a child belonging to the Evangelical Lutheran Church cannot participate in the teaching of ethics, even if they wish to do so. According to the Ombudsman for Children, this violates the equality of children.¹⁸⁶ The Ombudsman for Children has stated that the organisation of the education of ethical subjects should be examined from the perspective of children and young people, and the legislation on religious education should be specified to correspond to the UN Convention on the Rights of the Child. The Ombudsman for Children has also pointed out that the shortcomings in organising education of smaller religions lead to some children being without religious education.¹⁸⁷

184 Parliamentary Ombudsman, *Koulujen uskonnolliset juhlat ym.* EOAK/2186/2018 (5 November 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/2186/2018> (in Finnish); Parliamentary Ombudsman 2019 (n 119), 149-150, 316

185 Basic Education Act 628/1998 <https://finlex.fi/en/laki/kaannokset/1998/en19980628>, section 13.

186 Ombudsman for Children 2020 (n 95), 25.

187 Ibid.

183 Constitution of Finland (n 3), section 11.

5 Freedom of expression and publicity

Section 12 of the Constitution of Finland guarantees everyone the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other messages without prior prevention by anyone. Section 12 of the Constitution also regulates the publicity of documents and other recordings held by the authorities. Documents and other recordings are mainly public, unless their publication has been specifically restricted by an act for compelling reasons. In addition, everyone has the right of access to public documents and recordings.¹⁸⁸

188 Constitution of Finland (n 3), section 12.

Weighing freedom of expression and privacy

The Supreme Court has weighed up the boundary of freedom of expression and privacy in the case of communication in social media. In one case, the Supreme Court considered whether the published online messages violated A's right to privacy or whether they fell under the publisher's freedom of expression. The Supreme Court stated that the role of the person concerned is an important criterion when weighing between the protection of privacy and freedom of expression, and that private individuals are under a strong privacy protection. On the other hand, the publication format of the information interfering with privacy or the technical aspects of mass communications do not affect the criteria for assessing freedom of expression and protection of privacy. The online messages included A's full name, picture and workplace. A had also been referred to as an "online snitch" and "paedophile protector". Based on the content of the messages, the Supreme Court considered it obvious that they violated A's right to privacy and ordered the distribution of the messages to be suspended.¹⁸⁹

189 Supreme Court, KKO:2019:81 (23 September 2019) <https://www.korkeinoikeus.fi/fi/index/ennakkopaatokset/1568971430957.html> (in Finnish).

The Chancellor of Justice has also noticed issues relating to the boundaries between freedom of expression and protection of privacy in social media communications. In its decisions, the Chancellor of Justice has considered the official and behavioural obligations of ministers and persons in municipal positions of trust, as well as the validity of these official and behavioural obligations when communicating through private social media accounts. The Chancellor of Justice's decisions show that freedom of expression allows for even acrimonious criticism if it relates to a debate in a socially important context. Such criticism must relate to the criticised person's work, not to the person themselves. However, if the criticism is too harsh and focused on a particular person, it may be an obstacle to participation in a public debate. Ministers have the right to freedom of expression, which provides strong protection for participation in societal debate and for communication that is part of political activity.¹⁹⁰

190 Chancellor of Justice 2019 (n 127), 83-85.

The Deputy-Ombudsman has stated that photography is a form of freedom of expression secured as a fundamental right. In this case, the hospital's security steward had acted incorrectly by asking the person to delete the images they had taken of the hospital's waiting room. The restriction of fundamental rights must be based on powers laid down in legislation. The security steward does not have such power but should have informed the photographer that photographs of the patients and distributing them may violate the patients' right to privacy. However, according to the Deputy-Ombudsman, a person at a health centre has the right to expect their privacy to be protected. As the weighing between fundamental rights is primarily the responsibility of legislators, the Deputy-Ombudsman has drawn the attention of the Ministry of Social Affairs and Health and the Ministry of Justice to the need to regulate the matter by law.¹⁹¹

191 Parliamentary Ombudsman 2019 (n 119), 242.

6 Freedom of assembly and association

Section 13 of the Constitution of Finland ensures everyone the right to arrange meetings and demonstrations without a permit, as well as the right to participate in them. The subsection two of section 13 also allows everyone the freedom of association. The freedom of association includes the right to establish an association without permission, to belong or not to participate in the association and to participate in the association's activities. The freedom of association also safeguards the freedom of trade unification and the freedom to unionise to protect the interests of others.¹⁹²

192 Constitution of Finland (n 3), section 13.

Demonstrations and right of appeal

On its own initiative, the Parliamentary Ombudsman has investigated the activities of the police in relation to the cessation and transfer of demonstrations organised at Helsinki Railway Square in June 2017. The police had not made an appealable decision on the cessation and transfer. Instead, it considered the action as an administrative measure that does not need an appealable decision. The Parliamentary Ombudsman has stated that the decision in question is a decision concerning the rights and obligations referred to in section 21 of the Constitution regarding legal protection. Such decisions cannot be regarded as non-appealable effective administrative action, as they interfere with the right to organise and participate in demonstrations safeguarded by section 13 of the Constitution. Therefore, such decisions must be accompanied by instructions for appealing, so that the body that decides on the right to appeal is ultimately a court of law.¹⁹³

193 Parliamentary Ombudsman, Poliisin menettely rautatien torin mielenosoitusten yhteydessä EOAK/5998/2017 (18 December 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/5998/2017> (in Finnish); Parliamentary Ombudsman 2019 (n 119), 150.

Prohibition of association activities

The Supreme Court granted leave to appeal in a matter concerning the request to disband the Nordic Resistance Movement. At the same time, the Supreme Court prohibited its activities until the final decision on the matter was given. According to the National Police Board demanding a temporary activity ban, the prerequisites for disbanding exist, as the association acts fundamentally against the law and good practices. According to the National Police Board, the association disseminates hate speech about immigrants, sexual minorities and Jews by accepting violence in the activities of the association, questioning the Holocaust and advocating fascists. According to the Nordic Resistance Movement, the association operates within the limits of freedom of expression and association and has thus denied the allegations of the National Police Board.¹⁹⁴ In its September 2020 judgment, the Supreme Court stated that the association's objectives were contrary to the principles of a democratic society and their core values laid down in the Constitution and the Criminal Code. At the same time, the Supreme Court ordered the association to disband.¹⁹⁵

194 Supreme Court, #KKO myönsi Pohjoismaiselle vastarintaliikkeelle valitusluvan ja kielsi väliaikaisesti sen toiminnan' (28 March 2019) <https://korkeinoikeus.fi/fi/index/ajankohtaista/tiedotteet/2019/kkomyonsipohjoismaisellevastarintaliikkeellevalitusluvanjakielsivaliaikaisestisentoiminnan.html> (in Finnish).

195 Supreme Court, 'KKO mukaan rekisteröimätön Pohjoismainen vastarintaliike -yhdistys toimi olennaisesti vastoin lakia, minkä vuoksi se on lakkautettava' (22 September 2020) <https://korkeinoikeus.fi/fi/index/ajankohtaista/tiedotteet/2020/pohjoismainenvastarintaliike-yhdistyslakkautettava.html> (in Finnish).

7 Electoral and participatory rights

In accordance with section 14 of the Constitution of Finland, every Finnish citizen who has reached eighteen years of age has the right to vote in national elections and referendums. Every Finnish citizen and every other citizen of the European Union resident in Finland, having attained eighteen years of age, has the right to vote in the European Parliamentary elections. Every Finnish citizen and every foreigner permanently residing in Finland, having attained eighteen years of age, also has the right to vote in municipal elections and municipal referendums.

The duty of public authorities is also to promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern themselves.¹⁹⁶

196 Constitution of Finland (n 3), section 14.

Children's right to participate in society

According to the Ombudsman for Children, particularly children's awareness of their rights and available legal remedies requires attention. Awareness of the rights of the child by professional groups working with children is also a central development target. In addition, feedback should be collected from children, and a child-friendly approach in the preparation of administrative procedures and decision-making should be ensured.

The Ombudsman for Children has considered the 2019 Government Programme's entry on the development of school education and operating practices important. The aim is to improve the capabilities of children and young people in their local environment and in the wider society. The Ombudsman for Children hopes the entry to include sufficiently resourced and concrete measures to promote children's and young people's right to participate.¹⁹⁷

197 Ombudsman for Children (n 95), 24.

Ensuring the possibility of voting

The Parliamentary Ombudsman has stated that the personnel of a psychiatric hospital should ensure that customers are aware of their possibilities to participate in general advance voting. If the customers are not aware of the possibility of voting, they understandably might not always know to ask for the opportunity to vote. In the case of isolated patients, it should be separately considered whether the patient could vote under supervision. If voting can be arranged, personnel should actively offer this opportunity. The personnel would then promote their customers' opportunity to participate in social activities by voting, as meant in the Constitution.¹⁹⁸

The Parliamentary Ombudsman carried out surprise inspections of polling stations in eight different municipalities on the election day of the 2019 European parliament elections. The inspections examined the accessibility of polling stations, the opportunities for disabled people to participate and the implementation of the secrecy of the ballot. Shortcomings were identified at almost all polling stations. The issues concerned the accessibility of the voting space or the route leading to it, for example. In addition, the lack of accessible polling booths or stations might have jeopardised the preservation of the secrecy of the ballot.¹⁹⁹

198 Parliamentary Ombudsman 2019 (n 119), 150.

199 Parliamentary Ombudsman, 'Esteettömydessä vakavia puutteita - pyörätuolilla ei päässyt äänestyspaikalle' (7 June 2019) https://www.oikeusasiamies.fi/fi_FI/-/esteettomydessa-vakavia-puutteita-pyoratuolilla-ei-paassyt-aanestyspaikalle (in Finnish); Parliamentary Ombudsman 2019 (n 119), 65-66, 130.

8 Educational rights

According to section 16 of the Constitution of Finland, everyone has the right to free basic education. The public authorities must guarantee equal opportunity to receive other educational services and the opportunity to develop yourself without being prevented by economic hardship. The educational rights also contain the freedom of science, the arts and higher education.²⁰⁰

Children's right to free basic education

The Deputy-Ombudsman has stated in several decisions that free basic education is unambiguous. Everyone has the right to participate in education on an equal basis without additional fees. Sufficient resources should be allocated to the organisation of teaching also outside the school, such as for school excursions.²⁰¹

From the perspective of free basic education and equality of pupils, the Parliamentary Ombudsman considers it problematic if a school plans and implements events that are carried out as part of the school's activities

during its working hours, and the costs of which are borne by the families. For example, the organisation of an excursion or sports day that is subject to a fee whilst offering a free alternative is problematic. This divides children into those who can afford and those who cannot afford to pay for the event. According to the Parliamentary Ombudsman, every pupil must have the opportunity to participate in school curriculum activities without additional fees and on an equal basis. Municipalities should avoid practices that effectively increase inequality. As the education providers, no discretion has been left to municipalities regarding the free access to basic education.²⁰² The Ombudsman for Children also considers that there is a need to ensure that basic education is free of charge.²⁰³

The 2019 Government Programme contains several entries related to education and learning that the Ombudsman for Children has

200 Constitution of Finland (n 3), section 16.

201 Parliamentary Ombudsman, 'Kuntien kirjavat käytänteet vaarantavat perusopetuksen maksuttomuutta' (28 October 2019) https://www.oikeusasiamies.fi/fi_FI/-/kuntien-kirjavat-kaytan-teet-vaarantavat-perusopetuksen-maksuttomuutta (in Finnish); Parliamentary Ombudsman 2019 (n 119), 315.

202 Parliamentary Ombudsman 2019 (n 119), 151; Parliamentary Ombudsman, Maksullinen toiminta perusopetuksessa EOAK/1120/2018 (23 October 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/1120/2018> (in Finnish); Parliamentary Ombudsman, Rahan kerääminen vanhemmilta valinnaisen liikunnan ja retken järjestämistä koskeviin kuluihin EOAK/2882/2018 (23 October 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/2882/2018> (in Finnish); Parliamentary Ombudsman, Maksulliset luokkaretket ja tapahtumapäivät perusopetuksessa EOAK/5984/2018 <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/5984/2018> (in Finnish).

203 Ombudsman for Children 2020 (n 95), 40-41.

commented on. For example, the Ombudsman for Children has stated that the government's objective of ensuring secondary education for each young person must be supported. Secondary education should be pleasant and meaningful for each young person, and the goal should not be fulfilled by finding or assigning everyone a study place. According to the Ombudsman for Children, the proximity of schools should also be ensured to enable equal education.²⁰⁴

Children's right to safe basic education

The Parliamentary Ombudsman has stated that the pupils' right to a safe learning environment is not always realised, especially because schools' means of detecting and intervening in bullying are often insufficient. In addition, there are problems in the legal competence, administrative procedure and decision-making of municipal educational departments and schools. According to the Parliamentary Ombudsman, appealable administrative decisions that are based on law or the Administrative Procedure Act are not always made.²⁰⁵

Together with the HRC, the Parliamentary Ombudsman has organised training on fundamental and human rights for principals and other educational management. The training has discussed fundamental and human rights from the perspective of legal matters and, on the other hand, from the perspective of the school's everyday life. The typical complaints related to the realisation of fundamental and human rights at schools that the Parliamentary Ombudsman receives concern equal access to education, shortcomings in administration and decision-making, decisions on special support, religion in school and a safe learning environment.²⁰⁶

According to the Ombudsman for Children, the school network's thinning out, which began in the 1990s, undermines the opportunities for pupils to participate in teaching, as long school trips threaten children's social relationships, leisure activities and health. In other words, teaching should be arranged at reasonable local distances at all levels of education. The Ombudsman for Children has also reminded of the safety of the school environment from the perspectives of school trips, indoor air and peace in school buildings and the eradication of bullying.²⁰⁷

Fundamental and human rights in the public sector

The Parliamentary Ombudsman has drawn attention to the shortcomings in the awareness of fundamental and human rights in the activities of the authorities. Due to the lack of competence, insufficient attention is paid to the implementation and promotion of fundamental and human rights. There is not enough training on fundamental and human rights.²⁰⁸

The Human Rights Delegation has issued several recommendations on fundamental and human rights training at all levels of government. Accessible information on fundamental and human rights must be developed and published in different languages, fitting for different communication means and methods. In addition, the knowledge base of legislative drafting should be strengthened by identifying the research needs of fundamental and human rights issues and by allocating the government's research funds for it. This knowledge base should also be enhanced by developing dialogue and increasing participation that supports decision-making for different population groups.²⁰⁹

204 Ibid., 40, 43.

205 Parliamentary Ombudsman 2019 (n 119), 132.

206 HRC, Perus- ja ihmisoikeudet opetustoimessa, Opetustoimen johdolle <https://www.ihmisoikeuskeskus.fi/ihmisoikeuskoulutus/pio-opetustoimessa/opetustoimen-johdolle/> (in Finnish).

207 Ombudsman for Children 2020 (n 95), 43.

208 Parliamentary Ombudsman 2019 (n 119), 132.

209 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 7-9.

9 Right to one's language and culture

The right to one's language and culture is safeguarded in section 17 of the Constitution of Finland. According to the Constitution, the national languages of Finland are Finnish and Swedish, and citizens must be allowed to use them in official matters. The right to one's language and culture includes the right of the Sami, the Roma and other groups to maintain and develop their language and culture. The Constitution also guarantees the interpretation and translation aid for sign language as well as for disabled people.²¹⁰

210 Constitution of Finland (n 3), section 17.

Safeguarding linguistic rights

The Parliamentary Ombudsman has drawn Kela's attention to the fact that it must consider the special needs of service users and factors related to the continuity and coverage of services in the procurement of interpretation services. Kela had not succeeded in acquiring a sign language interpreter for the complainant, and the Parliamentary Ombudsman considered that Kela should have better ensured the service continuation for the complainant in organising sign language interpretation for their studies. A customer cannot be left without the interpretation service they need due to competitive tendering or its result.²¹¹

The Human Rights Delegation has issued several recommendations on the implementation of linguistic rights for the 2019-2023 government term. According to them, the realisation of language-related rights and the opportunity to use one's language must be secured in connection with the social welfare and healthcare reforms. Special attention must be paid to the status of Swedish as a national language. The government must also enhance the opportunities for maintaining the languages and cultures of different groups and develop the supervision of the implementation of the Sign Language Act.

211 Parliamentary Ombudsman 2019 (n 119), 74.

Linguistic rights of the child

The Parliamentary Ombudsman has made a statement on ensuring the child's linguistic rights in substitute care. In one case of a child placed outside their home, the child's first language Spanish was not maintained during the first two years of substitute care, causing the child's language proficiency to deteriorate, and the common language with their mother was lost. According to the Parliamentary Ombudsman, learning and preserving a child's first language is particularly important for the formation and development of the child's identity and for keeping in touch with the family and close relatives. The Parliamentary Ombudsman has stated that the realisation of a child's linguistic rights cannot rely only on the child's communication with their close relatives. Instead, child welfare has an obligation to actively

support the child's linguistic rights. In this case, the Parliamentary Ombudsman considered the shortcomings in ensuring linguistic rights to be unlawful.²¹²

The Ombudsman for Children has drawn attention to the fact that pupils speaking Romani should receive teaching and service in their first language and that the right of Sámi-speaking children to receive teaching in their language outside the Sámi areas should be improved.²¹³

212 Parliamentary Ombudsman, Sosiaalihuollon menettely lapsen asioissa EOAK/125/2018 (28 June 2018) <https://www.oikeusasiames.fi/r/fi/ratkaisut/-/eoar/125/2018> (in Finnish); Parliamentary Ombudsman 2019 (n 119), 134–135.

213 Ombudsman for Children 2020 (n 95), 41.

10 Rights of indigenous peoples

Section 17, subsection 3 of the Constitution of Finland guarantees the Sámi as indigenous people the right to maintain and develop their own language and culture. Provisions on the right of the Sámi to use the Sámi languages for official matters are laid down by an act. Section 121, subsection 4 of the Constitution guarantees the Sámi people autonomy in their language and culture in the traditional native Sámi region as provided in the act.²¹⁴

Linguistic equality of the Sámi

The National Non-Discrimination and Equality Tribunal has stated that the obligations laid down in the Language Act and the Non-Discrimination Act regarding Sámi must be taken into account already in the planning of health services to promote linguistic equality for the Sámi. Authorities must actively and in a timely manner set language proficiency requirements for employees to ensure services in the Sámi languages. The Non-Discrimination Ombudsman has received numerous contacts on the Sámi people's linguistic equality every year. These contacts have been related to the fact

that health and social services are not available in the Sámi languages. The Non-Discrimination Ombudsman has expressed its concern about ensuring the availability of services in the Sámi languages in connection with the social welfare and healthcare reform.²¹⁵

The Parliamentary Ombudsman has made a statement on Kela's activities in processing urgent applications for social assistance for people speaking Northern, Inari and Skolt Sámi as their first language. An urgent application for social assistance can only be submitted by visiting a Kela office in person or in the Kela telephone service. However, according to Kela's report, telephone services in Northern Sámi were only offered on Tuesdays and Thursdays at 9-11 a.m., which is a total of four hours per week. The service was not available in Inari and Skolt Sámi. The telephone service was offered in Inari Sámi only with an appointment that could be made by calling the Finnish service number. Kela's services can also be accessed with an interpreter, but according to the complainant, it is not always possible to obtain an appointment and an interpreter when needing urgent social assistance. Finnish and Swedish customers do not face similar restrictions. Even though Kela has attempted to ensure the rights of Sámi-speaking applicants in one way or

²¹⁴ Constitution of Finland (n 3), section 17, subsection 3 and section 121, subsection 4.

²¹⁵ Non-Discrimination Ombudsman 2019 (n 99), 15-16

another after receiving the report, the Parliamentary Ombudsman considers that the rights of Sámi-speaking customers are not realised equally in comparison with Finnish and Swedish customers. The Parliamentary Ombudsman has stated that Kela must aim to ensure equal rights for Sámi-speaking customers, especially in cases of urgent social assistance, the application for which requires personal service.²¹⁶

Education in the Sámi languages

In addition to ensuring services provided in the Sámi languages, the right of Sámi children to receive teaching in their first language is essential for the rights and equality of the Sámi and for the preservation of the Sámi languages. Although the government has supported the preservation of the Sámi languages, attention must be paid to the situation of teaching in the Sámi languages and the problems of its availability outside the traditional native Sámi region. The Non-Discrimination Ombudsman considers that there are also positive changes in the education for the Sámi, despite the shortcomings. The availability of education in Sámi has been increased through projects by the Ministry of Education and Culture and the University of Oulu. Due to legislative shortcomings, Sámi education has been built on the framework of the Finnish school system through various projects. According to the Non-Discrimination Ombudsman, this is not a sustainable solution for safeguarding the linguistic and cultural rights of the indigenous people. Legislation must thus be developed in such a way that the resources and organisation of Sámi education enable each Sámi person to receive education that safeguards their linguistic and cultural rights.²¹⁷

Truth and Reconciliation Commission Concerning the Sámi People

For a long time, there have been shortcomings in ensuring the equality of the Sámi people. A mandate was negotiated with the Sámi Parliament and the Skolt Village Assembly during 2019 in the preparation of the Truth and Reconciliation Commission Concerning the Sámi People that was launched in 2017.²¹⁸ The Commission's members will be appointed at the end of 2020.²¹⁹

The Human Rights Delegation has recommended the government to improve the Sámi people's right to self-determination and effective opportunities to influence, respecting the principle of Free, Prior and Informed Consent.²²⁰

218 The Prime Minister's Office, Establishing a truth and reconciliation commission concerning the Sámi people 19-724 (31 October 2019) <https://vnk.fi/documents/10616/0/TSK+mandaatti+EN.pdf/9b41ee9a-c71d-b698-1c2a-a781a2a5d308/TSK+mandaatti+EN.pdf?t=1608717827150>

219 The Prime Minister's Office, 'Next steps taken in establishing Sámi truth and reconciliation commission' (13 November 2019) https://vnk.fi/-/saamelaisten-totuus-ja-sovintokomission-aset-taminen-eten-1?languageId=en_US.

220 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 16-17.

216 Parliamentary Ombudsman, Saamenkielisten kielelliset oikeudet eivät toteudu haettaessa kiireellistä toimeentulotukea EOAK/3774/2018 (13 December 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3774/2018> (in Finnish); Parliamentary Ombudsman (n 119), 323.

217 Non-Discrimination Ombudsman 2019 (n 99), 15-16.

11 The right to work and the freedom to engage in commercial activity

Section 18 of the Constitution of Finland ensures everyone the right to earn their livelihood through their chosen work, occupation or economic activity. The public authorities must ensure the protection of the labour force. Public authorities must also promote employment and work towards guaranteeing everyone's right to work. According to section 18, subsection 3 of the Constitution, no one shall be dismissed from employment without a lawful reason.²²¹

Work-related exploitation

As the National Rapporteur on Trafficking in Human Beings, the Non-Discrimination Ombudsman has paid attention to signals of increased work-related exploitation. According to the Non-Discrimination Ombudsman, work-related exploitation is already a rule in certain sectors, not an exception. For example, the restaurant, cleaning, barber's, car wash and service sectors are risky. Currently, the victims of work-related exploitation are not supported enough. To prevent exploitation, structures that lead to vulnerability should be identified and the effectiveness of sanctions should be increased.

The connection between helping victims of human trafficking and the criminal process is problematic. The justification for removing victims of human trafficking from the assistance system has been the fact that the investigated type of crime changes from human trafficking to something else, such as discrimination at

work that resembles extortion. In such cases, the victims of human trafficking do not receive the assistance they need.²²²

Shortcomings in terms and conditions of employment

In their supervisory work, the Regional State Administrative Agencies have noticed shortcomings in the pay of persons assigned from abroad to work in Finland. The salary paid to employees has not always included the allowances specified in the collective agreement. Often the salary paid has also been below the minimum level of the collective agreement. In addition, approximately half of the inspected sites had shortcomings in the management of working hours.²²³

The Regional State Administrative Agencies have reminded us that the working conditions of summer employees must be similar to those of other workers. For example, the supervision of summer employees has revealed that there have been unilateral cancellations of work shifts and assigning workdays that are too long. There have also been shortcomings in induction to work, managing the threat of violence and assessing the risks of work.²²⁴

²²² Non-Discrimination Ombudsman 2019 (n 99), 46-48.

²²³ Regional State Administrative Agency, 'Valvontahavainto: Moni ulkomailta lähetetty työntekijä saa liian vähän palkkaa' (23 September 2019) <https://bit.ly/38iz4X1> (in Finnish).

²²⁴ Regional State Administrative Agency, 'Kesätyöntekijöiden työehdot samanlaiset kuin muillakin' (10 April 2019) <https://bit.ly/32iqsvT> (in Finnish).

²²¹ Constitution of Finland (n 3), section 18.

12 Right to social security

Section 19 of the Constitution of Finland ensures everyone the right to essential income and care. Public authorities must ensure that everyone has adequate social welfare and healthcare services.²²⁵

The right of victims of human trafficking to social security

The Deputy-Ombudsman has stated that shortcomings in assisting victims of human trafficking and in organising social welfare services violated the victim's right to social security.²²⁶

According to the Deputy-Ombudsman, the city's social services had not identified the victim as a person in need of special support under the Social Welfare Act, even though they had been officially identified as a victim of human trafficking. The social services had thus fundamentally neglected their duty to plan and organise services and support measures for the victim and make decisions on special support. The Deputy-Ombudsman has found the proce-

cedure of the social services illegal.²²⁷

The Non-Discrimination Ombudsman, as the Rapporteur on Trafficking in Human Beings, also has the impression that municipalities are poorly aware of their obligation to organise or acquire services and support for victims of human trafficking. The Non-Discrimination Ombudsman has commented on the taken action against human trafficking and stated that the actions should be reformed so that victims can receive equal assistance throughout the country. In addition, victims of human trafficking should be provided with safe housing, which should be regulated by law.²²⁸

The right of older people to social security, social welfare and healthcare services

According to the Parliamentary Ombudsman, there are persistent shortcomings in the treatment of older people in areas such as hygiene, change of diapers, outdoor activities, food, rehabilitation, pharmacotherapy, frequency of medical visits and dental care. The Parliamentary Ombudsman has also noticed shortcomings in services for older people living at home. For

²²⁵ Constitution of Finland (n 3), section 19.

²²⁶ Parliamentary Ombudsman, Ihmiskaupan uhrien auttamistoimien järjestäminen EOAK/3489/2017 (28 June 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/3489/2017> (in Finnish).

²²⁷ Ibid.; Parliamentary Ombudsman 2019 (n 119), 138, 233; Non-Discrimination Ombudsman 2019 (n 99), 45–46.

²²⁸ Non-Discrimination Ombudsman 2019 (n 99), 42, 44–45.

example, there are shortcomings in e-services, safety and enabling outdoor activities, as well as in the adequacy and quality of services. The shortcomings in the care and services for older people may continue for a long time before they are addressed, as municipalities do not adequately monitor the quality of services and the instructions of regional state administrative authorities are not always complied with. In addition, self-monitoring and post-monitoring of the adequacy and quality of services provided at home is not sufficient.²²⁹

The Regional State Administrative Agencies and Valvira have found similar shortcomings in their inspection visits to care homes. The shortcomings have been related to topics such as the adequacy of personnel, implementation of pharmacotherapy, ensuring medical services, management of units and work shift lists. Having too little staff has led to situations where the carers have had insufficient time to ensure the basic care of customers. There have also been shortcomings in the tidiness and hygiene of some care homes. Shortcomings in the implementation of pharmacotherapy included, for example, missing written medical certificates and issues in ensuring competence. The storage of medicine was inappropriate in several care homes. Shortcomings in ensuring medical services were found, for example, in great variations in the availability of medical services and not having enough personnel or competence for terminal care. The persons responsible for the units were not always aware of their legal responsibility for the unit's activities and appropriateness. In addition, the work shift lists contained incorrect information about the shifts.²³⁰

229 Parliamentary Ombudsman 2019 (n 119), 129.

230 Regional State Administrative Agency, 'Valviran ja aluehallintovirastojen tarkastuskäynnit vanhusten hoivakodeissa - samanlaiset ongelmat toistuivat monin paikoin' (18 March 2019) <https://bit.ly/34Wy0pM> (in Finnish).

The HRC has pointed out that there are shortcomings in the availability and affordability of services, especially for those in need of long-term care. Access to justice for violations of fundamental rights in social welfare and healthcare services is also challenging.²³¹ The HRC has stated that the lack of regulation on sheltered housing charges makes the situation of older people and their relatives legally and economically uncertain.²³² In addition, older people should be heard for their care plan, and they should be guaranteed sufficient opportunities for outdoor activities.²³³

Kela's activities in the implementation of social security

The Parliamentary Ombudsman has made a statement on the complainant's right to social security and the protection of a worthy human life.²³⁴ In the case, Kela had applied for leave to appeal from the Supreme Administrative Court and did not implement the binding decision of the administrative court. Even though an appealable decision is not usually enforced until the decision has become legally valid, the appeal does not prevent enforcement if the matter requires leave to appeal. According to the Deputy-Ombudsman, deferral of enforcement on the grounds that the leave to appeal is used to apply for an advance or policy decision is not a sufficient legal basis for deferral of enforce-

231 HRC, Lausunto luonnoksesta hallituksen esitykseksi eduskunnalle laiksi ikääntyneen väestön toimintakyvyn tukemisesta sekä iäkkäiden sosiaali- ja terveyspalveluista annetun lain 15 ja 20 §:n muuttamisesta sekä 20 §:n väliaikaisesta muuttamisesta HRC 46/2019-1 (2019) <https://www.ihmisoikeuskeskus.fi/uutiset/ihmisoikeuskeskus-lausui-luonnokses-4/>, 5 (in Finnish).

232 HRC 1/2019 (n 142), 25.

233 HRC/35/2019 (n 96), 13-14.

234 Parliamentary Ombudsman, Kantelija jäi ilman lääkkeitä Kelan valituslupahakemuksen johdosta EOAK/6213/2018 (9 December 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/6213/2018> (in Finnish).

ment if it can result in delays or endangerment of fundamental rights, such as the individual's subjective right to social assistance. Kela should have thus enforced the decision of the administrative court that was not legally valid, even though Kela had applied for leave to appeal. This way, Kela could have ensured that the complainant receives the pharmacotherapy that the administrative court deemed necessary and that the complainant's pharmacotherapy continues during the application process for the leave to appeal. According to the Deputy-Ombudsman, this was a subjective right to last-resort social assistance from the complainant's point of view and a fundamental right to social security and protection of worthwhile existence.²³⁵

Child poverty

The Ombudsman for Children has repeatedly paid attention to the increase of relative child poverty. According to the Ombudsman for Children, reducing child poverty requires a comprehensive social security reform, investing in parents' education and employment, examining housing costs and increasing the significance of employment. The price, quality and availability of early childhood education and care services are also important.²³⁶

According to the Ombudsman for Children, the government's reform of customer fees in social welfare and healthcare services aimed at reducing poverty should acknowledge the fact that customer fees concerning minors must not have an objective of increasing public income, and they must not be used as a means of restricting the use of services, even indirectly. The Ombudsman for Children has stressed that it is essential to ensure that high customer fees do not reduce the availability of treatment or delay access to treatment. As customer fees guide decisions concerning social welfare and healthcare services for families, customer fees

should be reasonable.²³⁷

In order to address child poverty, the Human Rights Delegation has recommended a critical review of the impacts of cuts in social and unemployment security on families with children and the development of remedies. In addition, everyone should be guaranteed a sufficient income by raising the level of basic security.²³⁸

Service structures for families with children

The Ombudsman for Children has pointed out that the most common problem in supporting families with children is that the organisation and availability of services for families vary by municipality. Families with children where one family member has special needs, such as disability, illness or behavioural disorders, are in particular need of support services to help them cope with everyday lives.²³⁹

The restructuring of social welfare and healthcare services will also affect children's rights. According to the Ombudsman for Children, children must be considered a special patient group in the development programme for terminal care, palliative care and pain relief. Children are a vulnerable group both in medically accepted treatment and in alternative treatment. The restructuring must therefore take children into account as a special group from the perspectives of protection and right to self-determination.²⁴⁰

The Human Rights Delegation has recommended that the government take immediate action to ensure the number and quality of professionals in child welfare. In addition, enforcement by the child welfare authorities should be developed to be more proactive and preventive rather than reactive.²⁴¹

237 Ombudsman for Children 2020 (n 95), 33.

238 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 14-15.

239 Ombudsman for Children 2020 (n 95), 36.

240 Ibid., 43-44.

241 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 14-15.

235 Ibid.; Parliamentary Ombudsman 2019 (n 119), 151, 236.

236 Ombudsman for Children 2020 (n 95), 32-33.

The rights of the child and parents in divorce and during family leave

According to the Ombudsman for Children, the child's living arrangements must support the child's development and well-being. Parents should have sufficient knowledge of living arrangements in divorce and their pros and cons. The Ombudsman for Children has stated that concrete measures should be taken during the government term to clarify the situation of children in dual housing and their families, and to remove real obstacles. In addition, children must be provided with support that is independent of their parents in the event of a divorce, and the children's right to influence matters that are relevant to their everyday lives must be enabled. The Ombudsman for Children has stated that the Ministry of Social Affairs and Health and the Finnish Institute for Health and Welfare should provide national instructions for child welfare supervisors and child guidance and family counselling centres.²⁴²

As regards the reform of family leave, the Ombudsman for Children has highlighted the importance of enabling breastfeeding, the secondary carer's right to family leave, allowing part-time work and increasing the level of compensation for family benefits.

Substance abuse and mental health services for children and young people

According to the Parliamentary Ombudsman, mental health services for children and young people are inadequate. The services lack suitable placement locations and services for children with severe behavioural disorders, and the coordination of child welfare and psychiatric care service systems has not been successful.²⁴³

Intoxicants continue to threaten the well-being of children and young people when used by adults and children themselves. The Om-

budsman for Children has stated that in 26 % of cases the parents' substance abuse is the main reason of taking a child into custody and that minors' substance abuse services in particular are poorly available in many municipalities. The shortcomings in the service system should be corrected immediately. The Ombudsman for Children has also pointed out that services for pregnant women or families with babies who have substance abuse problems are currently not implemented as required by legislation, and the services vary greatly between municipalities. The narcotics, alcohol and drug related clinic fees should be removed for pregnant women using intoxicants. In addition, the Ombudsman for Children has paid serious attention to the increase in drug-related deaths and the easier access to drugs.²⁴⁴

The Human Rights Delegation has recommended that the government provide adequate mental health services for children and young people throughout the country and that young people at risk of exclusion be referred to the services.²⁴⁵

Shortcomings in child welfare services and their follow-up

The Parliamentary Ombudsman has pointed out problems in child welfare services. The lack of resources, the poor availability of qualified social workers, the high turnover of workers and the inadequacy of supervision undermine the quality of child welfare services. In addition, the number of substitute care facilities for children who are hardest to care for and the fact that the substitute care facilities for children are changed repeatedly are also problematic. According to the Parliamentary Ombudsman, there are also shortcomings in the drafting of case plans, as case plans to support the parents of cared-for children are not always drawn up.

244 Ombudsman for Children 2020 (n 95), 45-46.

245 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 14-15.

242 Ombudsman for Children 2020 (n 95), 35-36.

243 Parliamentary Ombudsman 2019 (n 119), 130.

Case plans are important in the organisation, decision-making and the implementation of decisions of social welfare.²⁴⁶

The Ombudsman for Children has also paid serious attention to the shortcomings in the protection of children placed outside the home. The Ombudsman for Children considers the act adopted in 2019 to be excellent. According to the act, the follow-up of child welfare services will be provided until the age of 25. However, the quality of follow-up care and its content require development. Serious shortcomings in institutional care and abuse of children in institutions also require immediate measures. In addition to reforming legislation, increasing and enhancing supervision and training, the adoption of an approach that is based on children's rights, a change in attitudes and radical modification of cultural practices are also needed. The UN Committee on the Rights of the Child calls on State Parties to guarantee adequate protection for all children living in institutions, including access to appeal and legal protection mechanisms. According to the Ombudsman for Children, Finland has not implemented the adequate protection measures sufficiently.²⁴⁷

Debate on the need to reform decision-making in child welfare has emerged in the context of the legal reform of administrative judicial procedure in 2019. The current decision-making system does not promote the rights and interests of the child in the best way, as the processing of matters in the administrative court is slow, processing times are too long, decision-making is distant from the lives of children and families, and there have been issues with hearing the child. The Ombudsman for Children has called for a reform of the decision-making system.

The Parliamentary Ombudsman has noted that the Regional State Administrative Agencies do not have sufficient powers for the

supervision of foster family placements.²⁴⁸ The Ombudsman for Children has reminded of the Deputy-Ombudsman's decisions according to which municipalities had not supervised the treatment of children in foster care sufficiently. Although there have been shortcomings in foster care, it is less supervised than institutional care.²⁴⁹

Genital mutilation

Female genital mutilation is either an assault or an aggravated assault punishable in Finland.²⁵⁰ A citizens' initiative progressed to the Parliament in 2019, proposing a special act on the prohibition of female genital mutilation.²⁵¹ In its statement on the citizens' initiative, the Ombudsman for Children stated that the Ministry of Justice must investigate the impacts of the separate act before it is passed, and ensure that mutilation does not actually take place.²⁵²

In 2020, the Parliament took the citizens' initiative in question to its consideration. According to the report by the Legal Affairs Committee, the punishability of female genital mutilation must be clarified. The clarifications must be included in the Criminal Code of Finland instead of the special act, as penal provisions involving imprisonment are included in the Criminal Code in Finland. The committee has also examined the legal status and practice of non-medical male circumcision in connection to handling the citizens' initiative. According to the committee, circumcision also involves regulatory needs that should be examined and

248 Parliamentary Ombudsman 2019 (n 119), 129.

249 Ombudsman for Children 2020 (n 95), 31.

250 Ibid., 47.

251 Citizens' initiative, KAA 1/2019, Tyttöjen sukuelinten silpomisen kieltäminen (submitted to the Parliament on 3 June 2019) https://www.eduskunta.fi/FI/vaski/KasittelytiedotValtiopaivaasia/Sivut/KAA_1+2019.aspx (in Finnish).

252 Ombudsman for Children 2020 (n 95), 47.

246 Parliamentary Ombudsman 2019 (n 119), 129-130.

247 Ombudsman for Children 2020 (n 95), 30-31.

assessed in more detail.²⁵³

According to police data, several reports of offences related to mutilation have been filed in Finland annually. The Prosecutor's Office of Western Finland filed Finland's first charges for genital mutilation, which were processed in the district court for Southwest Finland, where the charges were rejected on the grounds that there is considerable reason to doubt the defendant's guilt.²⁵⁴

Shortcomings in health services

The Parliamentary Ombudsman has noted shortcomings in the distribution of medical supplies and medical rehabilitation aids. According to the Parliamentary Ombudsman, financial reasons are behind the insufficient supplies and equipment. The Parliamentary Ombudsman has also stated that forensic investigation of the cause of death is constantly delayed, even for over a year later, even though the deadline is set at three months. The Parliamentary Ombudsman has noted on the delay in investigating the cause of death for over ten years.²⁵⁵

253 Report of the Legal Affairs Committee LaVM 6/2020 vp (last published on 22 October 2020) https://www.eduskunta.fi/FI/vaski/Mietinto/Sivut/LaVM_6+2020.aspx (in Finnish); Parliament, 'Lakivaliokunnan mukaan tyttöjen ja naisten sukuelinten silpominen tulee säätää rikoslaissa rangaistavaksi nykyistä selkeämmin' (30 September 2020) <https://www.eduskunta.fi/FI/tiedotteet/Sivut/Lakivaliokunta-silpominen-tulee-saataa-rikoslaissa-rangaistavaksi-.aspx> (in Finnish).

254 Finnish Institute for Health and Welfare, Tyttöjen sukuelinten silpomisen kieltäminen, statement THL/1614/4.00.02/2019 (1 October 2019) https://www.eduskunta.fi/FI/naineduskuntatoimii/julkaisu/aineistot/Documents/KAA1_19_LaV_031019_THL_Koukkula.pdf (in Finnish); District court for Southwest Finland, Oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa annetun lain 25 §:n tarkoittama julkinen selosta, case no.: R 19/2942 (20 November 2019) <https://www.eduskunta.fi/FI/vaski/JulkaisuMetatieto/Documents/EDK-2019-AK-279185.pdf> (in Finnish); The registry of the district court for Southwest Finland confirmed the court ruling to be legally valid by telephone on 9 December 2020.

255 Parliamentary Ombudsman 2019 (n 119), 131.

The right of persons with disabilities to social security and social welfare and healthcare services

According to the Parliamentary Ombudsman, there have been shortcomings in the services for persons with disabilities. For example, service plans compliant with legislation and special maintenance programmes are not always prepared, or they are drawn up inadequately or with a delay. There are also frequent unjustified delays in decision-making and implementation of services. There are municipal differences in the availability of services, and the application instructions concerning disability services may restrict access to services. Service tendering might also jeopardise the right of persons with disabilities to services that meet their specific needs.²⁵⁶

According to the HRC, the lack of personal assistance in prisons and hospitals during short-term and involuntary treatment as well as environments that are not obstacle-free have led to degrading treatment of persons with disabilities and increased health concerns.²⁵⁷

The reform of social security legislation must acknowledge the fact that persons with disabilities often have to pay many different customer fees. The number of self-paid services and supplies has increased, while their prices have increased. The Human Rights Delegation has recommended that the cumulative effects of customer fees and deductible contributions on the socio-economic position of persons with disabilities be investigated and their adverse consequences reduced.²⁵⁸

256 Ibid., 130.

257 HRC/35/2019 (n 96), 14.

258 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 18.

13 Responsibility for the environment

According to section 20, subsection 1 of the Constitution of Finland, nature and its biodiversity, the environment and the national heritage are the responsibility of everyone. In other words, the responsibility for the environment lies not only with the public authorities, but also with citizens, companies and other actors. According to section 20, subsection 2 of the Constitution, the public authorities shall endeavour to guarantee the right to a healthy environment and the possibility to influence the decisions that concern their own living environment for everyone.²⁵⁹

Environmental permit matters

The Supreme Administrative Court has processed the environmental permit matter of Finnulp Oy's new bioproduct plant planned for Kallavesi shore in Kuopio.²⁶⁰ The bioproduct plant's wastewater was to be discharged into

Kallavesi, approximately nine kilometres from the centre of Kuopio. The Supreme Administrative Court had to assess the impacts of the plant's wastewater discharges on the water system, whether it would jeopardise achieving a good ecological status in the Kallavesi water body and whether environmental permit regulations could prevent the pollution of Kallavesi.²⁶¹

The Supreme Administrative Court annulled the decisions of the Vaasa Administrative Court and the Regional State Administrative Agency for Eastern Finland and rejected the environmental permit application. The Supreme Administrative Court justified its decision on the grounds that the case failed to demonstrate that the wastewater discharged into Kallavesi would not weaken the ecological status of Kallavesi as prohibited by the Environmental Protection Act. According to the report that the Supreme Administrative Court received in the case, the ecological status of Kallavesi or at least one of its quality factors, phytoplankton, was at risk of reducing to a satisfactory level if the load on the water system were to increase.²⁶²

²⁵⁹ Constitution of Finland (n 3), section 20.

²⁶⁰ Supreme Administrative Court, Annual report 2019 (KHO 2019) https://www.kho.fi/material/attachments/kho/aineistoa/vuosikertomukset/UHF-SqBj03/Vuosikertomus_2019_suomi.pdf, 19-24 (in Finnish); KHO:2019:166 (19 December 2019) <https://www.kho.fi/fi/index/paatokset/vuosikirjapaatokset/1576670299837.html> (in Finnish).

²⁶¹ Ibid., 19.

²⁶² Ibid., 19-24; KHO:2019:166 (n 260).

14 Protection under the law

Section 21 of the Constitution safeguards everyone's right to have their case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to their rights or obligations reviewed by a court of law or other independent organ for the administration of justice. Fair trial and good governance are guaranteed by law.²⁶³

263 Constitution of Finland (n 3), section 21.

Legal protection for older people

According to the Parliamentary Ombudsman, the authorities do not always issue decisions on additional home-based services or provision of care in a care home or assisted living facility, despite increased service needs. When a decision is not issued, the right to refer the matter concerning the scope of the municipality's organisation obligation to the consideration of an administrative court does not apply. When devising self-monitoring plans, it is also important that the person responsible for the unit's self-monitoring plan is familiar with related valid laws, regulations and recommendations and takes them into account when planning and implementing self-monitoring in order to ensure that the customer's legal protection is realised.²⁶⁴

For the government term 2019–2023, the Human Rights Delegation has recommended that the promotion of the rights of older people and monitoring their implementation should be further strengthened, while safeguarding the right of older persons to a dignified life and equal services.²⁶⁵

264 Parliamentary Ombudsman 2019 (n 119), 129 and 277.

265 Human Rights Delegation's recommendations (n 104), 2; Human Rights Delegation's recommendations' background material (n 104), 20–21.

Children's legal remedies

The Parliamentary Ombudsman has paid attention to the right to information of children placed in child welfare services. According to the Parliamentary Ombudsman, children are often not aware of their rights, nor are they aware of the rights and obligations of institutions and social workers.²⁶⁶

The Ombudsman for Children has also drawn attention to the legal remedies of children, stating that the remedies available to children themselves are inadequate and that children are not seen as sufficiently legal actors. The legal protection of children must be improved by raising children's awareness of their rights and the legal remedies. In addition, the coverage and accessibility of legal remedies must also be ensured for children. The Ombudsman for Children has mentioned legal remedies related to basic education and bullying at school as a particular development target. An example of good progress is the Parliamentary Ombudsman's website, through which children can file complaints themselves. Complaints received on the website, of which approximately 70% have led to measures, show that there is a high need for legal remedies available to children. Electronic contact methods are suitable for young people, which is why the accessibility and comprehensibility of these services should be ensured. Children must also be given access to personal service if they so wish.²⁶⁷

The Parliamentary Ombudsman has noted that the police's pre-trial investigations take too long in cases involving persons under the age of 15, stating that the pre-trial investigation should be carried out urgently.²⁶⁸ The

Ombudsman for Children considers that there are also other shortcomings in the criminal justice system in relation to children and young people. Young people who commit crimes must be ensured the possibility to use long-term services systematically, and the social work for young people and youth work services must be developed to help them. In addition, different sectors must clarify their division of responsibilities and improve the coordination of work. The Ombudsman for Children has also stated that the status of underage prisoners should be resolved in other ways than by assigning minors to remand in custody and imprisonment in the same facilities as adults. The HRC has also stated that there are no prison facilities designed only for minors, even though adults and minors should never be placed in the same wards according to the Imprisonment Act.²⁶⁹²⁷⁰

The Ombudsman for Children has paid attention to the legal protection of children and young people of refugee and asylum status and the implementation of their rights. For example, the detention of children in the asylum process is problematic, as children might be held in custody with their parents for a long time. According to the Ombudsman for Children, this issue should be corrected.²⁷¹ According to the Non-Discrimination Ombudsman, it is also problematic to separate mothers and children during the asylum application process simply because suitable detention places were not available.²⁷²

269 Imprisonment Act 767/2005, chapter 5, section 2 <https://www.finlex.fi/fi/laki/kaannokset/2005/en20050767>

270 HRC/35/2019 (n 96), 15-16.

271 Ombudsman for Children 2020 (n 95), 22 and 50.

272 Non-Discrimination Ombudsman 2019 (n 99), 51-52.

266 Parliamentary Ombudsman 2019, (n 119), 129.

267 Ombudsman for Children 2020 (n 95), 48.

268 Parliamentary Ombudsman 2019 (n 119), 175-176.

Shortcomings in the activities of judicial systems

Despite some legislative amendments that have improved the situation, the long-standing problem in Finland of a delay in legal proceedings has still not been rectified. Delays in the legal proceedings may be a particularly serious problem in cases requiring urgent procedure. The Parliamentary Ombudsman has noticed that the current criminal process and appeal system were not designed to deal with the increasing number of exceptional cases. Under-resourcing of the entire criminal process chain affects the delay in processing criminal cases. In addition to trial delays, the costs and fees of trials may also prevent the realisation of legal protection.²⁷³

The Parliamentary Ombudsman has stated that the National Courts Administration, which was established in early 2020, has improved courts' structural independence from the Ministry of Justice. However, there are shortcomings in independence due to the large number of temporary judges, and as local councils appoint jury members for district courts on the basis of political quotas.²⁷⁴

Compensation for fundamental and human rights violations

The Parliamentary Ombudsman considers that the legislative foundation for the recompense for basic and human rights violations is inadequate. There is a possibility to get compensation in cases where a trial has taken too long, or there has been a delay in the processing of the trial. However, the Tort Liability Act should still be amended to ensure public authorities' liability to compensate violations of fundamental and human rights.²⁷⁵

273 Parliamentary Ombudsman 2019 (n 119), 132.

274 Ibid., 132.

275 Ibid.

Legal protection for asylum seekers and undocumented persons

There are shortcomings in the implementation of asylum seekers' legal protection. The Parliamentary Ombudsman has issued several notifications to the Immigration Service of unlawful delays in case processing, but the situation with processing times continues to be poor. The Immigration Service has not been able to comply with the deadlines laid down in the Aliens Act for the processing of asylum applications or applications for residence permits based on family ties or work.²⁷⁶

The limitation of legal aid for asylum seekers in 2016 has led to a situation where many asylum seekers have no legal aid at the first stage of the process. Lack of legal aid can lead to legal protection problems and make it difficult to investigate the matter also at the appeal stage. Detained foreigners are often unaware of their rights and their own situation due to a lack of legal advice.²⁷⁷

For many years, the Non-Discrimination Ombudsman has highlighted problems in the legal protection of asylum seekers and undocumented persons. In addition to developing the asylum process, one solution that the Non-Discrimination Ombudsman has proposed is to promote the residency of those who have received negative asylum decisions with the necessary legislative amendments.²⁷⁸

The HRC has also drawn attention to the shortcomings in the legal protection of asylum seekers. The major shortcomings mentioned by the HRC are the lack of information on legal aid, strict criteria for providing free legal aid, short appeal periods and the elimination of the possibility of a residence permit granted on the basis of humanitarian protection.²⁷⁹ In 2018 and

276 Ibid, 131, 226-228.

277 Ibid., 130.

278 Non-Discrimination Ombudsman 2019 (n 99), 38-40.

279 HRC/35/2019 (n 96), 11-12.

for the government term 2019-2023, the HRC has recommended that the legal protection of asylum seekers be restored to the form before the amendments to the Aliens Act in 2016 regarding appeal periods and access to legal aid, for example.²⁸⁰

Legal protection for persons with disabilities

In its oversight of legality, the Parliamentary Ombudsman has noticed that the most common shortcomings in the legal protection for persons with disabilities are processing delays in applications for services or benefits and the failure to comply with the authority's decision-making obligation. For example, the Parliamentary Ombudsman has stated that decisions related to services for people with disabilities must be made without delay once the relevant reports have been received.²⁸¹ The Substitute for a Deputy-Ombudsman has also stressed that a decision related to social welfare must be made in sufficient time before the previous decision expires so that the customer's access to support is not interrupted unduly.²⁸² The Parliamentary Ombudsman has noted²⁸³ that good governance requires an appropriate response to relevant enquiries addressed to the authorities without undue delay. In addition, the municipality or the service provider's written response to the contact requests and reminders

must be given within a reasonable time.²⁸⁴

Several decisions by the Parliamentary Ombudsman have concerned legal protection problems in service plans. The significance of an individual service plan is particularly important when the person with a disability and an authority disagree on the ways in which services for people with disabilities or services provided in the Social Welfare Act are implemented. The service plan must indicate any deviating views of the customer and the authority so that the customer's divergent view is expressed in the appeal. Service plans must be prepared without delay. In the Parliamentary Ombudsman's view, a case where it took a year and a half to devise a service plan for a child was unlawful. In the case, the service plan had not been drawn up without delay, even though the complainant had repeatedly asked for the plan to be drawn up.²⁸⁵

In three decisions, the Parliamentary Ombudsman considered that Kela should have made an appealable decision on the complainant's direct procurement demand regarding interpretation. Kela had considered that the processing of the demand for direct procurement by the user of interpretation services was an actual administrative activity and therefore did not need to issue an appealable decision on it. However, according to the Parliamentary Ombudsman, the decision is a matter that relates to the user's rights in such a way that the user must be allowed to bring it before a court of law under section 21 of the Constitution. In order to implement legal protection, service users should have the opportunity to appeal if they consider that the individual organisation of an interpretation service is necessary due to their special needs, and the service providers selected in direct procurement are not suitable for their needs.²⁸⁶

280 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 6.

281 Parliamentary Ombudsman, Omaishoidontuen jatkopäätöksen käsittely ja viipyminen EOAK/1030/2018 (9 April 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/1030/2018> (in Finnish).

282 Parliamentary Ombudsman 2019 (n 119), 69.

283 Parliamentary Ombudsman, Perusturvakuntayhtymä Karviaisen vammaispalvelujen toiminta EOAK/1283/2018 (5 February 2019) <https://www.oikeusasiamies.fi/r/fi/ratkaisut/-/eoar/1283/2018> (in Finnish).

284 Parliamentary Ombudsman 2019 (n 119), 70.

285 Ibid.

286 Ibid., 74.

Legal protection for customers of Customs and the Criminal Sanctions Agency

The Deputy-Ombudsman has made a statement on the Customs procedures from the perspective of guarantees for good administration. The reasons behind the Customs decisions have been inadequate in some cases and the right to be heard has not always been allowed. The lack of grounds for the decision has made it difficult to appeal and bring the matter before a court. According to the Deputy-Ombudsman, there are also shortcomings in the legal competence of officials of the Criminal Sanctions Agency, which may lead to violations of the legal protection for prisoners.²⁸⁷

287 Ibid., 187-189, 208-211.

Lack of resources as an obstacle to the implementation of fundamental and human rights

In its decisions, the Parliamentary Ombudsman has stated that the lack of resources of the Finnish Immigration Service has led to excessive processing delays in several cases.²⁸⁸ The Chancellor of Justice has also addressed the lack of resources in the authorities as one of the reasons for the problems of safeguarding fundamental and human rights. According to the Chancellor of Justice, the situations in which legislation promoting necessary and fundamental rights is laid down in such a way that sufficient and realistic resources are not allocated to its implementation are particularly problematic. At worst, the lack of resources even means that the overseers of legality must declare a violation of legislation. For example, the implementation and supervision of social welfare and healthcare is too burdened and problematic. The problems will only increase if legislation is reformed without ensuring sufficient resources. The Chancellor of Justice has stated that the attempt to promote fundamental rights should not result in "wishful legislation" that has excellent objectives, but insufficient actual means of implementation.²⁸⁹

288 Ibid., 226-228.

289 Chancellor of Justice 2019 (n 127), 78-82.

Assessment of the impact of fundamental and human rights

The Finnish Council of Regulatory Impact Analysis issues statements on the government's draft proposals. In its annual report 2019, the Finnish Council of Regulatory Impact Analysis stated that there have been shortcomings in the assessment of the impact of fundamental rights, as fundamental and human rights are often only examined at the level of legislation rather than addressing their realisation in society or the reform's impact on the everyday lives of people and businesses. There have also been shortcomings in hearing various stakeholders and social groups when drafting legislation. The government's Union communication submitted to Parliament rarely examine the human rights, gender, social, health and safety impacts or the impacts on working life and employment. The Finnish Council of Regulatory Impact Analysis has recommended improving the systematic nature of legislative projects in order to ensure that the legislative projects are not implemented too urgently.²⁹⁰

The Chancellor of Justice has stated that the assessment of legislation's and decision-making's impact on children is fragmented, random, scarce and inadequate in terms of

content and methodology. The assessments also lack a concrete perspective that extends to everyday life. In order to improve the use of the impact assessment concerning children and the assessment data, it is important to have a political commitment to good legislative drafting practices and a systematic approach to strengthening informed decision-making and versatile assessment competence. The Chancellor of Justice considers that municipalities carry out assessments on the impact on children better than the state, but they too have room for improvement in the systematic nature of the assessment.²⁹¹

In its annual report 2020, the Ombudsman for Children has also highlighted the need to define the best interests of the child and to fully implement the assessment of impact on children. Although there are methods for assessing decisions' impact on children, they are not fully implemented in societal decision-making. Shortcomings in the assessment of the child's best interests and impacts on children may lead to overwhelming arguments that there are no impacts on children or a lack of knowledge-

290 Finnish Council of Regulatory Impact Analysis, Annual Review 2019, Publications of the Prime Minister's Office 2020:6 (Finnish Council of Regulatory Impact Analysis 2019) https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162166/VNK_2020_6.pdf?sequence=1&isAllowed=y.

291 Chancellor of Justice, 'Tiedämmekö sittenkään kuinka lapsiystävällinen Suomi on ja kuinka hyvin lapsen oikeudet toteutuvat' (4 June 2019) <https://www.okv.fi/fi/tiedotteet-ja-puheenvuorot/513/tiedammeko-sittenkaan-kuinka-lapsiystavallinen-suomi-ja-kuinka-hyvin-lapsen-oikeudet-toteutuvat> (in Finnish).

based and versatile assessment when it is assessed that there are impacts on children. The Ombudsman for Children has stated that the impact on children must be assessed both in the drafting of legislation and in other actions under the Government Programme, so that the decisions made do not lead to direct or indirect discrimination against children.²⁹²

The HRC has issued recommendations on the assessment of the impact on fundamental and human rights. According to the HRC, the advance assessment of the impact on fundamental and human rights of legislation, various official projects and the state and municipal budgetary estimates should be intensified and special attention should be paid to the accumulation of negative impacts. The activities of the Finnish Council of Regulatory Impact Analysis should also place further emphasis on the questions related to fundamental and human rights.²⁹³

292 Ombudsman for Children 2020 (n 95), 6.

293 Human Rights Delegation's recommendations (n 104), 1; Human Rights Delegation's recommendations' background material (n 104), 7-9.

tions, the information provided to the ECHR on the death of the asylum seeker after they were deported back to Iraq was untrue and the relevant written evidence was falsified. There were also charges against the woman for a false statement in official proceedings. This charge concerns the suspicion of false information in the 2015 asylum interrogation.²⁹⁸

European Committee of Social Rights (ECSR)

- On 22 January 2019, the ECSR issued a decision in the collective complaint AT-TAC ry, Globaali sosiaalityö ry and Maan ystävät ry v. Finland (no. 163/2018). The complaint concerned the effects of the negotiation process of the free trade agreement between the EU and Canada (CETA) on the rights guaranteed by the European Social Charter in Finland. In its decision, the committee considered that it had no competence to examine the agreement negotiations, nor to proactively assess the agreement's impact on the national law implementing the agreement or the actions taken under it. The committee thus decided not to admit the complaint.²⁹⁹
- ECSR has examined the implementation of its earlier decisions on collective complaints in Finland. In 2014, the Committee of Ministers of the Council of Europe revised the periodic reporting of the European Social Charter so that the Committee of

Social Rights examines how the decisions previously issued by the committee have been implemented. As regards to Finland, five previously issued decisions on complaints were examined in January 2019. ECSR has been dissatisfied with the slow implementation of the decisions and found the implementation insufficient. For all, the committee noted that implementation measures are still ongoing, and the government should provide further information in October 2019.³⁰⁰

- The ECSR published its annual report for 2019 on 24 March 2020. The report's theme was focused on the articles of the European Social Charter that concern children, families and immigrants. The target period of the report was between 2014 and 2017. Finland was considered to have failed to meet the requirements of two sections of the charter (8 § 2 and 27 § 3). The committee considered that legislation does not enable the restoration of the employment of a person who was illegally dismissed due to pregnancy or other family reasons even after winning legal proceedings. For two sections, the committee requested further information before making its decision (7 § 10 and 19 § 1). These were related to the protection of children from sexual exploitation and the inadequacy of measures against racism, hate speech and xenophobia, in public debate for example. Finland was considered to have met the requirements of 26 sections.³⁰¹

298 National Prosecution Authority, 'Syytteet nostettu EIT:n langettavaan tuomioon liittyvässä asiassa' (23 October 2020) <https://syyttajalaitos.fi/-/syytteet-nostettu-eit-n-langettavaan-tuomioon-liittyvassa-asiassa> (in Finnish).

299 HRC, 'EN: Euroopan sosiaalisten oikeuksien komitea jätti tutkimatta CETA-neuvotteluja koskevan valituksen' (4 February 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/en-euroopan-sosiaalisten-oikeuksien-3/> (in Finnish); European Committee of Social Rights, Decision on Admissibility and on Immediate Measures (22 January 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/en-euroopan-sosiaalisten-oikeuksien-3/>

300 HRC, 'EN: Euroopan sosiaalisten oikeuksien komitea tyytymätön järjestökanteluratkaisujen täytäntöönpanon hitauteen Suomessa' (29 January 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/en-euroopan-sosiaalisten-oikeuksien-2/> (in Finnish).

301 HRC, 'EN: Sosiaalisten oikeuksien komitea julkaisi 2019 vuosiraporttinsa' (25 March 2020) <https://www.ihmisoiikeuskeskus.fi/uutiset/en-sosiaalisten-oikeuksien-komitea/> (in Finnish); European Committee of Social Rights, Conclusions 2019 Finland (March 2020) <https://rm.coe.int/rapport-fin-en/16809cfbae>.

The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA)

- On 5 June 2019, GRETA published its second report on Finland. In the report, GRETA assesses the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Finland. GRETA calls for the adoption of a national action plan and/or strategy against trafficking in human beings, the development and maintenance of a comprehensive data collection system and more measures to prevent trafficking of children. GRETA also calls for introducing various measures to identify and assist the victims, to advise police and border authorities on compliance with victims' recovery and reflection periods, to ensure the application of the Act on Compensation for Crime Damage to all victims and to take further measures in relation to non-punishment.³⁰²

The Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)

- GREVIO issued a report on Finland on 2 September 2019, in which it assessed the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Finland. The report is the first GREVIO report on Finland following GREVIO's visit to Finland

302 HRC, 'EN: raportti ihmiskaupan vastaisesta toiminnasta Suomessa' (5 June 2019) <https://www.ihmisoikeuskeskus.fi/uutiset/en-raportti-ihmiskaupan-vastaisesta/> (in Finnish); The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland GRETA(2019)06 (5 June 2019) <https://rm.coe.int/report-concerning-the-implementation-of-the-council-of-europe-conventi/168094c77b>.

in autumn 2018. GREVIO raises issues such as the training of professionals, the status of children and the granting of residence permits. As other themes, GREVIO mentions the strengthening of the gender perspective, compliance with the prohibition of discrimination and the victim-centred approach to the implementation of the convention. According to GREVIO, sufficient resources must be provided to combat violence against women and to support organisations in their work, and measures must be taken to gather information and ensure support for victims, for example.³⁰³

European Commission against Racism and Intolerance (ECRI)

- On 10 September 2019, ECRI published its fifth report on Finland. ECRI has made 20 recommendations to Finland to combat racism and intolerance.³⁰⁴ Among other things, ECRI has recommended changing the power of the Non-Discrimination Ombudsman to include the right to investigate individual cases of alleged occupational discrimination and the right to bring actions before a court on its own initiative. With regard to hate crime and hate speech, ECRI has recommended the creation of a comprehensive data collection system for racist and homophobic/transphobic cases of hate speech and hate crime and the

303 HRC, 'Euroopan neuvosto tarkastelee naisiin kohdistuvaa väkivaltaa ja perheväkivaltaa Suomessa' (3 September 2019) <https://www.ihmisoikeuskeskus.fi/uutiset/euroopan-neuvosto-tarkastelee-naisi/> (in Finnish); The Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Baseline Evaluation Report Finland, Istanbul Convention GREVIO/Inf(2019)9 (2 September 2019) <https://rm.coe.int/grevio-report-on-finland/168097129d>.

304 European Commission against Racism and Intolerance (ECRI), Report on Finland (fifth monitoring cycle) CRI(2019)38 (10 September 2019) <https://rm.coe.int/fifth-report-on-finland-finnish-translation-/1680972fa8>.

development of a comprehensive strategy to address the problem of racist and homophobic/transphobic hate speech. ECRI has repeated its recommendation to establish an independent body to investigate alleged racial discrimination and cases of police abuse.³⁰⁵

The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC)

- ACFC has published a report on Finland on 31 October 2019. The committee has raised a number of themes on which it made recommendations requiring immediate action and proposals for further development in the longer term.³⁰⁶ Recommendations requiring necessary measures included increasing the resources and training of law enforcement bodies dealing with hate crime, reforming the funding of intercultural dialogue, developing the electoral roll of the Sámi Parliament, strengthening the participation rights of the Sámi Parliament and securing bilingualism. Other recommendations concerned dialogue with Karelian speakers, Swedish and Sámi social welfare and healthcare services as well as native language education in Romani and Karelian.³⁰⁷

305 HRC, 'Euroopan rasismien ja suvaitsemattomuuden vastaiselta komissiolta suosituksia Suomelle' (16 September 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/euroopan-rasismien-ja-suvaitsemattom/> (in Finnish); European Commission against Racism and Intolerance (ECRI), Report on Finland (fifth monitoring cycle) CRI(2019)38 (10 September 2019) <https://rm.coe.int/fifth-report-on-finland-finnish-translation-/1680972fa8>.

306 The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, Fifth Opinion on Finland ACFC/OP/V(2019)001 (31 October 2019) <https://1586428.168.directo.fi/@Bin/f78a1fc5c36b-8cf8f87f9b4bb2247f15/1603178220/application/pdf/8415373/5th%20OP%20Finland%20EN.docx.pdf>.

307 HRC. 'EN - Suomen kehitettävä kaksikielisyyttään ja yhteistyötään saamelaisten kanssa' (31 October 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/en-suomen-kehitettava-kaksikielisy/> (in Finnish).

United Nations (UN)

- On 1 February 2019, the UN Human Rights Committee published two decisions concerning Finland. The decisions concern complaints concerning the conditions for approving the Sámi Parliament's electoral roll following the Supreme Administrative Court's decisions on 30 September 2015. The decisions state that Finland has violated article 25 of the International Covenant on Civil and Political Rights, separately or in conjunction with article 27. The committee recommended reassessing section 3 of the Act on the Sámi Parliament so that the conditions for voting in elections of the Sámi Parliament are defined and applied with respect to the right of the Sámi people to exercise their internal sovereignty in accordance with articles 25 and 27 of the convention. The committee recommended taking all necessary steps to prevent similar infringements in the future.³⁰⁸

308 HRC, 'YK:n ihmisoikeuskomitealta kaksi ratkaisua saamelaiskäräjien vaaliluetteloon hyväksymistä koskevassa asiassa' (4 February 2019) <https://www.ihmisoiikeuskeskus.fi/uutiset/yk-n-ihmisoiikeuskomitealta-kaksi-ra/> (in Finnish); UN Human Rights Committee, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2668/2015 CCPR/C/124/D/2668/2015 (1 February 2019) https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/FIN/CCPR_C_124_D_2668_2015_28169_E.pdf; UN Human Rights Committee, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2950/2017 CCPR/C/124/D/2950/2017 (1 February 2019) https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/FIN/CCPR_C_124_D_2950_2017_28170_E.pdf.

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