4 May 2020

The Rule of Law Report: Input of Finland

Contents

I. Justice System

A. Independence

1. Appointment and selection of judges and prosecutors

The Courts Act (673/2016) contains provisions on courts and on judges, other members of a court and other personnel. This Act also contains provisions on the Judicial Appointments Board, on the Judicial Training Board and on their duties and personnel.

It applies to general courts, which are the district courts, the courts of appeal and, as the highest judicial instance, the Supreme Court, to the general administrative courts, which are the administrative courts and, as the highest judicial instance, the Supreme Administrative Court and to the special courts, which are the Market Court, the Labour Court and the Insurance Court.

Provision on appointment of a chief judge and a permanent judge are provided in chapter 11 of the Act and provisions for a fixed-term judicial appointment in chapter 12.

The judges are recruited by the courts and the Judicial Appointments Board. The Judicial Appointments Board has 12 members; nine members from the judiciary and three members outside the judiciary, that is a practising lawyer appointed by the Finnish Bar Association, a prosecutor appointed by the Prosecutor General and an academic appointed by the Ministry of Justice.

A permanent judge position is announced as open to applications by a court. Applicants are required to be Finnish citizens, have a Master of Laws degree completed in Finland, have by his or her experience demonstrated that he or she has the knowledge of the legal field and the necessary personal characteristics required for successful performance of the duties of a judge and required language skills in Finnish and Swedish. For appointment as a President or a Justice of the Supreme Court or a President or a Justice of the Supreme Administrative Court, the applicant must easily meet the above mentioned qualifications and be an eminent legal expert. In addition, the judges in leading positions must have leadership skills. The Judicial Appointments Board is expected to promote the recruitment of judges from all walks of legal life, that is, from among court referendaries and fixed term judges, prosecutors, attorneys and other lawyers, civil servants, professors etc. However, most of those appointed to a judge position work in the judiciary.

The Judicial Appointments Board requests a statement on the applicants from the court that announced the position and in certain cases from a higher court, too. The Judicial Appointments Board makes a reasoned appointment proposal. The Government presents the appointment proposal to the President of the Republic of Finland who formally appoints the judge. The Judicial Appointments Board has no jurisdiction regarding the appointment of judges to the Supreme Court and the Supreme Administrative Court. These courts of final instance make their own appointment proposals to the President of the Republic who appoints the judges.

At times, there is a need to appoint a judge for a fixed term period. The Supreme Court and the Supreme Administrative Court appoint judges to temporary positions for a year or a longer period of time and the court in question appoints judges for a shorter period.

According to the Courts Act chapter 12, section 4:

> Fixed-term appointments for more than one year of judges in a court of appeal, the Labour Court and a district court are made by the Supreme Court on the proposal of the chief judge of the respective court. Appointments in an administrative court, the Market Court and the Insurance Court are made in a corresponding manner by the Supreme Administrative Court.

> Fixed-term appointments for at most one year are made by the chief judge of the respective court. Before a judge is appointed in the cases referred to in subsection 2, the chief judge shall hear the management board or, if there is no management board, the permanent judges at the court, unless this is unnecessary due to the short term of the appointment or for another reason.

Prosecutors are recruited by the Prosecution service. Applicants must have a Master of Laws degree completed in Finland. The extra requirements for office for the Prosecutor General and the Deputy Prosecutor General are wide experience required by the task as well as proven leadership skills and management experience. The Prosecutor General and the Deputy Prosecutor General are appointed by the President of the Republic of Finland based on the appointment proposal by the Government. The State Prosecutors who work at the Office of the Prosecutor General are appointed by the Government on the proposal of the Office of the Prosecutor General. All other prosecutors are appointed by the Office of the Prosecutor General except that a Junior Prosecutor is appointed to a fixed-term public-service position by the prosecution district.

In Finland, the nomination of national candidates for judges of the Court of Justice and international courts is governed by the Act on the Nomination of Candidates for Judges and Members of International Courts and the Court of Justice of the European Union (676/2016) and by the Government Decree on the Panel of Experts Preparing the Nomination of Candidates for Judges and Members of International Courts and the Court of Justice of the European Union (179/2017).

See legislation on the Constitution of Finland, the Courts Act and the Act on the National Prosecution Authority (32/2019).

2. Irremovability of judges, including transfers of judges and dismissal

As laid down in section 103 of the Constitution, a judge shall not be discharged from office, except by a judgement of a court of law. In addition, a judge shall not be transferred to another office without his or her consent, except where the transfer is a result of a reorganisation of the judiciary. A judge may be suspended from his or her office in case of health issues or criminal proceedings. The decision to suspend a judge from office is made by the court in which the judge is serving (e.g. generally the chief judge of the court). If the matter concerns the chief judge of the court, the higher court has the power to initiate proceedings.

3. Promotion of judges and prosecutors

Courts have different pay grades for judges. A judge can be appointed to a higher pay grade judge position. The same authority both appoints a judge to his or her position and promotes him or her. The same authority both appoints a prosecutor to his or her position and promotes him or her meaning appoints him or her to a more senior prosecutor position.

Please see answer to question 1.

4. Allocation of cases in courts

More detailed provisions on the work of the courts are provided in the standing orders approved by the court. Cases shall be allocated for preparation and decision in accordance with the principles established in the standing orders. These principles shall be clear and they shall ensure the right of the parties to have their case decided independently, objectively and expeditiously.

In practice, the following provisions on the allocation of cases are laid down in the standing orders of the courts. When allocating cases, the following must be taken into account: the nature and number of the cases to be dealt with, the expertise required, safeguarding linguistic rights and a balanced division of the work. As a rule, cases are allocated to all judges in the order of arrival according to the rotation principle. Cases requiring special expertise shall be allocated among judges dealing with the relevant group of cases in accordance with the rotation principle. In case of particularly extensive cases or where the work situation of an individual judge so requires exceptions may be made to the rotation principle.

See e.g. standing order of Helsinki District Court.

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

The independence of courts and judges is governed by the Constitution (sections 3 and 21) and the Courts Act. The independence of the courts is also safeguarded by the procedure for appointing judges, the right to remain in office and the provisions on disqualification.

In Finland, the judiciary was reorganised in 2019, when National Courts Administration was established to attend to the central administration of the court system. The National Courts Administration began its operations on 1 January 2020. The objectives of the reform were among others to emphasise the independence of the courts and impartiality of the judiciary and clarify and make the judicial governance more effective, helping the courts to focus on their key functions. The National Courts Administration is responsible for ensuring that the courts are able to maintain a high level of quality in the exercise of their judicial powers and that the administration of the courts is organised in an efficient manner. The highest decision-making power in the National Courts Administration is exercised by the Board of Directors that has eight members: six judge members, one member representing other court personnel and one member with special expertise in the management of public administration. The Board of directors is appointed by the Government for a term of five years at a time. The tasks of the National Courts Administration are laid down in chapter 19a of the Courts Act.

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules

Provisions on the general duties and responsibility of judges are contained in the Constitution, the Courts Act and in the Act on Public Officials in Central Government (750/1994). A civil servant is responsible for the lawfulness of his or her official actions. A civil servant shall perform his duties properly and without delay and conduct himself in the manner befitting his status and duties. A judge who acts contrary to his or her official obligations or fails to meet them can be given a written warning. A written warning can be given to a judge by the chief judge of the court in which the judge is serving. If the matter concerns the chief judge of the court, a written warning is given by the president of the higher court. A decision to bring charges against a judge for unlawful conduct in office is made by the Chancellor of Justice of the Government or the Parliamentary Ombudsman.

The Chancellor of Justice of the Government and the Parliamentary Ombudsman oversee the activities of the public authorities, monitoring the legality and rule of law in the Parliament, the Government and the courts. They supervise that public authorities and officials, judges and prosecutors, comply with the law such as fundamental and human rights and fulfil their duties. The core of their tasks is laid down in the Constitution. They investigate matters both based on their own initiative and written complaints made by e.g. citizens. Their tasks and powers are largely the same. However, small differences in the division of tasks between them determine which of them ultimately investigates a complaint. The Chancellor of Justice of the Government and the Parliamentary Ombudsman may initiate legal proceedings if the matter involves a serious illegality, issue a reprimand if the authority in question has acted in an unlawful manner or failed to

fulfil his or her responsibilities, issue instructions concerning the proper legal procedure for future reference by the authority in question and draw an authority's attention to the requirements of good governance or considerations that would advance the realisation of fundamental and human rights. Most of the complaints, however, do not call for any action.

The conduct of prosecutors (the delay on the decision making or the behaviour of the prosecutor) can be subject to a complaint to the Prosecutor General, who can reprimand the prosecutor.

There has been discussions as to whether an organ responsible for the supervision of adherence to ethical rules by judges should be established. So far, no such organ exists.

The ´Ethical principles for judges´ were (jointly) adopted by the Finnish Association of Judges and the Association of Supreme Court Justices. They were also published (in Finnish, Swedish and English) by the Finnish Association of Judges in 2012.

7. Remuneration/bonuses for judges and prosecutors

The courts have different pay grades for judges. In addition, the chief judges have pay grades of their own. In the Supreme Court and the Supreme Administrative Court, the pay is based on law. No separate bonuses are paid. See further info (in Finnish).

The prosecutors have several salary grades based on the difficulty of the task. No separate bonuses are paid. See further info (in Finnish).

8. Independence/autonomy of the prosecution service

The National Prosecution Authority is an independent state authority and part of the judicial system. Its task is to ensure the realisation of criminal liability, i.e. that the proper statutory punishment is attached to a criminal act. Its independence is guaranteed by law. According to the Act on the National Prosecution Authority, section 2, the National Prosecution Authority is, independently and autonomously, responsible for organising the prosecutorial activities in Finland.

The National Prosecution Authority is a key actor in the processing chain of criminal matters and is the only authority involved at all stages of processing a criminal matter: the pre-trial investigation, the consideration of charges and the trial. In the decisions prosecutors make in prosecution matters, they are autonomous and independent administrators of justice.

The National Prosecution Authority is comprised of the Office of the Prosecutor General that acts as the general administrative unit, and five prosecution districts: Southern Finland, Western Finland, Northern Finland, Eastern Finland and Åland. The National Prosecution Authority has 34 offices around Finland.

The Prosecutor General leads the National Prosecution Authority as the supreme prosecutor in the country. The Office of the Prosecutor General is responsible for the central administration, steering and oversight of the National Prosecution Authority, and the operational prerequisities of the prosecutor's offices. The prosecution districts are responsible for the actual prosecution activities.

The operations of the National Prosecution Authority are provided for by law:

- The Act on the National Prosecution Authority
- The Government Decree on the National Prosecution Authority (798/2019)

9. Independence of the Bar (chamber/association of lawyers)

The Finnish Bar Association is a public corporation provided for in the Advocates Act (496/1958). The purpose and activities of the Association are defined in the Act. The Association's task is to ensure that its members fulfil their obligations. It also provides guidance and supervision in order to ensure that its members perform the tasks given by their clients with diligence and integrity. The Association is in turn supervised by the Chancellor of Justice of the Government to ensure that the Association discharges its statutory duties correctly.

See the Advocates Act and more information on the Finnish Bar Association, see also the Decision by the Ministry of Justice on the ratification of the by-laws of the general bar association.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

The establishment of the National Courts Administration is a significant change in the administration of the Courts in Finland. The National Courts Administration is an independent central agency that serves the entire court system. The Administration is responsible for ensuring that the courts are able to maintain a high level of quality in the exercise of their judicial powers and that the administration of the courts is organised in an efficient and appropriate manner.

One of the tasks of the National Courts Administration is to ´support the courts in their communication activities´ (the Courts Act, chapter 19a, section 2, subsection 2, paragraph 6). The ideological underpinning is that openness and communication improves the trust of the general public to the judiciary. This assistance to the courts in their communication is one of the tasks of the Head of Communications at the National Courts Administration. In addition, communication of the courts to the general public is a topic included in the training to judges organised by the National Courts Administration (Training Unit) jointly with the Judicial Training Board.

11. Other - please specify

-

B. Quality of justice

12. Accessibility of courts (e.g. court fees, legal aid)

The court fee is collected after the court proceedings have finished. The level of the court fee varies depending on the nature of the matter and the instance in which the case is handled. The person who initiated the proceedings (a plaintiff, an applicant or an appellant) is responsible for paying the court fee. A person who has been granted legal aid free of charge is exempted from the court fee. Certain parties are exempted from the court fee, for example the Police, the prosecutors and the enforcement authorities. Certain matters are handled free of charge, for example coercive measures such as confiscation and detention. No court fee is collected in criminal cases that have been brought to the court by the prosecutor. If the judgment or decision of a lower court in a criminal case is amended to the appellant's advantage in a court of appeal or the Supreme Court, no court fee is collected. If the judgment or decision is amended to the appellant's advantage in an administrative court, the Supreme Administrative Court or the Insurance Court, no court fee is collected.

The charges collected by the courts, the process servers and the local prosecutors are governed by the Act on the Charges for the Performances of the Courts and Certain Organs of Judicial Administration (1455/2015) and in the corresponding Decrees.

Legal aid is provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses related to the consideration of the matter. Legal aid is not provided to a company or a corporation. The legal aid does not cover the legal costs of the opposite party. The legal aid system used in Finland is known internationally as a mixed legal aid model. Legal aid services employ both public and private service providers. This means that a person entitled to state-funded legal aid can choose whether he or she wants to use the services of a public or private lawyer. No distinction of primary v. secondary legal aid services can be made. The biggest distinction between the services of the legal aid offices and those provided by private lawyers is that the private lawyers are only allowed to handle legal aid cases involving court proceedings. This leaves all out-of-court issues (such as providing legal advice or document drafting) under the jurisdiction of the legal aid offices. See further the Legal Aid Act (257/2002).

A victim charge is a payment paid by the offenders to fund the support services of victims. See further the Act on Victim Charges (669/2015).

There is information available online to the general public on both judiciary in general as well as on each of the courts. This information is available in both of the national languages (Finnish and Swedish) and to a lesser extent also in English.

The linguistic rights are based on section 17 of the Constitution, and the Language Act (423/2003) contains more detailed provisions on these linguistic rights. The Code of Judicial Procedure (chapter 4), the Criminal Procedure Act (689/1997) (chapter 6) and the Administrative Judicial Procedure Act (808/2019) (section 52) stipulate further on the rights to use languages in court procedures in Finland.

The courts in Finland provide services, or ensure that translation is available, in both of the national languages (Finnish and Swedish). Whether this is free of charge, varies.

Under the Constitution, the Saami, as an indigenous people, have the right to maintain and develop their own language and culture. In their native region, the Saami have linguistic and cultural self-government. The Saami people have more extensive linguistic rights in their native region than outside it. The Saami Language Act (1086/2003) applies to all three Saami languages spoken in Finland: Inari Saami, Skolt Saami and North Saami.

The Sign Language Act (359/2015) entered into force in 2015. The Act obliges authorities to promote sign language users' opportunities to use their own language and receive information in their own language. This applies also to courts.

The Finnish courts have worked to improve the technical means to participate in a court hearing via electronic means. A person might participate in a court hearing via a video conference from another court (for example, from the court in Kittilä to a hearing in a court in Helsinki; the distance between these two cities is approximately 960 km). Also, when a person (excluding the accused in a criminal case) is compelled to participate in a hearing, his or her travel expenses and loss of income will be compensated by the State.

13. Resources of the judiciary (human/financial)

Previously the Department of Judicial Administration of the Ministry of Justice and since January 2020 the National Courts Administration negotiates annually with each court in order to set targets and objectives for the court for the next year. An allocation of permanent staff and possible additional temporary judges or other staff is decided upon these negotiations but within the state budget. Timeframe (length of proceedings)

targets are also set. Possible issues and problems with developing the activities of the court are also discussed. Finally, the appropriation to cover the annual costs of the court operations is agreed. Minutes of the negotiation are written and they include the targets, objectives and estimated workloads for the court for the next year. The chief justices of the courts can then apply this results-based management system in their respective courts as they see appropriate.

The courts are investing in IT solutions with the understanding that better IT systems increase productivity. The implemented budget for computerisation increased significantly in 2018 and continued at the same level in 2019 compared to 2017 and 2016. The main reasons for this are two large IT development projects (´AIPA´ and ´HAIPA´), which are both in progress.

In respect to human resources of the judiciary, it is worth pointing out that one of the three departments of the National Courts Administration is dedicated to development. The development department, jointly with the Judicial Training Board, organises training for the whole staff of the judiciary. It also participates in the general development of operations of the court system. Both of these dimensions of developing the courts are explicitly stipulated as tasks of the National Courts Administration (see the Courts Act, chapter 19a, section 2, subsection 2, paragraphs 4 and 8-10).

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

In the Finnish courts, all cases/issues dealt with by the court are recorded in IT-based systems. There are two types of systems – those that include the judicial cases and those that concern the administrative issues of the court. All judicial cases (both civil and criminal) are registered in IT-based case management system. The general courts have one system and the administrative courts another. There is an ongoing project to replace the old systems with new ones (´AIPA´ and ´HAIPA´ development projects). The courts use several types of databases to record administrative issues. For example, there is a system for recording HR issues such as working hours, holidays and sick leaves. The courts also record administrative decisions (such as procurement) and a new recording system (´HILDA´) is under development. All of these systems are also used for information gathering purposes. This information is analysed and used both as a management tool and when distributing resources. The National Courts Administration strives to improve ´Knowledge management´ by both improving the systems used by the courts and by training the management to use these tools and the information they provide.

´Knowledge management´ is an ideological underpinning of the National Courts Administration. Developing the collection of data will create possibilities for better allocation of resources as well as finding the targets for improvement. The workload of the courts is monitored on the basis of weighted numbers of cases. The monitoring takes place on a court-by-court basis and takes into account the number of cases initiated, pending and resolved. The numbers alone are not directly indicative of the workload and fixed weighting coefficients are used to estimate the actual workload. The same method can also be used to monitor the workload of an individual judge.

The National Courts Administration has employed a data analyst. His tasks include assisting in making use of the information available from different systems both within the National Courts Administration and in the courts.

Further, the currently ongoing court management IT projects (´AIPA´ for general courts and ´HAIPA´ for administrative courts) have the potential to improve availability of information, such as statistics. In the future, these new case management systems will replace the current case management systems and will also feed information to the Ministry of Justice’s data pool.

In a broader context, the Ministry of Justice has in 2018 begun a project where the aim is to increase the use of data collectable from different IT systems.

Due to covid-19 pandemic, the courts have increased the use of different technical solutions to organise court hearings without a physical presence in the court.

15. Other - please specify

Transparency is a key to public trust, and it also improves the quality of the work of the judiciary.

The statistics related to the courts are public and can be found from the website of the Finnish Government.

The Ministry of Justice owns and maintains a web based service on legal information called Finlex. It is a public service, available free of charge. It contains updated versions of acts and government decrees. It also contains case law of the Supreme Court and the Supreme Administrative Court, and to a lesser extent case law of the Courts of Appeal.

The Rovaniemi and Helsinki Courts of Appeal have been conducting quality projects covering both civil and criminal cases. In a quality project, one or several working groups are set up usually for a year. In the working group, there are judges from each district court within the judicial district of the court of appeal in question as well as judges and referendaries from the court of appeal. Depending on the topic, prosecutors, attorneys-at-law and other lawyers, public legal aid lawyers and police may also participate in the working group. The working group writes a report on a specific theme, for example developing the court proceedings or legal costs in criminal and civil cases. The written report is presented and discussed in a formal event and published. The aim is to provide legal professionals with practical information and guidelines on a certain topic. In addition, there are co-operation projects between administrative courts.

Institute of Criminology and Legal Policy (´Krimo´) at the University of Helsinki is specialised in research and monitoring of crime and legal policy in Finland. The institute is established and its tasks are defined by a law (1139/2007). The tasks of the research institute are to practice independent research on legal policy, with regard to needs of the Ministry of Justice and society at large, to monitor legal policy and crime, to analyse their trends and to maintain research databases that are necessary for the research specified in the law on the Institute.

C. Efficiency of the justice system

16. Length of proceedings

The right to have a case dealt appropriately and without undue delay is a civil right guaranteed in the Constitution. There are some mandatory time limits set in the legislation. See also the report on statistics referred to in answer to question 15.

Several projects have aimed at shortening the time a procedure takes, and some of them have led to procedural changes – for example, modifying the law concerning whose presence is required in a trial.

A party may be entitled to a monetary compensation from State funds for undue delays in the judicial proceedings. For a more detailed description, please see the common core document by the Government of Finland to the United Nations treaty bodies, pages 33-34 (attachments 7 and 8).

One of the first topics that the National Courts Administration's development department took under consideration when it became operational in January 2020 was the length of the proceedings, and tools to analyse where in the procedure are the difficult points and how this information can be used in the

´Knowledge management´ process. The impact of the covid-19 pandemic has temporarily slowed down this development project. Please see references to information gathering in answer to question 14.

17. Enforcement of judgements

Criminal law

Information of sentences are automatically sent by the courts to the responsible authority, which then initiates enforcement proceedings. In cases of sentences of imprisonment the Enforcement Unit of the Criminal Sanctions Agency is the competent authority, in cases of community sanctions the competent Community Sanctions Office and in cases of fines the Legal Register Centre. Judgments may remain without enforcement only if the convicted person is in hiding and cannot be found by the authorities. No specific statistics on the enforcement of judgments are gathered. Further information (including on the procedure for enforcement): Criminal Sanctions Authority, Community Sanction Office and Legal Register Centre.

Debt enforcement

In Finland, debt enforcement is the exclusive responsibility of the state enforcement authority, which annually remits approximately one billion euros to the creditors. Enforcement tasks are carried out by local enforcement authorities, that is, district enforcement officers i.e. bailiffs who are civil servants. These officials are assisted by assistant enforcement officers and clerical staff. In all, the personnel of the enforcement service numbers some 1,100. The Finnish National Administrative Office, Department for Enforcement is in charge of operative administration, such as performance guidance, training, personnel management and supervision of the enforcement service, but it has no competence in individual enforcement matters. Bailiffs are independent legal professionals who make their decisions independently. The enforcement authorities are to protect the interests of both creditors and debtors. Foreign nationals applying for enforcement are treated equally with Finnish nationals.

When an enforcement matter is initiated and becomes pending in the national Enforcement Information System, a notice of filing and a demand for payment are sent to the debtor. The debtor's address is obtained automatically from the Population Information System. If the debtor does not pay the receivables in accordance with the demand for payment or contact the enforcement authority in order to make arrangements to voluntarily pay the receivables, the enforcement authority begins to examine the debtor's income and assets based on register data. Inquiries to banks are an essential part of this examination. Earned income as well as any funds on the debtor's bank accounts are the most common assets that are attached. As a rule, the respondent shall in the demand for payment be reserved an opportunity to pay the receivables voluntarily. It is also possible to establish a schedule of payments for the debtor instead of garnishing his or her recurring income. The law contains detailed provisions on the measures to be taken in order to examine the debtor's income and assets as well as on the possible further measures required in this respect. Under the law, the enforcement officers have a very extensive right to receive information about the debtor's financial situation. The most important register data is available in electronic form. The enforcement officers have a statutory duty to search for assets that belong to the debtor. The enforcement measures must also be taken without undue delay. The debtor has the right of appeal in the enforcement matter, but the enforcement measures are not suspended unless the court separately orders a stay of enforcement.

Bailiffs' enforcement measures and decisions can be appealed by anyone whose interests are affected by said measure or decision. Appeals are handled by a district court. Appeals must be filed within three weeks of the date on which the decision is issued or the date on which the interested party receives notice of the decision. Filing an appeal does not usually suspend the enforcement process, unless the court rules otherwise. If the appeal is granted, the court will overrule or amend the bailiff's decision. In some cases bailiffs can also correct any obvious errors themselves.

If resolving an argument or claim presented in connection with enforcement requires the extensive taking of oral evidence, the matter may need to be decided in a civil proceeding in a court of law (enforcement dispute). Judgments that have been appealed may be enforced, if the creditor provides the security specified by the bailiff for any damage that may befall the debtor. However, the funds may not be paid to the creditor until both the grounds for enforcement and any distraint and garnishment decision are final.

Further information:

- https://oikeus.fi/ulosotto/en/index.html
- https://valtakunnanvoudinvirasto.fi/en/index.html
- Enforcement Code (705/2007)

The national execution of the judgments of supranational and international courts

The national execution of the judgments of the European Court of Justice and the European Court of Human Rights and other supranational and international courts is an essential element of ensuring the rule of law in Finland. The execution of the judgements has been discussed within different civil servants' fora and several reports closely connected to this issue are publicly available.

The measures to execute the European Court of Human Rights judgments (apart from payment of compensation and distribution of judgment) are assessed by the sectoral ministries in cooperation with the Government Agent, who prepares all plans and reports of action to the Committee of Ministers of the Council of Europe. The principle is that the Ministry within whose legislative jurisdiction the violation is found is responsible for the national actions to execute the judgment or decision. This may require general measures, individual measures, payment of compensation or other forms of action.

The Parliamentary Ombudsman publishes an annual report, which includes summaries of the decisions and judgments issued by the European Court of Human Rights and on monitoring the execution of the judgments concerning Finland.

18. Other - please specify

-

II. Anti-corruption framework

A. The institutional framework capacity to fight against corruption (prevention and investigation/prosecution)

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant)

Finland does not have a separate anti-corruption agency, and instead several authorities and agencies contribute to anti-corruption work. The prevention of corruption in Finland is a part of wider general policies based on the rule of law and legality. It has not been seen as an isolated phenomenon, and this is one of the reasons why there is not a specific, targeted anti-corruption policy in place.

The Ministry of Justice is responsible for coordinating anti-corruption activities and ensuring that duties stemming from international obligations are accounted for. Currently there are two civil servants allocated for anti-corruption work in the Ministry of Justice. There is a cross-administrational anti-corruption

cooperation network, established in 2003 that consists of different authorities and actors relevant to anti-corruption. Different ministries, law enforcement agencies, trade unions, business community and civil society are represented in the network. The network is not an operative body, but it is a forum for information exchange and the promotion of anti-corruption policies. The anti-corruption cooperation network and the civil servants working on anti-corruption issues in the Ministry of Justice have coordinated the preparation of an anti-corruption strategy for Finland.

There are certain structures and resources focused on anti-corruption and several institutions partake in the fight against corruption: the Ministry of Finance, the Ministry of the Interior, the Office of the Prosecutor General, and the Police among others. Public procurement questions in relation to countering corruption have been included in the Working Group of Shadow Economy and Prevention of Economic Crime. Autonomous municipalities and the Union for Municipalities are responsible for the anti-corruption and integrity work at the municipal level.

The Ministry of Finance is the main coordinating authority of civil service ethics. The Ministry of Finance has published guidelines for government officials on hospitality, benefits and gifts, including travel and secondary employment. The National Audit Office of Finland (NAOF) audits central government finances, monitors fiscal policy, and oversees political party and election campaign funding. The role and duties of the NAOF are laid down in the Constitution of Finland. In this regard, the NAOF may inspect the accounts of and the use of funds by any affiliated entity subject to monitoring, and has, in certain situations, the power to impose administrative sanctions. Within the Police, the National Bureau of Investigation (NBI) has one person allocated to anti-corruption efforts for both national and international tasks.

See also answer to question 6 as regards the Chancellor of Justice of the Government and the Parliamentary Ombudsman.

For further information regarding training and other resent preventative measures, please see attached Finland's fifth evaluation round situational report for the GRECO (attachment 1).

For further information, please see attached UNCAC 2nd cycle self-assessment checklist for Finland (attachment 2), the GRECO's fifth evaluation report and the OECD Phase 4 report.

In Finland, suspected corruption related crimes are investigated and prosecuted in a same manner than other types of suspected crimes, so there are no special criminal processes for corruption related crimes. Corruption cases are investigated by the financial crimes units in the 11 Police Departments and the NBI. The National Prosecution Authority does not have any specialized units. On the other hand, all prosecution districts have specialized prosecutors, with financial crime prosecutors who generally handle bribery offences. Various districts also have prosecutors specializing in offences committed by persons in public office and certain other positions. The National Prosecution Authority is not an actual investigative authority. One of the principles of the Finnish criminal procedure is that the assessment of the charges should be completed separately and independently of the investigative stage. Accordingly, the police authorities fall under a different branch of administration than the National Prosecution Authority. The Police is subordinate to the Ministry of the Interior.

Investigations

In Finland, there are three law enforcement authorities, which operate in their own area of responsibility: the Police, Customs and the Border Guard. The Police is a general and the main law enforcement authority, and most of the suspected crimes (including corruption related offences) are investigated by the Police. Customs has power to investigate custom-related crimes and the Finnish Border Guard takes care of cases related to borders. The NBI is part of the police force and has a significant role in international corruption

and bribery investigations. The NBI is tasked with combating international, organized, professional, financial and other serious crime, conducting investigations, and developing crime prevention and crime investigation methods. The NBI is operating in the whole territory of Finland. The Finnish Security and Intelligence Service is an expert in national security.

If there is, on the basis of a report made to the Police or otherwise, reason to suspect that an offence has been committed, the Police or another criminal investigation authority (the Border Guard or Customs) must first conduct a criminal investigation (Finland has a mandatory investigation regime). A criminal investigation is carried out in cooperation between the criminal investigation authorities and the prosecutor.

To accomplish its tasks, the Police is invested with sufficient investigative powers as well as authority to decide on the use of different coercive measures, such as the search of premises and obtaining of evidence.

Prosecution

According to the law, prosecutors are to cooperate with the investigative authorities during pre-trial investigations. Prosecutors also have same powers to use coercive measures as the investigative authorities. The prosecutor is responsible for ensuring that criminal liability is tested in the criminal procedure, considering charges and trialing as required by the legal protection of the parties concerned and the public interest. Once the criminal investigation is completed, the criminal investigation materials are submitted to the prosecutor for the consideration of charges. If the prosecutor decides to bring charges, he or she will initiate the matter in a district court.

For further information, please see the attached UNCAC 2nd cycle self-assessment checklist for Finland (attachment 2), Finland's fifth evaluation round situational report for the GRECO (attachment 1), the GRECO's fifth evaluation report and the OECD Anti-Bribery Working Group Phase 4 report.

B. Prevention

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

Transparency

The right to access to public information is set in the Constitution, where section 12 states that documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an act. Transparency and openness of public administration is regulated by several acts, such as the Act on the Openness of Government Activities (621/1999), the Administrative Procedure Act (434/2003) and the Act on Electronic Services and Communication in the Public Sector (13/2003).

The Act on the Openness of Government Activities provides the core foundation for the transparency of the decision-making in Finland. The main principle is that official documents are in the public domain unless specifically otherwise provided for. State authorities are subject to the Act, including state administrative authorities, courts of law, state enterprises, municipal authorities and parliamentary agencies and institutions and the Act applies to both documents created by an authority and those delivered to an authority.

The first version of the Act on the Openness of Government Activities was passed in 1951, with the most recent inclusions made in 2002. The Decree on the Openness of Government Activities and on Good Practice in Information Management (1030/1999) provides guidelines for government officials working with information management and freedom of information issues.

General transparency of public decision-making

In addition to the general publicity of the documents, in general, all decisions in public domain are public, they need to be reasoned and the citizen involved has the right to appeal to the decision. Finland joined the international Open Government Partnership (OGP) in 2013. Each OGP member country commits to promoting open government by drawing up two-year action plans. Encouraging engagement by citizens has been a key goal in each of Finland's action plans. See in more detail: National Action Plan for 2019-2023 Finland.

Asset disclosure rules

Asset disclosure is regulated in the Act on Public Officials in Central Government and section 8 a applies to senior government officials. Section 8 a states that before appointment the person must give an account of his or her business activities, holdings in companies and other property, of duties not related to the office concerned, of part time jobs set out in section 18 and of other relations and commitments that may be relevant for the evaluation whether the person concerned is qualified for performing the tasks required in that office. The Ministry of Finance has issued detailed guidelines about asset disclosure.

In its fifth evaluation round, the GRECO gave a recommendation to Finland to standardize the asset disclosure requirements. The Ministry of Finance will evaluate, which measures are needed to fulfill the recommendation. The option is either to amend section 8 a in the Act on Public Officials in Central Government or alternatively update the guidelines and the form regarding the disclosure.

Lobbying

In March 2020, a parliamentary working group was set up in order to establish a transparency register related to lobbying. In accordance with the Government Programme, an act on a transparency register will be enacted in Finland on the basis of parliamentary preparation and in consultation with the civil society. The purpose of the act would be to improve the transparency of decision-making and, by doing this, to prevent undue influence and reinforce public confidence.

Revolving doors

Section 44 a of the Act on Public Officials in Central Government, which came into force on 1 January 2017, states that the authority and the person who will be appointed to an office or as a civil servant may sign a written contract that restricts the civil servant's right to employment or engagement in other activities if the civil servant wishes to give his notice. The restriction period can be agreed to cover a fixed period of a maximum of 6 months and the authority has the right to consider whether to impose the restriction period. The civil servant is remunerated for an equivalent period.

The agreement is possible in cases where the civil servant has access to confidential information that could be used in the new employment or other activity for the person's own benefit or another actor's disadvantage. In such cases, the agreement is a prerequisite for appointment. The Ministry of Finance has issued detailed guidelines about the above mentioned contract and restriction period.

For further information, please see the attached UNCAC 2nd cycle self-assessment checklist for Finland (attachment 2), Finland's fifth evaluation round situational report for the GRECO (attachment 1) and the GRECO's fifth evaluation report.

For further information regarding training and other resent preventative measures, please see attached Finland's fifth round situational report for the GRECO (attachment 1).

21. Rules on preventing conflict of interests in the public sector

Conflict of Interest

There is no definition of conflict of interest in the Finnish legislation. There are, however, other restrictions that can be akin to incompatibilities restrictions and conflicts of interest restrictions. Section 63 of the Constitution states that while holding the office of a Minister, a member of the Government shall not hold any other public office or undertake any other task, which may obstruct the performance of his or her ministerial duties or compromise the credibility of his or her actions as a Minister. The Act on Public Officials in Central Government, section 15 states that a civil servant may not demand, accept or receive any financial or other advantage if this may reduce confidence in him or her or in an authority.

According to section 27 of the Administrative Procedure Act, an official shall not participate in the consideration of a matter at any point or be present during such consideration, if he or she is disqualified. In the circumstances defined in the Administrative Procedure Act, a civil servant shall be disqualified:

1) If he or she or a close person is a party to the matter;
2) If he or she or a close person assists or represents a party or a person due to gain any specific benefit or suffer any specific loss from the decision of the matter;
3) If any specific benefit or specific loss from the decision of the matter is foreseen for him or her or a close person;
4) If he or she is in service with or in a pertinent commission relationship to a party or a person due to gain any specific benefit or suffer any specific loss from the decision of the matter;
5) If he or she or a close person is a member of the board, supervisory board or a corresponding organ of, or the managing director or in a comparable position in a corporation, foundation, state enterprise or institution that is a party or that is due to gain any specific benefit or suffer any specific loss from the decision of the matter;
6) If he or she or a close person is a member of the executive body or a corresponding organ of an agency or institution, where the matter pertains to the supervision or oversight of the agency or institution;
7) If his or her impartiality is compromised for any other special reason.

Rules on secondary occupation

The Act on Public Officials in Central Government, section 18 states that civil servants may not accept or hold a secondary occupation that requires them to use their working hours to attend to duties associated with the secondary occupation, unless the authority in question grants them permission for the same upon request. A judge or a court clerk may not accept or hold any secondary occupation, unless the court in question grants them permission for the same upon request. Permission for a secondary occupation may also be given for a fixed period of time or subject to restrictions. Permission for a secondary occupation may be withdrawn if necessary.

Civil servants must notify the authority concerned of any secondary occupation other than those referred to above (secondary occupation during free time). An authority may forbid a civil servant from accepting or holding such a secondary occupation. The Ministry of Finance has issued detailed guidelines about secondary occupations.

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

Legislation on the protection of whistleblowers is currently in place in several sectoral pieces of legislation (see in Finnish: U 37/2018 vp, point 4.3 and UJ 37/2018 vp, pages 7-10). In addition, labor law also protects employees, for example from unfounded termination of employment contract and discriminatory measures (see further on the Employment Contracts Act (55/2001), on termination and on non-discrimination). The Finnish authorities may also rely on the provisions for the protection of victims and witnesses and on the provisions within administrative law.

Finland's development cooperation is carried out by means of public funds. Anyone can report his or her suspicion via the online service for reporting misuse.

Please see further a detailed description of the action taken on the OECD Anti-Bribery Working Group Phase 4 Follow-up Report of Finland, pages 9-11.

After the adoption of the 2019 OECD Follow-up Report, a new EU directive (2019/1937) on whistleblower protection has been adopted in late 2019 to be implemented by 17 December 2021. The Ministry of Justice has established two preparatory working groups in February 2020 to prepare a legislation on whistleblower protection to implement the directive nationally.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other)

Please see the high-risk sectors of corruption in Finland mentioned in the web pages of the Ministry of Justice. More information (in Finnish) can be found in a report of the Police University College.

Public Procurement

Finland's public procurement system is harmonized by the EU legislation. Based on the renewed EU public procurement legislation, Finland enacted a comprehensive reform of national public procurement legislation in 2016. The Act on Public Procurement and Concessions Contracts (1397/2016) and the Act on Procurement Procedures and Concession Contracts for entities operating in the water, energy, transport and postal services sector (1398/2016) implement the Directives 23/2014/EU, 2014/24/EU and 2014/25/EU. These national Acts entered into force on 1 January 2017 (see the attached UNCAC 2nd cycle self-assessment checklist for Finland, page 50; attachment 2).

24. Any other relevant measures to prevent corruption in public and private sector

Please see the attached Finland's fifth round situational report for the GRECO (attachment 1).

Ethics and integrity training in the municipalities has been mainly the responsibility of the Union of Municipalities. It has published a handbook, ´Corruption and Ethics in Municipalities´.

C. Repressive measures

25. Criminalisation of corruption and related offences

Regulation and corruption cases

Finland has no separate legislation regulating anticorruption activities or the criminalization of corruption. Each individual case of corruption is unique, with different circumstances, motives, gains, parties and kinds

of damages caused to the society. Owing partly to this, the legislation relevant to the fight against and the prevention of corruption comprises several acts.

The corruption-related provisions in the Criminal Code form the core of these provisions. The current Criminal Code includes 14 sections on bribery offences, related to various forms of giving and accepting bribes and to separate offences linked with business and political activities. In addition to bribery offences, several criminal offences may involve elements of corruption. These include offences in office, fraud, embezzlement, business secrecy violation, insider information violation, discrimination and the abuse of a position of trust. These offences are different from bribery offences in that they may or may not be linked with corruption.

There are several provisions that have a role in prevention of corruption, in addition to the Criminal Code. Public officials are further governed by more detailed provisions in the Act on Public Officials in Central Government, the Act on Parliamentary Civil Servants (1197/2003) and the Act on Civil Servants in Local Government (304/2003). Relevant acts in corruption prevention are also the Act on Public Contracts (348/2007), the Competition Act (948/2011), the Act on a Candidate's Election Funding (273/2009), the Act on Political Parties (10/1969), the Act on the Taxation of Business Profits and Income from Professional Activity (360/1968), the Administrative Procedure Act, the Act on Equality between Women and Men (609/1986) and the Non-discrimination Act (1325/2014). The provisions on qualifications in section 125 and those on equality in section 6 of the Constitution can also be deemed relevant for the elimination of corruption. In addition, contracting in certain specialist fields is governed by the Act on Procurement Procedures and Concession Contracts for entities operating in the water, energy, transport and postal services sector (1398/2016). The contracts are also governed by the Decree of Public Contracts (614/2007) (for further information, please see the attached UNCAC 2nd cycle self-assessment checklist for Finland, attachment 2, and the OECD Phase 4 report).

Under the Criminal Code, natural persons convicted of non-aggravated bribery are subject to a fine or up to two years of imprisonment. The fines available for natural persons for non-aggravated bribery are calculated at between 1 and 120 day fines. A day fine is calculated as one sixtieth of the average monthly income of the person fined. The availability of fines as an alternative to imprisonment is consistent with the sanctions available for all other non-aggravated offences in the Criminal Code, including domestic bribery. Aggravated foreign bribery carries a penalty of four months to four years of imprisonment (see additional information in Finland's OECD Phase 4 report as well as in Finland's OECD Phase 4 Follow-up Report).

Corporate liability

Chapter 9 of the Criminal Code sets out the scope of ´corporate criminal liability´ in Finland. It provides that corporations, foundations, and other legal entities (hereafter corporations) can, at the request of the public prosecutor, be sentenced to a corporate fine where such a sanction is provided for in the Criminal Code. Corporations can be held criminally liable for all aggravated and non-aggravated forms of bribery and corruption, including domestic and foreign, active and passive, public and private. Corporate liability also applies to aggravated and non-aggravated forms of subsidy fraud, money laundering and aggravated accounting offence. Legal persons are subject to a maximum fine of EUR 850 000 for all criminal offences that attract corporate liability (see additional information in Finland's OECD Phase 4 report).

Additional sanctions

Business Prohibition Order

The Business Prohibition Act (1059/1985) authorizes the Court to impose and enforce bans on natural persons from engaging in commercial activities within Finland at the request of the prosecution. Bans of up

to seven years may be imposed on conviction. Bans may also be imposed as a temporary pre-trial measure for a maximum period of six months and at most twice during the pre-trial period.

Exclusion from public procurement contracts

Convictions for aggravated and non-aggravated bribery are included in the mandatory criteria for excluding an applicant from tendering for public procurement contracts. This applies to both natural and legal persons (see additional information in Finland's OECD Phase 4 report and the attached UNCAC 2nd cycle self-assessment checklist for Finland, attachment 2).

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

The issue has been covered in the OECD Phase 4 report, the Phase 4 Follow-up Report and UNCAC 2nd cycle self-assessment checklist for Finland (attachment 2).

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

The lack of channels for reporting, a clear process and rules for protection complicate the investigation of cases.

The issue of immunity regimes has been covered in detail by the recent evaluations of the OECD and the GRECO (for further information, please see the attached UNCAC 2nd cycle self-assessment checklist for Finland, attachment 2, the GRECO's fifth evaluation report and the OECD Phase 4 report).

III. Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Media authorities

In the Finnish system, the provision of audiovisual services is regulated in specific regulations (e.g. provision of services and licenses in linear TV and radio, marketing, European quotas, protection of minors), mostly stemming from EU directives and regulations, like the EU´s Audiovisual Media Services Directive (2018/1808). These are supervised primarily by two agencies, the Finnish Transport and Communications Agency and the National Audiovisual Institute. There are no state media authorities supervising the press or other media outlets. Nonetheless, all media has to comply with the law, for instance the Criminal Code.

Under subsection 3 of section 2 of the Constitution, the exercise of public authority must be based on law. It is the authority's duty to comply with the legislation determining its tasks and powers. A higher-ranking authority may not intervene in the activities of its subordinate administrative body in a legally binding manner while it uses its decision-making power. A ministry may issue general regulations and instructions to its subordinate agency on carrying out its administrative duties, but it may not order how an agency should resolve an individual administrative matter. A ministry may not retain the discretionary power in an individual matter within the jurisdiction of the agency, unless such power has specifically been determined for it in law.

The principles of good administration in the Administrative Procedure Act require an authority to treat equally those to whom it is providing services in administrative matters and to exercise its competence only for purposes that are acceptable under the law. The acts of an authority shall be impartial and proportionate to the objectives sought. Provisions on the openness of government activities are laid down in the Act on the Openness of Government Activities. Under section 20 of the Act, the authorities shall promote the openness of their activities and, where necessary, produce statistics and other publications concerning their sector. In accordance with the principle of public access to official documents, documents submitted to the authorities are public unless otherwise provided on document publicity or secrecy or another restriction of access to information in an act.

The Transport and Communications Agency supervises the Information Society Code (917/2014). If anyone violates this Act or provisions, regulations, decisions or license terms issued under the code, the Agency may issue a complaint and order to rectify the error or neglect within a specified reasonable period of time. Enforcement powers include conditional fines and penalty payments and, in some very exceptional cases, suspension or termination of television broadcasting (sections 332, 334 and 339). See the Act on the Transport and Communications Agency (935/2018).

Provisions on the activities of the National Audiovisual Institute are laid down in the Act on the National Audiovisual Institute (1434/2007). The Media Education and Audiovisual Programmes Unit of the Institute monitors compliance with the Act on Audiovisual Programmes (710/2011) and its tasks include the classification of audiovisual programmes. A review of an audiovisual programme classification decision by the Media Education and Audiovisual Programmes Unit may be requested by way of appeal with the Media Education and Audiovisual Programme Board.

The enforcement powers of the institute include e.g. issuing complaints and conditional fines.

Self-regulation

The Council for Mass Media (CMM) is a self-regulating committee established by publishers and journalists in the field of mass communication for the purpose of interpreting good professional practice and defending the freedom of speech and publication. The Council also addresses the methods by which journalists acquire their information. The Council does not exercise legal jurisdiction or public authority. Its decisions are, however, closely followed and observed.

The majority of the Finnish media have signed the Council's Basic Agreement, whereby the Council can directly handle any complaints that concern the undersigned media. Under certain circumstances, involving an important matter of principle, the Council can also independently initiate an investigation. The framework of the CMM's operations are stipulated in a Charter. It is signed by the organizations that have committed themselves to self-regulation and accepted its objectives.

Self-regulation and audiovisual programmes

The Act on Audiovisual Programmes provides for restrictions on the provision of audiovisual programmes for the purpose of protecting children. According to the Act, an audiovisual programme is considered to be detrimental to the development of children if the programme, by virtue of its violent or sexual content or its properties causing anxiety or any other comparable features, is likely to detrimentally affect children's development. When assessing the audiovisual programmes, the context and how above mentioned actions are portrayed, has to be taken into account. The Act does not cover quality of the programmes.

According to the Act, audiovisual programme providers have a duty to make sure that they do not broadcast programmes that are detrimental to the development of children during times, when children usually watch

TV. National Audiovisual Institute is supervising the Act. Since 1999, providers of audiovisual programmes have agreed to protect minors and to broadcast certain programmes that might be detrimental to the development of children, after certain threshold times (21:00 and 23:00). They have signed a voluntary contract on the issue. This contract is part of self-regulation of the audiovisual programme providers.

29. Conditions and procedures for the appointment and dismissal of the head/members of the collegiate body of media authorities and bodies

The responsibilities of the Transport and Communications Agency are laid down in the Act on the Transport and Communications Agency (935/2018). Under section 4 of the Act, the Government appoints the Director General of the Transport and Communications Agency. Under section 9a of the Act on Public Officials in Central Government and subsection 6 of section 28 of the Decree on Public Officials in Central Government (971/1994), the term of office of the Director General is five years. The Act on Public Officials in Central Government includes provisions on the termination of an official's employment relationship and they are also applied to the Director General of the Agency. In accordance with chapter 43 of the Act on Electronic Communication Services, in respect of a monitoring decision by the Transport and Communications Agency, a judicial review may be requested, as a rule, by way of an appeal with the Administrative Court and further with the Supreme Administrative Court.

According to section 3 of the Government Decree on the National Audiovisual Institute (712/2013), the Institute is headed by a Director. The areas of responsibility are led by Deputy Directors. The Director is appointed by the Ministry of Education and Culture. In line with section 7 of the Decree, the Deputy Director of the Media Education and Audiovisual Programme Classification is appointed by the Ministry of Education and Culture. According to section 5 of the Decree, matters under the Act on Audiovisual Programmes shall be decided at the Institute, upon presentation, by the Deputy Director of the Media Education and Audiovisual Programme Classification.

The Audiovisual Programme Board has, in line with section 32 of the Act on Audiovisual Programmes a chair, a vice-chair and four other members with a personal deputy. The Government appoints the members and their deputies for three years at a time. The provisions on the disqualification of judges are applied to the disqualification of the members of the Board. The Board members give a solemn affirmation of office. An administrative review may be requested of other decisions by the Centre. The request for review is made to the Centre. A judicial review may be requested by way of appeal in respect of a decision concerning a request for an administrative review.

Self-regulation

The CMM is comprised of a chairman and thirteen members whose term of office is three years. Eight members represent areas of expertise in the field of media, and five represent the public. The chairman, whose expertise also may be in the field of media, is appointed by the Managing Group of the Council for Mass Media. Representatives of the public are elected by the Council itself. They may not be employees or board members of any media entity. The media representatives are appointed by the Managing Group.

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

When the state purchases for example advertisement space, this falls within the category of public procurement. The Act on Public Procurement and Concession Contracts is applied to the procurement, if the threshold values of the Act are exceeded. The Act contains provisions on procedures for competitive tendering and obligations to act, which the public authorities must comply with in their procurements. The principles of non-discrimination, equality, transparency and proportionality form the foundations for the

obligations to act. Efforts shall be made to give consideration to adequate transparency and non-discrimination also in procurements falling below the threshold values, having regard to the size and scope of the procurement.

When the state purchases advertisements or other public communications, this activity falls within the scope of public administration. Hence, the Administrative Procedure Act and the legal principles of good administration associated therein must be followed. The aim of these provisions is to contribute to ensuring good and equal administration.

There are no specific rules regulating the transparent allocation of state advertising.

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

The Act on the Openness of Government Activities governs rules on the right of access and the duties of the public authorities to promote openness in the government, and to provide private individuals and corporations with an opportunity to monitor the exercise of public authority and the use of public resources, to freely form an opinion, to influence the exercise of public authority, and to protect their rights and interests (see section 3). The authorities have a duty to promote access to information, including on pending matters such as on the initiation of a legislative reform project, plans, accounts and decisions on pending matters of general importance. Authorities also have a duty to produce and disseminate information (see chapter 5). Information on legislative initiatives and government's decisions are available online. See also answer to question 37.

The Ministers are provided with a handbook, once a new government takes office. The handbook contains some guidance for the Ministers on communications and for example on the use of social media. See chapter ´12.15 Ministeri ja viestintä´.

See more information on forthcoming national anti-corruption strategy, National Courts Administration (which supports the courts in their communication activities) and National Prosecution Authority.

32. Rules governing transparency of media ownership

There are currently no specific rules on the transparency of media ownership. However, general publicity rules applied to limited liability companies apply also to media companies. On the basis of the Limited Liability Companies Act (624/2006), chapter 3, section 17, the shareholder register shall be kept accessible to everyone at the head office of the company. Everyone shall have the right to receive copies of the shareholder register or parts thereof.

Finland is currently in the process of implementing the amendments to the EU´s Audiovisual Media Services Directive. The Directive will be implemented in the Act on Electronic Communication Services. On the basis of the Government's proposal media service providers shall make publicly accessible information concerning their ownership structure. The new regulation is estimated to enter into force in autumn 2020.

C. Framework for journalists' protection

According to section 12, subsection 1 of the Constitution, everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an act. Provisions on restrictions relating to pictorial programmes that are necessary for the protection of children may be laid down by an act.

According to section 12, subsection 2 of the Constitution, documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an act. Everyone has the right of access to public documents and recordings.

According to the preparatory work for the Constitution, the central aim of section 12, subsection 1 is to guarantee open public debate, the freedom to form opinions, free development and diversity of mass communication and the possibility to criticize publicly the exercise of public power and these elements are prerequisites for a democratic society. Moreover, the government proposal also provides that the elements of freedom of speech in the provision should not be interpreted narrowly. The provision also protects journalistic work against interference by state powers before the actual publication of the work (HE 309/1993 vp, pages 56-57).

According to the preparatory work, the principle of openness enshrined in section 12, subsection 2 is among others a prerequisite for the supervision and critique of the exercise of public power and the functioning of authorities (HE 309/1993 vp, page 58).

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

Legislation

The Act on the Exercise of Freedom of Expression in Mass Media (460/2003) contains more specific rules concerning mass media, in particular on the rights, obligations and responsibilities of those that use their freedom of speech in the mass media.

Policy developments

A self-regulatory system for journalism established by the Council for Mass Media (CMM) has been operating in Finland for decades. See answers to questions 28 and 29.

Freedom of expression or the right to hold opinions without interference is protected by several international human rights instruments Finland has ratified. The policy developments concerning the implementation of the right have been reported in several periodic reports to international human rights bodies. The most recent periodic report concerns the implementation of the International Covenant on Civil and Political Rights.

Please also find attached a report to the Steering Committee for Human Rights (CDDH) in Council of Europe concerning national good examples from Finland on reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies (attachment 3). Attached you will also find a reply by the Government of Finland to a platform alert by the Platform to promote the protection of journalism and safety of journalists operating under the Council of Europe (attachment 4).

Public broadcasting

Publicly tax-funded Finnish Broadcasting Company (YLE) is supervised by an Administrative Council, as specified in the Act on the Finnish Broadcasting Company (1380/1993). The Council comprises of 21 Members of the Parliament from all parliamentary parties. The members of the Administrative Council shall include experts in the fields of science, art, education, business and economics, as well as representatives of different social and language groups. The duties of the Administrative Council include electing and dismissing the company's board of directors and its chair and confirming the fee of the board, overseeing that tasks under

public service programme activities are carried out and deciding on issues concerning considerable restriction or expansion of the activities or significant changes in the organisation of the company.

All amendments and changes (on e.g. funding, functions of the company, supervision) to the Act on the Finnish Broadcasting Company have to be made with parliamentary consensus among all parties. Together with the supervisory model this is means that the ruling government alone cannot make significant changes, for example cut the company's funding.

As a fairly recent development, in 2017 an auditing was commissioned by YLE on its journalistic decision-making after a debate on possible interference by state authorities. The study was conducted by an independent expert.

Please find Finland's rank on the world press freedom index here.

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

On 14 November 2018, the Ministry of the Interior, the Ministry of Justice and the Ministry of Education and Culture launched a project with the task of drafting proposals for more efficient eradication of hate speech punishable under the Criminal Code and harassment prohibited by law. In the course of its work, the working group also dealt with hate campaigns and targeting.

The working group considers hate speech such a serious problem that policies for its eradication must be included in the Government Programme or another similar document and a specific action plan against hate speech must be drawn up. The working group presents a total of 13 recommendations for developing more efficient measures to tackle hate speech and cyberbullying (in English). The recommendations can be implemented as part of the action plan to be drawn up.

The Ministry on the Interior will set up a working group, which addresses the question of targeting online attacks, how the actions of the Police can be intensified and how to give more effective protection to the victims. All these actions will intensify also the safety of the journalists. Education for the Police regarding the protection on journalists is being prepared, with the Finnish Broadcasting Company (YLE) as a partner. Due to the covid-19 pandemic, education can proceed during 2021.

35. Access to information and public documents

Legislation

The Act on the Openness of Government Activities governs the right of public access to documents. Under the Act, free access to a document is the main principle and secrecy is an exception. Access may thus not be restricted without a lawful reason and no more than necessary for the interest in question being protected.

A short brochure on the Act can be found here.

Finland has ratified the Council of Europe Convention on Access to Official Documents (CETS No. 205).

Policy developments

The Ministry of Justice has commissioned a study from an external expert concerning the broadening of the scope of the Act on the Openness of Government Activities to cover entities owned or controlled by the public sector.

The study can be found here.

The Government Programme includes the following points concerning access to information and public documents:

> The Government will examine the need to update the Act on the Openness of Government Activities so that it would apply not only to documents but also to data and information in a more general sense. The Government will assess whether the scope of application of the Act should be broadened to cover legal entities owned or controlled by the public sector. Compliance with the Act on the Openness of Government Activities will be strengthened by setting a stricter obligation for authorities to comply with the Act and the related legal practice and case law in a manner that promotes transparency and by clarifying the sanctions that can be imposed for violations of the Act.

The preparations for the Act have not yet started.

See particularly pages 91-92 of the Government Programme.

36. Other - please specify

-

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

The process for preparing and enacting laws

The process for preparing and enacting laws has been described in the Legislative Drafting Process Guide.

A wealth of other guidelines have also been prepared to ensure that law drafting in the ministries takes place in line with good law drafting standards, the draft laws are of good quality and also to describe the process to the public.

Under the Constitution, the powers of the State in Finland are vested in the people, who are represented by the Parliament (section 2 of the Constitution). Democracy entails the right of the individual to participate in and influence the development of society and his or her living conditions. The Ministry of Justice promotes and monitors the realisation of these participation rights.

The Government's Registry for Projects and Initiatives service provides a possibility to inform public about the progress of law drafting process (including public consultations). The information is displayed in a timeline as the following example shows: http://vm.fi/hanke?tunnus=VM111:00/2016. The public can also find both ongoing and coming consultations listed.

The procedure for enacting laws in the Parliament can be followed through the legislative database published online. The Parliament publishes e.g. memorandums of the Committees as well as expert opinions provided

to the Committees. See an example of all the documents published on the website of the Parliament concerning a specific file.

Information on services enhancing participation and democratic decision-making in Finland is publicly available.

Information on the National Democracy Programme that runs up to 2025 is attached (attachment 5).

More information concerning particularly public consultations can be found at the website of the Ministry of Justice.

The calls for consultations are public by nature, so anyone can participate, also the judiciary.

As a recent development, the current Government Programme states that an act on a transparency register will be enacted based on parliamentary preparation and consultation of the civil society. The purpose of the Act is to improve the transparency of decision-making and, through this, to prevent inappropriate influence and to reinforce public confidence. The preparations for the Act have been started (more information).

As a recent example on the consultation of the judiciary on judicial reforms, the law governing the administrative judicial procedure is worth mentioning. The law was redrafted and the new law came into force at the beginning of 2020. In this process, a network of stakeholders were involved in the preparation of the Act. The network also consisted of members of the judiciary. See information on this particular process.

Moreover, the National Courts Administration began its operation on 1 January 2020. Information on the consultation of the judiciary on this process can be found here.

Emergency procedures

There is no general emergency or urgent procedure to enact laws. However, the ordinary process to enact laws can be fairly quick, if need be. An urgent procedure to enact, amend or repeal the Constitution is foreseen in section 73 of the Constitution:

> A proposal on the enactment, amendment or repeal of the Constitution or on the enactment of a limited derogation of the Constitution shall in the second reading be left in abeyance, by a majority of the votes cast, until the first parliamentary session following parliamentary elections. The proposal shall then, once the Committee has issued its report, be adopted without material alterations in one reading in a plenary session by a decision supported by at least two thirds of the votes cast.
>
> However, the proposal may be declared urgent by a decision that has been supported by at least five sixths of the votes cast. In this event, the proposal is not left in abeyance and it can be adopted by a decision supported by at least two thirds of the votes cast.

The current Constitution is fairly modern and has been applied since 1 March 2000. The first time the urgent procedure was used to amend the Constitution was in 2018, when section 10 of the Constitution, which concerns the secrecy of confidential communications, was amended. The section was amended in order to facilitate the enactment of laws concerning civil and military intelligence and reconnaissance. An amendment was necessary to the Constitution, which was then passed in the Parliament without leaving it in abeyance. More information on the process can be found at the websites of the Ministry of Justice and the Parliament.

The covid-19 pandemic has caused the need to enact new temporary laws and amend some existing ones. Many of the measures have been undertaken through the powers invested in the Emergency Powers Act (1552/2011). The covid-19 measures have been reported to the Commission separately. Please find attached a verbal note to OSCE/ODIHR on the Finnish measures in response to the epidemiological crisis caused by the coronavirus (attachment 6).

38. Regime for constitutional review of laws

The Constitutional Law Committee is the main organ in charge of constitutional review in Finland. The Committee's principal function is to issue statements on bills sent to it for consideration and on the constitutionality of other matters and their bearing on international human rights instruments. The Constitutional Law Committee is made up of Members of the Parliament. In its work, the Committee regularly hears independent experts of Constitutional law mainly from the academia.

More information on the Constitutional Law Committee.

The Constitutional Law Committee drafts the Constitution as well as legislation closely connected to it, such as the legislation pertaining to autonomy of Åland, election, citizenship, language and defence. The Constitutional Law Committee also deals with matters having to do with the alleged malfeasance of a Minister, the reports of the Chancellor of Justice of the Government and the Parliamentary Ombudsman and the Government Annual Report.

In addition to the ex ante constitutional review conducted by the Constitutional Law Committee, section 106 of the Constitution contains an ex post mechanism for constitutional control, which guarantees the primacy of the Constitution. According to the section, if, in a matter being tried by a court of law, the application of an act would be in evident conflict with the Constitution, the court of law shall give primacy to the provision in the Constitution. It is fairly seldom that courts have applied section 106 of the Constitution.

B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

The common core document by the Government of Finland to the United Nations treaty bodies was submitted in March 2020. The core document attached (attachments 7 and 8) contains a description of the Finnish independent organs, such as the overseers of legality, the special ombudsmen, advisory boards and non-governmental organisations. A description of these can be found on pages 44-46, 47-52 and 54-56. For Boards and Councils, see pages 23-26 of the report.

As a recent development, the division of labour between the two supreme overseers of legality has been evaluated.

C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

As a general rule, administrative decisions become public at the time the decision is taken, if a secrecy exception in the Act on the Openness of Government Activities or in another act does not apply to the information contained in the decision (section 6, subsection 1, paragraph 8 of the Act on the Openness of Government Activities).

According to section 21 of the Constitution, everyone has the right to have his or her 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 his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice. Provisions concerning the publicity of proceedings, the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance shall be laid down by an act.

The scope of judicial review is defined by the Administrative Judicial Procedure Act that has been recently reformed. The scope of judicial review is broad and essentially covers any measure by which a case has been resolved or dismissed. An appeal is not possible to a decision that only deals with the preparation of a matter or implementation. An internal administrative order concerning the performance of a duty or another measure shall not be subject to appeal (section 6 of the Administrative Procedure Act). There can also be some restrictions on appeals in sectoral legislation.

See additional information here.

41. implementation by the public administration and State institutions of final court decisions

The Chancellor of Justice of the Government and the Parliamentary Ombudsman are the supreme overseers of legality and exercise oversight on the compliance with the law of all authorities. See answer to question 6.

For a description of the supreme overseers of legality see the common core document by the Government of Finland to the United Nations treaty bodies referred to above, pages 44-46 (attachments 7 and 8).

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

Attached you will find a report by the Government of Finland to a working group of the Council of Europe (attachment 9). The report discusses some examples of good practices on the protection and promotion of the civil-society space in Finland.

During the Presidency of Finland of the Committee of Ministers of the Council of Europe a decision on the need to strengthen the protection and promotion of civil society space in Europe was adopted.

On 9 February 2017, the Government appointed a new Advisory Board on Civil Society Policy (KANE) for 2017–2021. The Advisory Board on Civil Society Policy operates under the auspices of the Ministry of Justice and is tasked to foster cooperation and interaction between civil society and public authorities. This is the advisory board's third term of operation.

The tasks of the advisory board include, for example, promotion of interaction between public authorities and civil society and improvement of civil society's operating conditions.

43. Other - please specify

According to the Constitution (section 14, subsection 14), the public authorities shall promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her. Finland has a long tradition of public debate and citizens' and civil society's involvement. In Finland, there are several digital services related to democracy and participation. See for example here.

As a continuation for the previous similar programmes, a new National Democracy Programme was launched at the end of 2019 and in runs up to 2025. It is based on the Government Programme (see page 91). The

National Democracy Programme 2025 covers the numerous measures related to civil society and participation outlined in the Government Programme. It will function as an umbrella for democracy-related projects to be carried out by different ministries. The objective of the Democracy Programme is to guarantee equal opportunities for everyone to participate in society and to provide such a framework for participation that everyone can find a suitable way to exert influence. The aim is to put participation at the center of public administration activities and simultaneously increase public trust in society's institutions.

ATTACHMENTS

Att. 1 The GRECO Fifth Evaluation Round Reporting; Finland's situational report on the implementation of the recommendations issued in the Fifth Round Evaluation Report

Att. 2 United Nations Convention against Corruption; UNCAC 2nd cycle self-assessment checklist; Finland

Att. 3 Protection and promotion of the civil-society space: Examples of good practices in Finland

Att. 4 Platform to Promote the Protection of Journalism and Safety of Journalists; Reply by the Government of Finland to the platform alert

Att. 5 Demokratiaohjelma 2025

Att. 6 Verbal note to OSCE/ODIHR on the Finnish measures in response to the epidemiological crisis caused by the coronavirus

Att. 7 Common Core Document by the Government of Finland to the United Nations Treaty Bodies

Att. 8 Common Core Document by the Government of Finland, Annexes

Att. 9 Steering Committee for Human Rights (CDDH); Drafting Group on Group on Freedom of Expression and Links to other Human Rights (CDDH-EXP); Guide to good practices on reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies; Examples of National Good Practices by the Government of Finland