

## European Commission's 2024 Rule of Law Report:

### Input of the Parliamentary Ombudsman

The Parliamentary Ombudsman is one part of the Finnish National Human Rights Institution, together with the Human Rights Centre and its Delegation. The Human Rights Centre has provided the Commission with their more in-depth written contribution, to which this written input is complementary.

In the previous report the Commission gave Finland four recommendations. The answers here are based on the statements and opinions given by the Ombudsman during 2023.

Recommendation 1: Continue to follow-up on the report on the assessment and future development trends of the court system, including the reform of the appointment of lay judges, taking into account European standards on judicial independence.

Answer:

The Parliamentary Ombudsman gave the Ministry of Justice a statement on 20.3.2023 (EOAK/1609/2023) relating to the assessment report on the selection procedure for lay judges. The Ombudsman emphasized that the appointment of lay judges has been for several years one of the issues on the Ombudsman's list of 10 most significant fundamental rights problems in Finland.

In the Ombudsman's view, considering the structures of rule of law, the division of powers as well as the independence of the judiciary, it seems quite clear that politicians should not be involved in the selection of lay judges at all despite the political nature of the subject. The Ombudsman concluded that the rationale for maintaining the lay judge system should be critically reassessed now the government has changed.

In the government's input to the rule of law report 2024 it is stated that "the Government will seek alternatives to the current selection procedure for lay judges in district courts so that political parties would no longer have a role in the selection procedure. After the publication of an assessment report on the procedure for selecting lay judges by the Ministry of Justice in February 2023, the Ministry has committed in proceeding with the evaluation of alternatives for selection procedures in 2024 accordingly with the new Government Program."

In relation to the administrative courts, on 28.8.2023 the Ombudsman gave his statement (EOAK/4005/2023) on the memorandum on the need for amendments to the composition of administrative court judges drafted by the Ministry of Justice. The memorandum explores the option to reduce the composition of judges from three to two judges.

The Ombudsman considered it important the three-judge composition should remain as the general rule in the legislation. The Ombudsman has in his previous opinions been critical of the current development of weakening the justice system. Referring to statements by the Par-

liament's Constitutional Law Committee, he noted that three-judge compositions contribute to a more multifaceted review and strengthen legal protection.

On 20<sup>th</sup> of October 2023 the Ombudsman gave his opinion (EOAK/6650/2023) on the government proposal relating to the establishment of a new agency for specialised ombudsmen. According to the proposal certain administrative services of the specialised ombudsmen and some other authorities situated in connection with the Ministry of Justice would be transferred to a new agency. The legislative tasks, powers, and independent status of the ombudsmen would, however, remain unaffected.

The Ombudsman stated in his opinion that the government's proposal seemed to be more about implementing the prevailing trend of administrative change than about promoting the functional autonomy and independence of the specialised agencies. The Ombudsman also stated that neither the administrative nor financial organisation of the special agency should compromise either dimension of independence. According to the proposal, the special ombudsmen would remain under the direct performance management of the Ministry of Justice. As at present, performance management would involve negotiating and agreeing the performance targets for each specialised agency and the resources to be allocated to achieve them.

The Ombudsman concluded that the best way to ensure the structural autonomy and independence of the special ombudsmen in relation to the executive would probably be to place them within the Parliament. However, the partially overlapping of competences would not justify placing them in conjunction to the Ombudsman's office.

The new act was adopted in December 2023 and will come into force on 1.1.2025.

Recommendation 2: Adopt legislation on trading in influence and continue to take steps to propose a revision on the criminal offence of foreign bribery.

- No answer

Recommendation 3: Strengthen the integrity and accountability framework applicable to ministers and other persons entrusted with top executive functions by adopting a code of conduct for them.

- No answer

Recommendation 4: Advance with the reform of the Act on the Openness of Government Activities to ensure effective and wider access to documents taking into account the European standards on access to official documents.

Answer:

As the government said in their 2024 input, the working group on reforming the Act on the Openness of Government Activities finished its work and the report has been sent for public consultation.

The Ombudsman is in the process of drafting a statement on the report.

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