

Finland 2024

Information from: Finnish Human Rights Centre (FHRC) and its Human Rights Delegation (HRD); Finnish Parliamentary Ombudsman

Democracy - checks and balances, disinformation, and other topics

Separation of powers

The role of the parliamentary Constitutional Law Committee in reviewing human rights compliance of governmental legislative propositions

The role of the parliamentary Constitutional Law Committee in ensuring in advance that laws comply with international human rights agreements has raised some concerns, especially when it has assessed the Government's legislative proposals aimed at implementing its social welfare cuts policy. (See for example Government's proposal [HE 73/2023 vp](#) and proposal [HE 75/2023 vp](#).) These legislative proposals entail significant reductions in benefits and index freezes, with their impacts largely affecting the most vulnerable segments of the population.

In its statements regarding the proposals, the Constitutional Law Committee emphasised, referring to its previous statements, that states having ratified the European Social Charter are committed to protecting the social and economic rights defined in the treaty. Furthermore, Finland has committed to the Additional Protocol to the Charter on the system of collective complaints. The Constitutional Law Committee reiterated its very serious approach to the observations made in the monitoring practice of the European Social Charter. In the Committee's opinion, the Government should promptly initiate a thorough examination of the matter. (See [Statement of the Constitutional Law Committee PeVL 15/2023](#) and [Statement of the Constitutional Law Committee PeVL 16/2023](#).) There isn't, however, any other mention in these statements of human rights and no analysis of the implications of the proposed legislation to the implementation of those rights. According to [academics](#), the Committee has in its deliberations also failed to consider the principle of non-retrogression.

It is equally important to note that Finland has received several observations and recommendations from human rights bodies on shortcomings regarding social rights, especially inadequacy of the level of social security. (See [UN Committee on Economic, Social and Cultural Rights](#) and [European Committee](#)

[on Social Rights](#).) Considering these observations, and the role of the Constitutional Law Committee, a thorough analysis of the human rights implications of the proposed legislation by the Committee would have been appropriate.

Possible need to amend the Section 106 of Finland's Constitution

The discussion on the need to amend Section 106 of the Finnish Constitution is still ongoing in Finland. According to the Section, courts have the duty to refrain from applying a provision of a law if it is in obvious conflict with the constitution. However, the requirement of a manifest conflict may have set the threshold of the application of Section 106 too high. The working group on 'Rule of Law Guarantees and Development of the Judicial System' set up by the Ministry of Justice for the years 2023–2027 has suggested the removal of the requirement of obviousness to be considered as part of its [work plan](#). However, in February 2024 the Ministry of Justice [decided to withdraw](#) the action point, as it was not included in the current Government's programme. The Finnish Human Rights Centre has elaborated the need to amend Section 106 in its [report](#) published in 2021.

The process for preparing and enacting laws

To afford decision-makers and stakeholders a holistic picture on the impacts of proposed legislation, the Government and the Ministry of Justice have in 2023 issued [updated guidelines](#) concerning impact assessments in law drafting, including human rights impacts. According to the guidelines, for successful assessment, concrete impacts should be analysed with the help of empirical assessment methods, where focus is drawn to the practical realisation of human rights in people's every-day lives. This includes impacts on poverty, unemployment, or the health of the populace. Consequently, while assessing the compliance of bills with constitutional norms and international human rights obligations remains essential during the drafting process, legalistic scrutiny alone is insufficient for a properly conducted human rights impact assessment.

Although featuring prominently in the Government's guidelines, meaningful impact considerations relating to human rights appear quite sporadically in the actual drafting. Measures have been taken to educate drafters on human rights implications, although time constraints and deficient resources allotted to drafting remain recurring concerns.

Neglecting human rights during law-drafting in favour of political expediency is thus a concern that warrants attention in Finland. Stringent, politically set timetables have hampered stakeholders, including human rights and civil society actors' capability to provide input, despite their consultative and vital role in the drafting process. At worst, impacts are so defectively assessed that

the stakeholders are left to draw their own conclusions on impacts. Coupled with political urgency, this is often not only practically unfeasible but also constitutes rather undue delegating of state responsibilities, in terms of rule of law. Alarming, stakeholders have been given as little as [five days](#) to provide consultative inputs on major Government proposals, instead the usual recommended minimum of 6–8 weeks.

The abovementioned was witnessed with the Government's proposals concerning major revisions in social security (considered also in the chapter above). As [noted](#) by the Finnish Council of Regulatory Impact Analysis in October 2023, human rights impacts were meagrely assessed during the process despite numerous proposed austerity measures on unemployment benefits, housing benefits and social assistance. Further troubling was the way how the Government primarily conducted its impact assessment individually for proposed changes, ending up ignoring many disadvantages the bills will cumulatively signify in terms of human rights realisation, once enacted. Pertaining to these proposals, the Finnish Human Rights Centre has forwarded its [criticism](#) to the parliamentary Social Affairs and Health Committee, commenting the lacking and occasionally misleading nature of the assessments on socio-economic impacts to the poorest section of the population, i.e. those most adversely affected by the proposals.

Independence and effectiveness of independent institutions (other than NHRIs)

As described in other sections of the report, different human rights actors face more and more inappropriate criticism when conducting their legislative tasks. Taking into consideration these developments, the Finnish Human Rights Centre has undertaken several initiatives.

The Human Rights Delegation of the FHRC provides a forum of exchange for different human rights experts representing independent authorities, civil society, academia and businesses. Permanent members to the Delegation include both supreme guardians of the law and all specialised ombudsmen. In September 2023, the Finnish Human Rights Centre organised a retreat for the Delegation members with discussions on several topical issues, such as polarisation in the society and its consequences. The idea was to share experiences and consider possible actions by human rights actors.

In addition, the Human Rights Delegation has been involved in the foresight work of the Finnish Human Rights Centre. In April 2023, the Delegation members participated in small workshops where different scenarios for 2040 prepared by the Centre were discussed. The participants elaborated further the impacts of different scenarios on the realisation of human rights and reflected on how to prevent or support certain developments. The workshops provided the members with an opportunity to apply foresight-based thinking and share

comments on the scenarios. The FHRC hopes that its work on foresight, and at more concrete level on resilience, can also benefit other human rights actors in better preparing to possible threats.

Enabling environment for civil society and human rights defenders

Protection mechanism for human rights defenders still lacking

The development of a mechanism for protection of human rights defenders has not proceeded during 2023. The previous Government started preparing a humanitarian visa for human rights defenders, activists and journalists, but whether the initiative will proceed under the new Government is unclear. In October 2023, the Finnish Human Rights Centre [highlighted in a statement](#) submitted by its own initiative to the Parliament's Foreign Affairs Committee, that a permanent mechanism for the protection of human rights defenders is needed and resources for its development should be granted. The need for EU member states to improve access to visas for human rights defenders has also [recently been highlighted](#) by the UN Special Rapporteur (SR) on the situation of human rights defenders. During a visit to Finland in September 2023, the SR discussed this topic with the FHRC's Human Rights Delegation.

It also to be noted that in March 2023, the National Union of Students in Finnish Universities of Applied Sciences (SAMOK) and the National Union of University Students in Finland (SYL) established a [Students at Risk association](#), with a grant from the Ministry of Foreign Affairs. The aim of the association is to offer students with the opportunity to continue studies at a Finnish higher education institution if in their home countries they are denied the right to education or other human rights due to their activities as human rights defenders. This is a very welcome initiative, but the Finnish Human Rights Centre will continue to advocate for a broader and more permanent national protection mechanism for human rights defenders.

Precedent by Supreme Administrative Court exposes journalists to unreasonable financial risks

In December 2023, Finland's Supreme Administrative Court gave a ruling which raised concerns about journalists being exposed to significant financial risk because of their work. According to the [Court's ruling](#), financial aid paid by employers to support journalists facing legal charges is taxable income. The ruling related to the case reported about last year, where two journalists were found guilty of disclosing state secrets in an article published in the newspaper Helsingin Sanomat in 2017.

[Finland's Association of Editors](#), [The Council for Mass Media in Finland](#), [The Finnish Media Federation](#), and [The Union of Journalists in Finland](#) have stated

that the decision could reduce investigative journalism, lead to self-censorship by reporters and have a similar effect as SLAPPs, with journalists being subjected to an unreasonable financial burden because of their work. In the case in question, the legal fees amounted to more than two million euros, which as taxable income means that the journalists would have to pay hundreds of thousands in taxes. The ruling does not only concern journalists and the media sector, and similar issues could arise also in other fields of work.

Whereas the employer in the present case decided to compensate the additional tax costs to the journalists, the ruling nevertheless poses a dangerous precedent and has provoked calls for amendments in the tax legislation.

NHRI's recommendations to national and regional authorities

- Commit to properly conducted and systematic human rights impact assessments in law drafting by allocating sufficient personnel and time resources for it and by ensuring meaningful stakeholder consultation;
- Urgently establish a comprehensive mechanism to protect human rights defenders and their families, including a fast and flexible visa procedure to relocate to safety in Finland and the necessary support.

