



FUNDAMENTAL RIGHTS AND THE RULE OF LAW

Report on the visit to Finland

2-3 June 2022



European Economic
and Social Committee



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Six members took part in the visit to Finland. The delegation met with several representatives of civil society, specifically civil society organisations (CSOs), social partners, the media and the legal professions, as well as the Finnish authorities. The aim of this report is to faithfully reflect and reproduce the views of civil society.

1. The fundamental rights of social partners

Participants considered that social partners benefited from a **solid framework** and a long tradition of tripartite dialogue. The Finnish system provided for the adequate involvement of social partners and CSOs in the legislative process from the upstream phase, in the form of participation in governmental working groups. Participants felt that compared to some other countries, there was no topic which was too sensitive to be discussed in these frameworks. The government always involved the social partners in questions concerning wages or labour and social legislations, but also in position papers on EU matters. In addition to structured consultations, ministries were also quite accessible for more informal exchanges.

Participants explained that the practice of **social dialogue** had evolved over the past few years – drifting away from collective bargaining at national level – and social partners were still looking for a new negotiation model. Participants explained that employers, in particular in the forestry and technological sectors, withheld from negotiations at national or sectoral level, preferring negotiations at company level to better face global competition. The Finnish authorities explained that a tripartite working group was discussing the future of collective bargaining in the country, but that no significant steps can be expected before social partners agree on such a model.

Participants explained that a package to support employment in the context of **COVID-19** was negotiated at the beginning of the crisis, covering aspects such as employment, social benefits and company operations. Healthcare workers had been put under intense pressure by the pandemic. Exceptional measures imposed overtime work and forced vacations to be postponed. After the crisis, nurses went on strike to demand better working conditions.

Social partners had sought to learn lessons from the crisis to prepare tools to act against possible new crises in order to maintain the resilience of companies and workers in such situations. Their **reflection** also extended to challenges posed by technological changes such as artificial intelligence, for example. The objective was to make the most of such changes for lifelong learning, upskilling and reskilling, rather than letting social partners be victims to societal changes.

One participant explained that the **right to strike** was well protected and recently used by groups including nurses and teachers to demand better working conditions. The participant however also

evoked the case of the Finnish postal service's attempt to prevent postal union action by threatening to resort to temporary workers during the strike. Several workers lost their pay for refusing to train these temporary workers, which led to a case at the European Court of Human Rights.

Participants explained that the **labour market in Finland was strongly segregated along gender lines** compared to other Nordic neighbours. Only a very small minority of sectors boasted a near-equal repartition between male and female workers. The persistent gender pay gap in the country resulted from this uneven repartition throughout the sectors more than from individual differences within companies. Young professionals' career choices were still strongly influenced by traditional models, with men rarely seeking careers in areas seen as female sectors. The Finnish authorities informed about the existence of a tripartite programme on equal pay and a tripartite working group on pay transparency, and about ongoing research and evaluations on these questions.

2. Freedoms of association and assembly

Participants agreed that Finland had a very **strong and diverse civil society**, organised under umbrella organisations that were respected and heard by the authorities. CSOs could, for example, have productive meetings with the police administration in ways that some participants felt would not be possible in most countries. Civil society played an important watchdog and advisory role, which complemented action by the independent office of the Parliamentary Ombudsman, whose mandate was quite broad (covering the National Prevention Mechanism against torture, and monitoring the Convention on the Rights of Persons with Disabilities (CRPD), etc.), and whose recommendations on amending legislations were almost always followed. The role of the National Human Rights Institution was entrusted to the Human Rights Centre (HRC), which mainly focussed on awareness raising and capacity building on human rights. CSO consultations ran in a smooth and efficient manner, although some participants had the feeling that the timing was sometimes unclear, and that the timeframe offered for involvement of civil society had shortened over the last years following one of the legislation drafting processes.

Participants explained that Finnish CSOs benefitted from a **strong tradition of public funding** which stemmed from various levels: European, national, regional, and municipal – a variety of sources which ensured their independence. This structure was all the more appreciated because the majority of the Finnish CSOs were small or medium sized, limiting their capacity for fundraising. One participant believed that ministries varied in their levels of exigence concerning CSO reports on the use of public money, but that reporting requirements were always very demanding, and sometimes too costly both in time and money.

Participants also explained that the stable situation offered by the large availability of public funding could evolve, and that reflecting on the future of funding was essential for CSOs. One of the **challenges** was the emergence of new issues such as COVID-19 and the war in Ukraine, which could divert funding channels from the usual recipients. Another challenge was the foreseen reform of the state monopoly on gambling, which generated funds that traditionally benefitted social and health CSOs. As funds would now only stem from the state budget, there could be a risk that funding policies could change according to the priorities of the government in power. Additionally, the possibility for the State to transfer the provision of some services in areas like health or development cooperation to the civil society sector raised questions. Although such transfers were framed by law, some participants felt it important to ensure that fundamental rights guarantees and public service requirements would not be lost in the transfer. Also, entrusting CSOs to be service providers could make it more difficult for them to play their role as watchdogs. Concerning the end of the state monopoly on gambling, the Finnish authorities informed that the objective was to fully compensate the funding gap through the state budget. A working group had been established to reflect over future funding models, including the challenge of avoiding priority changes according to the wishes of political majorities.

Freedom of assembly was considered well-protected, with authorities playing an active role to safeguard and promote it. Despite this overall excellent level of protection, participants felt that the police were sometimes puzzled by new forms of activism, such as non-violent disobedience led by climate protesters. A few examples were given of measures taken by law enforcement authorities which could have a chilling effect on freedom of assembly. One case concerned the use of tear gas by police to disperse a sit-in, which was followed by criminal charges against the policemen. The other case concerned charges of aggravated action against a public building filed against dozens of protestors. Regarding the former, the police response was considered disproportionate as it concerned a non-violent sit-in, and the charges brought against them were seen to have the potential to prevent such actions in the future. One participant concluded that cases of police abuse were rare, but that when they occurred, there was a risk of inconsistent action, such as more severity against certain types of demonstrators and more clemency with others. More human rights training was advocated as one of the ways to address such challenges.

Participants agreed that the **main challenges** against freedom of assembly did not stem from the authorities but rather from the rise in hate speech stemming from far-right groups which particularly threatened progressive demonstrators, such as climate activists, ethnic or sexual minorities, and women. Human rights defenders lived in a largely secured environment compared to other countries, but also faced an increase of hate speech, in particular online, which was overwhelmingly under-reported.

3. Freedom of expression and media freedom

Participants assessed the level of **press freedom as very high** in Finland. The legal environment offered solid protection, for example in the area of access to documents or respect for source confidentiality, and legal sanctions were limited to serious cases of defamation or matters of national security.

The **media landscape** was considered particularly vibrant given the relatively small size of the Finnish population. Public television and radio was fully independent, attracting half of the general population. The national, local and regional press landscape was also vibrant. Finland, however, was not exempt from the general trend towards media concentration, as social media had been pulling advertising revenue away from traditional media. This had led to a slight reduction of the editorial offer in a free media market that was not subject to state intervention. Overall, there was a strong tradition of newspaper reading, and many households subscribed to at least one daily newspaper. One of the main challenges in the area of media freedom concerned the under representation of minorities, such as people with migrant backgrounds and indigenous Sami.

The Council of Mass Media composed of academics, media professionals, and civil society representatives took up cases where a complainant felt misrepresented in the media. Participants believed that the **media was largely exempt from direct influence** from politicians, despite isolated incidents. There were occasional cases of strategic lawsuits against public participation (SLAPP), especially against freelance journalists, but they remained rare. Participants mentioned that a journalist was charged for reporting on security matters, allegedly because of the use of leaked classified information, however it had later emerged that he had only used publicly available information. One participant considered that the monitoring role of journalists was made harder by the trend revealed during COVID-19 to make political decisions based on complex data or artificial intelligence.

Participants agreed that the key challenge related to freedom of expression was **hate speech**. An example was given of a politician being cleared by a court of attacking homosexuality based on references to the Bible (however it was considered a positive development that the public prosecutor appealed the decision). On the other hand, another journalist had been convicted – before being cleared in a higher instance – for mocking a far-right politician. Participants felt that online hate speech particularly affected the ability of women and minorities to engage in public discussions and, notably, to run for elections. They felt that there was a general lack of awareness on what counted as

hate speech, with very few cases where the courts had sought to define it. Russia-connected attempts to interfere in public life took the form of online disinformation led by social media influencers, who would use any possible topic (COVID-19, refugees, NATO membership) to spread fake news. Concerning hate speech, the Finnish authorities indicated that despite all political will, the phenomenon would be difficult to address in a country with such strong traditions in freedom of expression. Concerning disinformation, the authorities pointed to statistics showing that the country succeeded relatively well in addressing online disinformation compared to other countries.

4. The right to non-discrimination

Participants explained that there was a good **legal framework** on non-discrimination, notably based on the Constitution, the Equality Act, and the Non-Discrimination Act. All authorities had the obligation to promote equality, notably through the development of an equality plan, which some participants felt were sometimes too generic and needed more focus on implementation. Participants also regretted that the non-discrimination Ombudsman could not work on labour issues because the Ombudsman's mandate did not entail employment matters, nor allow for taking up complaints concerning private employers. The Finnish authorities indicated that the Non-Discrimination Act was under partial review based on the recommendations of two working groups, which included measures to increase equality education starting at a young age, and more possibilities for the Non-Discrimination Ombudsman or other parties promoting equality to take a matter to the National Non-Discrimination and Equality Tribunal without the individual that has been a victim of discrimination – among others..

Participants explained that there was no definition of **hate crime and hate speech** under law, only aggravating circumstances leading to harsher sanctions. They added that only a very small minority of victims of hate speech or hate crime reported them to the police, and in the few cases that were reported, the investigation rate was very low. They felt that hate speech had been amplified and legitimised by far-right politicians and supporters, targeting women, LGBTIQ persons and ethnic minorities in particular, and that freedom of expression or freedom of religion was used as an excuse for such hate speech. Participants supported more awareness rising and capacity building among police and justice personnel to be able to better reach out to victims of hate speech.

Some participants explained that the needs of **people with disabilities** were systematically taken into consideration in town planning and construction, but that this did not, however, always prevent negligence or unconscious decisions that led to unintentional exclusion. They also regretted the fact that inclusion throughout the labour market was low because of discrimination and a lack of personal assistance. Children with disabilities faced higher levels of bullying at school compared to the rest of the child population, along with other groups such as LGBTIQ youth. The Finnish authorities informed that the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) was carried out in close collaboration with organisations of people with disabilities. They acknowledged the key issue of discrimination in the area of employment, which was largely the result of individual attitudes. Legislation provided for measures to promote equality and to ensure reasonable accommodation, and would be further reinforced by the implementation of the EU Accessibility Act.

One participant believed that despite the existence of good regulations on discrimination, the persistence of structural discrimination in society was still preventing the full integration of **migrants** through work. The parallel processes to get residence and work permits were burdensome and sometimes treated inconsistently by the administration. There was also an unjustified difference in treatment between Ukrainian asylum seekers, who were granted temporary residence, and other groups of asylum seekers. The latter did not benefit from equal support and faced daily hurdles, for example not being able to open a bank account. These asylum seekers had to submit their claim for asylum at specific points such as crossing points at the border or police stations, contrary to the previous practice allowing asylum claims to be filed throughout the country.

Participants explained that **people with ethnic minority backgrounds** often found themselves stuck in professions that they would not have wanted to follow. Additionally, surveys have proven the existence of workplace discrimination based on ethnic background. Surveys have also proven the existence of ethnic profiling in police practices. The indigenous Sami's right to free, prior and informed consent was not fully implemented. One participant explained that self-determination to quit the religion assigned at birth was normally not possible before reaching the age of majority (18), which entailed constraints in terms of taxes and religious teaching at school.

Participants explained that COVID-19 had impacted **women** more than men. Women represented the majority of staff in sectors such as the health sector. It was also indicated that Finland had one of the most restrictive abortion laws in Europe, obliging those seeking an abortion to give justified healthcare reasons, and to obtain the approval of two doctors before starting the process. Participants believed that the anti-gender movement was on the rise in Finland, which hindered women's participation in social and political life, including in elections. The Finnish authorities acknowledged that despite the very good societal protection offered by welfare and equality policies during the crisis, COVID-19 also highlighted long-term challenges such as labour market gender segregation, domestic violence, and unequal domestic care. Concerning abortion, the Finnish authorities informed that a review of the 1970 law was ongoing, following a citizen initiative which gathered enough signatures to put the question on the Parliament's agenda.

One participant informed that Finland did not yet have a comprehensive **LGBTIQ** strategy or action plan. A key issue was the significantly low level of reporting of hate speech and hate crime against LGBTIQ people. Another challenge concerned transsexual people, who were required to be infertile and undergo a psychiatric diagnosis to have their gender legally recognised. One participant called for the adoption of a law to protect intersex children to allow for interventions related to their health when necessary, while leaving non-vital interventions for a later time when they would be in a position to make a self-determined choice. The Finnish authorities acknowledged the growing demand and need for an LGBTIQ strategy, and recognised that further action was needed to facilitate the legal recognition of transgender people.

5. The rule of law

Participants explained that Finland, which topped global rule of law indicators, had **a strong and independent judicial power**, and that the vast majority of the public, including business, had confidence in the judiciary.

Participants agreed that the main challenge concerned the **length of judicial proceedings**, especially in civil cases. A National Court Administration had been put in place in 2020 to work on this and other related challenges, which were further exasperated by the backlog created by COVID-19. It called for a response in terms of human resources, based on data proving that the majority of judges experienced strong work overloads. The Finnish authorities acknowledged the need to provide more funding towards judiciary human resources, and indicated that in a constrained budgetary environment with a multiplication of new challenges, such an objective could only be approached one step at a time.

Participants believed that the **cost of judicial proceedings** was another challenge, and somehow related to the length of the proceedings. According to those participants, many people were hesitant to go to court because of the cost. The middle class, for example, was not wealthy enough to afford expensive proceedings, yet was above the revenue threshold to benefit from legal aid. The high costs of judicial proceeding particularly affected victims of discrimination who could not seek financial compensation before the Anti-Discrimination Ombudsman or the National Non-Discrimination and Equality Tribunal. The time that it took for a decision to be made in these instances often brought them past the two-year deadline to file a case for compensation in the civil judicial system.

Some participants explained that the **Constitutional Law Committee of the Finnish Parliament** was a very important body for ensuring checks and balances, and that it was fully independent despite being composed of members of Parliament. For example, it played an important role in ensuring that

the rare decisions that did not meet all required procedures and standards during the COVID-19 crisis were reviewed. A side effect of the COVID-19 crisis was that the general population had started to debate human rights and the rule of law. However this did not mean that further efforts were not needed for better general awareness raising on these topics. Despite an overall very satisfactory situation in the area of the rule of law, both the Finnish authorities and its civil society reflected on the risks of a potential overtake of power by anti-democratic forces. The authorities were considering a stress test of its institutions to identify concrete ways to safeguard not only the rule of law in such a scenario, but also media freedom and the civic space.

Despite already ranking at top of the **anti-corruption** indexes, the Finish authorities adopted a new anti-corruption strategy in 2021 to maintain its efforts in that area. Some participants welcomed this vigilance and believed that all actors should be involved in order to properly implement and monitor the strategy. There were calls for improvements concerning the need to investigate all corruption cases, even those considered minor. Vigilance was also needed against risks of corruption concerning companies in the export sector. One participant explained that lobbying was still unregulated in the country but that legislation was in preparation, including the establishment of a transparency registry. Regulations concerning traffic of influence were also in preparation.



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