

# National Action Plan on Fundamental and Human Rights 2017–2019



MINISTRY OF JUSTICE

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# National Action Plan on Fundamental and Human Rights 2017–2019



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<b>Abstract</b>	<p>In the Government's Human Rights Report submitted to Parliament in 2014, the Government pledged to prepare a national action plan on promoting fundamental and human rights in Finland at the beginning of the following government term. The Government took a decision in principle to accept the National Action Plan on Fundamental and Human Rights for 2017–2019 on 16 February, 2017.</p> <p>The objective of the Action Plan is to promote the obligation of the public authority to guarantee the observance of basic rights and liberties and human rights as stipulated in Section 22 of the Constitution. The measures taken under the Action Plan are designed to act on identified problems with fundamental and human rights and to complement the work being carried out in various policy sectors to promote fundamental and human rights.</p> <p>In preparing the Action Plan, particular note has been taken of the Human Rights Report's policies, the recommendations to Finland from international treaty monitoring bodies, the Government Programme's policies, the views of the overseers of legality and the special ombudsmen, as well as the areas of concern raised by non-governmental organisations. The legal basis of the Action Plan is constituted by the basic rights and liberties guaranteed in the Constitution, the international and regional human rights treaties ratified by Finland as well as the Charter of Fundamental Rights of the European Union.</p> <p>In accordance with the independent assessment of the Government's first National Action Plan on Fundamental and Human Rights (2012–2013) and the recommendations of Parliament's Constitutional Law Committee, the National Action Plan will focus on promoting the implementation of fundamental and human rights in specific areas. The main areas the National Action Plan will focus on are fundamental and human rights education, equality, the right to self-determination as well as fundamental rights and digitalisation. The Action Plan includes a total of 43 projects which are spread across the administrative branches of all ministries.</p>		
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<b>Tiivistelmä</b>	<p>Valtioneuvoston vuonna 2014 eduskunnalle antamassa ihmisoikeusselonteossa linjattiin, että valtioneuvosto laatii seuraavalla vaalikaudella kansallisen perus- ja ihmisoikeustoimintaohjelman. Kansallinen perus- ja ihmisoikeustoimintaohjelma 2017–2019 hyväksyttiin valtioneuvoston periaatepäätöksenä 16.2.2017.</p> <p>Toimintaohjelman tavoitteena on edistää perustuslain 22 §:ssä säädettyä julkisen vallan veloitetta turvata perusoikeuksien ja ihmisoikeuksien toteutuminen. Toimintaohjelman toimenpiteillä pyritään puuttumaan havaittuihin perus- ja ihmisoikeusongelmiin ja täydentämään eri politiikkasektoreilla tehtävää perus- ja ihmisoikeuksia edistävää työtä.</p> <p>Toimintaohjelman valmistelussa on huomioitu erityisesti ihmisoikeusselonteon linjaukset, kansainvälisten ihmisoikeussopimusten valvontaelinten Suomelle antamat suositukset, hallitusohjelman linjaukset, ylimpien laillisuusvalvojen ja erityisvaltuutettujen näkemykset sekä kansalaisjärjestöjen esittämät huolenaiheet. Toimintaohjelman oikeudellisen perustan muodostavat perustuslaissa turvatut perusoikeudet, Suomen ratifioimat kansainväliset ja alueelliset ihmisoikeussopimukset sekä Euroopan unionin perusoikeuskirja.</p> <p>Valtioneuvoston ensimmäisen perus- ja ihmisoikeustoimintaohjelman (2012–2013) riippumattoman arvioinnin sekä eduskunnan perustuslakivaliokunnan suositusten mukaisesti toimintaohjelmassa keskitytään perus- ja ihmisoikeuksien toteutumisen edistämiseen tietyillä painopistealueilla. Toimintaohjelman painopistealueita ovat perus- ja ihmisoikeuskasvatus ja -koulutus, yhdenvertaisuus, itsemääräämisoikeus sekä perusoikeudet ja digitalisaatio. Toimintaohjelma sisältää yhteensä 43 hanketta, jotka jakautuvat kaikkien ministeriöiden hallinnonaloille.</p>		
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<b>Referat</b>	<p>I den människorättsredogörelse som statsrådet överlämnade till riksdagen 2014 fastställdes att statsrådet skulle upprätta en nationell handlingsplan för grundläggande och mänskliga rättigheter under den därpå följande valperioden. Den nationella handlingsplanen för grundläggande och mänskliga rättigheter 2017–2019 godkändes genom statsrådets principbeslut den 16 februari 2017.</p> <p>Syftet med handlingsplanen är att främja det allmännas skyldighet enligt 22 § i grundlagen att se till att de grundläggande fri- och rättigheterna och de mänskliga rättigheterna tillgodoses. Målet med åtgärderna i handlingsplanen är att ingripa i upptäckta problem med de grundläggande och mänskliga rättigheterna och att komplettera det arbete inom olika politiska sektorer som främjar dessa rättigheter.</p> <p>Vid beredning av handlingsplanen har särskild hänsyn tagits till riktlinjerna i människorättsredogörelsen, de rekommendationer som tillsynsorganen för de internationella människorättskonventionerna har gett Finland, riktlinjerna i regeringsprogrammet, de högsta laglighetsövervakarnas och specialombudsmännens synpunkter samt de problem som förts fram av medborgarorganisationer. Den rättsliga grunden för handlingsplanen utgörs av de i grundlagen tryggade grundläggande fri- och rättigheterna, de av Finland ratificerade internationella och regionala människorättskonventionerna samt Europeiska unionens stadga om de grundläggande rättigheterna.</p> <p>I enlighet med en oberoende utvärdering av statsrådets första nationella handlingsplan för grundläggande och mänskliga rättigheter (2012–2013) och rekommendationer från riksdagens grundlagsutskott fokuserar handlingsplanen på att inom vissa fokusområden främja de grundläggande och mänskliga rättigheterna. Fokusområdena i handlingsplanen är fostran och utbildning i de grundläggande och mänskliga rättigheterna, likabehandling, självbestämmanderätt samt grundläggande rättigheter och digitalisering. I handlingsplanen ingår totalt 43 projekt som fördelar sig på alla ministeriers förvaltningsområden.</p>		
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# Contents

<b>Foreword</b> .....	10
<b>Acronyms</b> .....	12
<b>I INTRODUCTION</b>	
1. <b>Background, objectives and premises of the Action Plan</b> .....	15
2. <b>Preparation of the Action Plan and selection of priority areas</b> .....	19
3. <b>Follow-up and evaluation of the Action Plan</b> .....	27
4. <b>Structures supporting fundamental and human rights</b> .....	28
<b>II PRIORITY AREAS</b>	
1. <b>Fundamental and human rights education and training</b> .....	33
1.1 Increasing the Government's capacity in fundamental and human rights issues.....	44
1.2 Fundamental and human rights education and training at schools.....	46
1.3 Increasing knowledge of fundamental and human rights among asylum seekers.....	48
1.4 Strengthening a human rights-based approach in Finland's public funding instruments for the private sector.....	49
2. <b>Equality</b> .....	50
2.1 Promoting equality.....	59
2.2 Identifying discrimination.....	62
2.3 Awareness-raising and influencing attitudes and debate culture.....	63
2.4 Developing good relations .....	63
2.5 Improving equal opportunities of different population groups.....	65
3. <b>Right to self-determination</b> .....	70
3.1 Right to self-determination in social and health services .....	80
3.2 Physical integrity and the right to self-determination.....	81
3.3 Personal freedom and the right to self-determination.....	83
3.4 Promoting integrity and the right to self-determination of persons belonging to gender minorities .....	85
3.5 Developing the right to self-determination of the Sámi indigenous people....	86
4. <b>Fundamental rights and digitalisation</b> .....	88
4.1 Equality.....	102
4.2 Promoting accessibility .....	104
4.3 Addressing hate speech limiting the freedom of expression.....	105
4.4 Protection of private life and personal data .....	106

## FOREWORD

The present National Action Plan on Fundamental and Human Rights, which is the second to be published, covers the years 2017 to 2019. Its policy lines are topical at the very moment that our society is undergoing changes due to economic and other uncertainties. The significance of fundamental and human rights is emphasised during difficult times. Shortcomings in the realisation of rights are experienced on the level of the individual, and social inequality also manifests itself as differences in their realisation. Fulfilment of rights constitutes the basis for a dignified life, while increasing inequalities undermine the foundations of a society we consider fair and equitable.

According to the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights. The question is how society will guarantee, for example, legal protection, the freedom of expression, religion, opinion and movement, linguistic and cultural rights, educational opportunities, adequate income and the freedom of entrepreneurship, health care services in case of illness as well as clean environment for the people.

Finland is a member of the international community, and the norms laid down in international law also protect individuals here. International human rights treaty monitoring bodies have issued recommendations to Finland for improving the human rights situation. Identifying problems and addressing them have essentially guided the development of Finland's national fundamental and human rights policy. Since 2004, the Government has submitted three reports in total on Finland's human rights policy to Parliament, and in 2012, it drafted the first National Action Plan on Fundamental and Human Rights and had it evaluated by external actors.

According to the vision stated in the Government Programme, in 2025, Finland is an inventive, caring and safe country where we all can feel important. According to the Programme, this entails an environment of trust and mutual respect where people with different backgrounds are able to participate in building society. This objective goes well

together with the theme of Finland's centenary celebration year, i.e. 'Together'. The story of 100-year-old Finland is first and foremost a story of doing things together.

In order to fulfil this vision, the Government has also drafted the present National Action Plan on Fundamental and Human Rights. The Action Plan was drafted in cooperation with various authorities, non-governmental organisations and other stakeholders, as well as in consultation with the overseers of legality, for example. The Action Plan sets priorities for the fundamental and human rights policy for the current government term. It also defines concrete objectives and measures for promoting fundamental and human rights in different administrative branches.

The main areas the National Action Plan focuses on are fundamental and human rights education and training, equality, the right to self-determination as well as fundamental rights and digitalisation. The Action Plan highlights the strengths and weaknesses of each area, on the one hand, and the threats and opportunities on the other. The strengths of equality, for example, include an increased awareness of inequality and an active civil society which brings up various perspectives. Its threats, on the other hand, include a hardening of attitudes and hate speech as well as an increasing gap between different population groups.

The Action Plan comprises a large number of projects which address very topical phenomena in Finnish society. One example is the TRUST project, which promotes good relations especially in areas receiving asylum seekers, and projects against hate speech. Participation rights are emphasised, for example, in respect of the Sámi indigenous people. The priorities relating to the protection of privacy and data protection are also topical. Digitalisation may open up new possibilities in teaching and development of new forms of participation, for example, but it may also make access to services more difficult for the most disadvantaged groups.

I hope that this topical Action Plan will be well received by Finnish society and that we will attract partners to support us in the realisation of its objectives.

I would like to thank all the authorities, non-governmental organisations and other actors which participated in preparing this National Action Plan on Fundamental and Human Rights.

In Helsinki on 19 December 2016  
Minister of Justice and Employment Jari Lindström

## ACRONYMS

ASREK	Electronic register of shares in Finnish residential housing companies
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT Committee	UN Committee against Torture
CDDH-INST	Drafting Group on Civil Society and National Human Rights Institutions of the Council of Europe Steering Committee for Human Rights
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
CERD	UN International Convention on the Elimination of All Forms of Racial Discrimination
CERD Committee	UN Committee on the Elimination of Racial Discrimination
CoE	Council of Europe
CRC Committee	UN Committee on the Rights of the Child
ECHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
ESC rights	economic, social and cultural rights
ESCR Committee	UN Committee on Economic, Social and Cultural Rights
ETENE	National Advisory Board on Social Welfare and Health Care Ethics
EU	European Union
FCNM	Council of Europe Framework Convention for the Protection of National Minorities
HaVL	Administration Committee statement
HELO	Drafting instructions for Government proposals
ICCPR	UN International Covenant on Civil and Political Rights
ICESCR	UN International Covenant on Economic, Social and Cultural Rights
ICT	information and communications technology
ILO	International Labour Organization
ILO 169	Convention No. 169 of the International Labour Organization on Indigenous and Tribal Peoples
KELA	Social Insurance Institution of Finland
LaVM	Legal Affairs Committee report
LGBTI	Acronym used for sexual and gender minorities referring to lesbian, gay, bisexual, transgender and intersex persons
MAAS	Mobility as a Service
OSCE	Organization for Security and Co-operation in Europe
PeVL	Constitutional Law Committee statement

RSD Act	Act on strengthening the right to self-determination of social welfare clients and patients and on the conditions for use of restrictive measures
SiVL	Education and Culture Committee statement
SuVL	Grand Committee statement
SWOT analysis	analysis mapping strengths, weaknesses, threats and opportunities
TAHCLE	Training Against Hate Crimes for Law Enforcement
TE services	Public employment and business services
TyVL	Employment and Equality Committee statement
UaVM	Foreign Affairs Committee report
UN	United Nations
UPR	Universal Periodic Review of the UN Human Rights Council

# I INTRODUCTION

# 1. Background, objectives and premises of the Action Plan

## Background of the Action Plan

The first Government National Action Plan on Fundamental and Human Rights 2012–2013 was a cross-administrative plan covering the whole Government, which included 67 projects for promoting the realisation of fundamental and human rights. An independent evaluation carried out on the first Action Plan on Fundamental and Human Rights stated that the Action Plan constituted a significant step in the development of the national human rights architecture<sup>1</sup>. According to the evaluation, the Action Plan increased the visibility of Government human rights activities and brought various actors together to discuss key fundamental and human rights issues on the national level. The evaluation recommended that work within the framework of an action plan be continued during the next Government's term of office. The evaluation did, however, criticise the first Action Plan for its fragmentation and stressed that the next action plan should focus on certain fundamental and human rights themes, which would better promote the realisation of rights.<sup>2</sup>

The Government issued its Human Rights Report in 2014.<sup>3</sup> The report evaluated both international human rights activities and implementation of fundamental and human rights in Finland. It was based on evaluations of the implementation of previous human rights reports (1998, 2000, 2004, 2009) and of the National Action Plan on Fundamental and Human Rights 2012–2013. The report outlined that Finland's second National Action Plan on Fundamental and Human Rights should be prepared during the following government term and that its implementation should be adequately resourced. In its statement adopted on

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<sup>1</sup> The human rights architecture refers to the structures and actors which implement fundamental and human rights policy and protect and promote the realisation of rights.

<sup>2</sup> Jukka Viljanen, Pauli Rautiainen, Heta Heiskanen and Tarja Seppä (2014). Evaluation of the National Action Plan on Fundamental and Human Rights 2012–2013. Publication of the Ministry of Justice, <http://oikeusministerio.fi/fi/index/julkaisut/julkaisuarkisto/1396253612431.html>.

<sup>3</sup> VNS 6/2014.

the report in March 2015, Parliament requested the Government to actively implement, through its activities and allocation of financial resources, the policy guidelines set out in the report and draft a national action plan at the beginning of the following government term for promoting fundamental and human rights in Finland.<sup>4</sup>

In accordance with the independent evaluation of the previous Action Plan on Fundamental and Human Rights and the recommendations of Parliament's Constitutional Law Committee<sup>5</sup>, this second National Action Plan will focus on promoting the realisation of fundamental and human rights in specific priority areas. Its priority areas are fundamental and human rights education and training, equality, the right to self-determination as well as fundamental rights and digitalisation. Consequently, it does not seek to cover all Government activities promoting fundamental and human rights. The Action Plan first outlines the premises for its preparation as well as the criteria for selecting its priority areas. The actual content chapters describe the background and legal basis, current situation and identified shortcomings as well as objectives in respect of each priority area, which will be followed by a description of measures to be taken in that priority area. The Action Plan includes a total of 43 projects which are spread across the administrative branches of all ministries. The projects will be implemented during the Government's term of office between 2017 and 2019.

## Objectives and premises of the Action Plan

According to Section 22 of the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights. This means that the Constitution requires active measures from the public authorities for the protection and promotion of fundamental and human rights. The objective of the Government Action Plan on Fundamental and Human Rights is to fulfil the obligation laid down in the Constitution through concrete measures. It seeks to address identified problems with fundamental and human rights and complement the work being carried out in various policy sectors to promote the rights. The measures included in the Action Plan improve the realisation of fundamental and human rights in respect of the selected priority areas and constitute an entity of mutually supporting elements. The Action Plan is also designed to improve awareness of fundamental and human rights both among certain professional and population groups and among the general public. A further objective of the Action Plan is to ensure consistency of Finland's national and international fundamental and human rights policies.

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<sup>4</sup> Parliament communication EK 59/2014.

<sup>5</sup> Constitutional Law Committee statement PeVL 52/2014.



In the selection of topics, attention was paid to horizontal and cross-cutting themes. The Action Plan does not cover all the fundamental and human rights activities of the Government since this would not be practical. The measures of the Action Plan are aimed at developing the realisation of fundamental and human rights in areas where gaps and shortcomings have been observed and at promoting the realisation of the rights of particularly vulnerable persons, such as children and minorities. Women may also end up in an inferior position due to their gender. International recommendations and the supreme overseers of legality, for example, have called for an improvement in the realisation of the rights of these groups. Equality is, in fact, a cross-cutting theme in the Action Plan.

The Action Plan on Fundamental and Human Rights is closely linked with the objectives of the Government Programme. Pursuant to the vision stated in the Government Programme, in 2025, Finland is an inventive, caring and safe country where we all can feel important, and our society is based on trust. According to the Government Programme, this is associated with a strong feeling of community, trust and respect for each other as well as the fact that Finland is rich in languages and cultures. Help and care are given to everyone in our society of many generations. The Government Programme states that Finland must become a society founded on know-how, entrepreneurship, equality and caring. Themes related to fundamental and human rights in the Government Programme include developing impact assessment of legislation projects, sustainable development, promoting employment and entrepreneurship of persons with disabilities, promoting employment of people with partial work ability, improving integration of immigrants and zero tolerance for racism, interventions in bullying, equal accessibility of social and health services, reform of primary education, regional equality and issues related to legal protection. The programme places emphasis on cross-administrative activities, digitalisation, experimentation and improved legal provisions as means of meeting the objectives. Deregulation may also promote a better realisation of fundamental and human rights in people's daily lives. The key themes of the Government Programme also include freedom of choice, services based on customer needs and encouragement of civic participation. As regards groups potentially in vulnerable situations or at risk of discrimination, the Government Programme mentions, for example, children and adolescents, the elderly, persons with disabilities, diversified families, as well as young immigrants and uneducated immigrant women staying at home. The policy lines of the Government Programme have served as a basis for the preparation of the Action Plan on Fundamental and Human Rights.

The legal basis of the Action Plan is constituted by the basic rights and liberties guaranteed in the Constitution, the international and regional human rights treaties ratified by Finland as well as by the Charter of Fundamental Rights of the European Union, which is also binding on EU member states when they are applying Union law. In the selection of priority areas and measures for the Action Plan, particular note has been taken of the recommendations to Finland from international human rights treaty monitoring bodies and

of concerns raised in the Universal Periodic Review (UPR) by the UN Human Rights Council. According to the independent evaluation of the previous Action Plan, recommendations by international treaty monitoring bodies should be taken comprehensively into account in the development of national fundamental and human rights policy. A study on national fundamental and human rights actors by a working group appointed by the Ministry of Justice, published in 2015, also drew attention to the fact that concluding observations and recommendations to Finland by international treaty monitoring bodies should be regarded as tools.<sup>6</sup>

The Government of Finland Human Rights Report (2014) served as a starting point for the Action Plan on Fundamental and Human Rights. In preparing the Action Plan on Fundamental and Human Rights, note was taken of the policy guidelines included in the Human Rights Report as well as of statements by Parliament on the report, in particular by the Constitutional Law Committee, and measures were sought to overcome the problems identified in the report. In comparison to the report, efforts were made to keep the Action Plan concise, and it focuses on concrete measures. The Government will not issue a human rights report during its present term of office. In accordance with the policy guidelines of the previous Human Rights Report, the time span between reports will be extended since in the future, human rights reports aim to guide broader developments in fundamental and human rights activities in a more sustainable manner.

The Action Plan on Fundamental and Human Rights builds largely on the Human Rights Report, although the operating environment has changed since the report's publication as a result of, for example, the state's difficult economic situation and an increase in the number of asylum seekers. Furthermore, the ongoing reform of social and health services as well as changes in the structures of regional and local administration affect the environment where fundamental and human rights are implemented. In economically difficult situations it is of particular importance to ensure that fundamental and human rights are fulfilled. In addition, violations of fundamental and human rights may lead to inequality and instability in society and increase extremism, and thus neglecting these rights can be expensive.

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<sup>6</sup> Report on fundamental and human rights actors (available in Finnish: *Selvitys perus- ja ihmisoikeustoimijoista*). Publication of the Ministry of Justice, reports and guidelines 35/2015.

## 2. Preparation of the Action Plan and selection of priority areas

### Preparation of the Action Plan

In October 2015, the Ministry of Justice appointed a Government network of fundamental and human rights contact persons for the term between 8 October 2015 and 31 December 2019. The duties of the network include monitoring the fundamental and human rights situation in Finland and the national implementation of international obligations and Government fundamental and human rights policy, strengthening internal coordination within the Government and dialogue in fundamental and human rights issues as well as initiating studies and development projects aiming at producing information on the realisation of fundamental and human rights in Finland and promoting their realisation. The network was also requested to prepare a second National Action Plan on Fundamental and Human Rights and to monitor its implementation. In addition to the ministries' representatives, the members of the network include experts from the offices of the supreme overseers of legality, i.e. the Parliamentary Ombudsman and the Chancellor of Justice of the Government, and the Human Rights Centre.

The network of fundamental and human rights contact persons started the preparation of the Action Plan immediately at its first meeting on 5 November 2015. The network launched its work by analysing the policy lines concerning fundamental and human rights in the Government Programme, the first National Action Plan on Fundamental and Human Rights and its external evaluation, the Government Human Rights Report and the views of different parliamentary committees on the report's policy guidelines. In addition, it examined recent recommendations to Finland by international treaty monitoring bodies and international case law concerning Finland. At an early stage of the preparation process, the network also identified fundamental and human rights-related projects already ongoing at the ministries, including key projects, advisory boards and completed or pending action plans that should be taken into account in the drafting of the present Action Plan.

Open dialogue with stakeholders and consultation of civil society were stressed in the preparation of the Action Plan. The supreme overseers of legality submitted their suggestions for key themes of the Action Plan. In addition, the network of fundamental and human rights contact persons consulted the Non-Discrimination Ombudsman, the Ombudsman for Equality, the Data Protection Ombudsman and the Ombudsman for Children in relation to the preparation of the Action Plan. Non-governmental organisations were consulted at a meeting of the network of fundamental and human rights contact persons in December 2015, and separate consultations were organised in February 2016 and September 2016. The participants in the consultations represented the authorities, non-governmental organisations and universities. Several actors also submitted written statements during the preparation stage of the Action Plan. In addition, the network engaged in a dialogue on the Action Plan with the Human Rights Delegation in December 2016.

Fundamental and human rights are closely related to several policy sectors. In the preparation of the Action Plan on Fundamental and Human Rights, attention was also paid to other Government action plans that promote the realisation of fundamental and human rights. These include the Action Plan for Gender Equality 2016–2019, the Action Plan against Trafficking in Human Beings 2016–2017, the Meaningful in Finland Action Plan of the Ministry of Education and Culture, targeted at preventing hate speech and racism and promoting social inclusion, the Government Integration Programme 2016–2019 as well as the National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights and the Working Plan for Social Responsibility. In addition, fundamental and human rights are promoted, for example, in connection with social and health policy, disability policy, language policy and education policy and as part of the national implementation of the goals of the UN Agenda 2030 for Sustainable Development. Efforts were made to avoid overlap with other action plans, such as the Action Plan for Gender Equality, although elements of some other action plans were included in the Action Plan on Fundamental and Human Rights to develop them further especially from the perspective of fundamental and human rights.

The Ministry of Justice has, simultaneously with the Action Plan on Fundamental and Human Rights, prepared a Government Action Plan on Democracy Policy for 2017–2019. Both action plans deal with equality issues, discussion climate in the society as well as with democracy and human rights education and training. Efforts were made to coordinate the projects included in the action plans so that they would reinforce each other and form a clear entity.

## Selection of priority areas for the Action Plan

The priority areas selected for the second National Action Plan on Fundamental and Human Rights are fundamental and human rights education and training, equality, the right to self-determination as well as fundamental rights and digitalisation. The selected priority areas are broad in scope. In addition to being regarded as important and topical, they bring added value since they cover horizontal themes, i.e. themes relevant to the mandate of several ministries. They also seek to promote coordinated fundamental and human rights activities within the Government. The priority areas allow for every ministry to participate in the implementation of the objectives and measures of the Action Plan. The selection of horizontal themes also promotes the development of cooperation in the realisation of fundamental and human rights across the ministries' sectoral boundaries.

The Human Rights Report of 2014 particularly highlighted four themes: combating hate speech limiting the freedom of expression, promoting the equality of persons belonging to sexual and gender minorities, safeguarding the rights of persons with disabilities, and implementation of economic, social and cultural rights. The 34 policy guidelines covered by the report included new or evolving objectives of the Government's fundamental and human rights activities. According to the Human Rights Report, the second National Action Plan on Fundamental and Human Rights should contain the four themes of the report and take its policy guidelines into account. The report states that the action plan should also contain a section on human rights education and training that would set concrete targets for how the Government intends to reinforce fundamental and human rights competence in Finland in the future. According to the report, the second action plan should further include developing fundamental and human rights indicators that are internationally comparable and compatible with Finnish society.

The policy guidelines of the Human Rights Report received broad support from Parliament.<sup>7</sup> The Constitutional Law Committee considered the four themes of the report important and stated that they provide a sound basis for defining the priority areas of both national and international fundamental and human rights policies.<sup>8</sup>

The themes covered by the report are largely included in the Action Plan. Promoting the equality of persons belonging to sexual and gender minorities and the rights of persons with disabilities are included, for example, in the objectives concerning equality and the right to self-determination. The rights of persons with disabilities are also promoted through measures contained in the chapter on fundamental rights and digitalisa-

<sup>7</sup> Parliament communication EK 59/2014.

<sup>8</sup> Constitutional Law Committee statement PeVL 52/2014.

tion. However, the Action Plan deals with both equality and the right to self-determination more broadly than only in respect of these groups. It also deals extensively with hate speech limiting the freedom of expression. Measures against hate speech are included in each chapter of the Action Plan, in particular in the chapter on fundamental rights and digitalisation. However, the chapter on fundamental rights and digitalisation discusses the realisation of fundamental rights more extensively, especially in connection with electronic services.

The Action Plan contains several measures which promote economic, social and cultural rights (ESC rights), including measures supporting their equal realisation, such as projects promoting housing and measures targeted at schools.

In addition, the selection of priority areas was influenced by the objectives and priorities of Finland's international human rights policy, which are also largely reflected in the themes of the Human Rights Report. The objectives of the international human rights policy include elimination of discrimination and enhancing openness and inclusion. These themes are covered, in particular, by the selected priority areas of equality and the right to self-determination. Inclusion is also promoted through measures contained in the Government Action Plan on Democracy Policy.

The priorities of Finland's international human rights policy also include the rights of women, the rights of persons with disabilities, the rights of sexual and gender minorities, the rights of indigenous peoples as well as the ESC rights.

In relation to the rights of women, Parliament's Constitutional Law Committee has stressed the importance of increasing awareness of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and of its interpretative practice in Finland. The Constitutional Law Committee has argued that the Convention should be reflected better in the definition of future fundamental and human rights policy lines and emphasised the importance of effective implementation of the CEDAW Convention. Gender equality is addressed in a separate Government Action Plan for Gender Equality 2016–2019. An action plan to reduce violence against women was implemented between 2010 and 2015, and an action plan against female genital mutilation between 2012 and 2016. Given the importance of the theme and the seriousness of challenges, some projects associated with it, such as projects related to sexual violence, were nevertheless selected for this Action Plan. In addition, gender equality is taken into account as a cross-cutting principle in the measures of the selected priority areas.

The Action Plan promotes the rights of indigenous peoples as part of the right to self-determination as well as through equality and education and through addressing hate speech.

The other priorities of Finland's international human rights policy largely correspond in other respects to the themes of the Human Rights Report discussed above. Furthermore, the priority areas of the Action Plan are in general consistent with the external relations policy of the European Union.

When the preparation of the Action Plan began, a record number of asylum seekers had just arrived in Finland. However, a specific priority area on immigration policy was not selected for the Action Plan, considering the Government's separate immigration policy lines, the Government Integration Programme and rapid measures and changes associated with the situation. Nonetheless, the measures of the Action Plan promote the status of asylum seekers and the realisation of their rights in the long term. The Government is of the opinion that the refugee situation should be treated in a dignified manner, respecting human rights obligations. This calls for measures on the EU level, and more legal and safe means for seeking asylum are needed. The Government also stresses the importance of successful integration, non-discrimination in work life, addressing hate crimes and hate speech as well as the importance of good ethnic relations. Measures related to these topics are included in this Action Plan.

Finland has, in fact, received recommendations from international human rights bodies in relation to each of the selected priority areas. The recommendations and case law were considered, as far as possible, in the drafting of the objectives and measures for the priority areas.

In accordance with the policy guideline of the Human Rights Report, fundamental and human rights education and training is one of the priority areas and cross-cutting themes in this Action Plan. Information both on your own rights and obligations and on those of others is crucial for their realisation. The importance of fundamental and human rights education and training was already acknowledged in the previous Action Plan on Fundamental and Human Rights, even though they were not its priorities. The independent evaluation of the Action Plan emphasised that fundamental and human rights education and training should be included in the following action plan. When the Human Rights Report was discussed by Parliament, the parliamentary committees considered strengthening of fundamental and human rights education and training to be a justified priority of the following action plan. On the other hand, the baseline study on human rights education and training in Finland published by the Human Rights Centre recommended that the Government should draft a separate action plan for human rights education and training.<sup>9</sup> International human rights treaty monitoring bodies have also paid attention to shortcomings in human rights education and training and in information provision on human rights

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<sup>9</sup> Human Rights Centre (2014). Human Rights Education in Finland.

treaties in Finland. The section on fundamental and human rights education and training in the present Action Plan also covers the development of assessment of fundamental and human rights impacts in statute drafting. In addition to the Human Rights Report and the evaluation of the previous Action Plan, the need for developing impact assessment has been emphasised by, for example, the Constitutional Law Committee, the Chancellor of Justice of the Government and non-governmental organisations.

**RECOMMENDATIONS TO FINLAND BY INTERNATIONAL HUMAN RIGHTS TREATY MONITORING BODIES RELATE TO THE FOLLOWING TOPICS, IN PARTICULAR:**

- education, information and statistics related to human rights
- immigrants and minorities (e.g. discrimination in the labour market, integration through inclusion of representatives of minorities, tolerance between groups)
- ratification of human rights treaties (Convention No. 169 of the International Labour Organization on Indigenous and Tribal Peoples, UN Convention for the Protection of All Persons from Enforced Disappearance, UN Convention on the Protection of All Migrant Workers and Members of their Families)
- rights and equality of the Roma
- the Sámi indigenous people (e.g. ILO No. 169, traditional reindeer husbandry as livelihood, social and health services, Sámi languages, culturally sensitive education through their own language also outside the Sámi area, participation in decision-making)
- equality and prohibition of discrimination, including hate speech on the Internet
- persons deprived of their liberty (e.g. cells without toilet facilities, lack of space at prisons, persons suspected of crimes should not be kept in police detention facilities, Mental Health Act)
- women's rights and gender equality (e.g. violence, wage gap, multiple or intersecting discrimination, dismissals due to pregnancy, childbirth or family leaves)
- combating trafficking in human beings
- asylum seekers (e.g. detention at police or Border Guard facilities, legal safeguards, access of undocumented migrants to health services)
- children and adolescents (equal opportunities for school attendance, bullying experienced by immigrant and Roma children and drop-off from school, children without parents should be provided with home-like care in foster families instead of institutional care)
- sexual and gender minorities (e.g. discrimination and Trans Act)
- rights of persons with disabilities



The priority area concerning equality is topical for ensuring that the overall reform of the Non-Discrimination Act and the extended obligation of equality planning are implemented. The objective is to promote equality in general, i.e. regardless of the ground for discrimination. In addition, efforts will also be made to promote, for example, the *de facto* equality of certain groups. This is justified in view of, for example, the UN Convention on the Rights of Persons with Disabilities ratified by Finland in 2016 and the increased number of asylum seekers. Selection of equality as a priority area is also supported by the Human Rights Report and the views of Parliament, objectives and priorities of Finland's international human rights policy, international recommendations and by numerous observations by non-governmental organisations. The Parliamentary Ombudsman has also suggested that promoting the rights of persons with disabilities, for example, should be adopted as a theme for the action plan.

The need to promote the right to self-determination in different spheres of life and in relation to different groups was brought up particularly prominently in the consultations organised for non-governmental organisations and other actors during the preparation of the Action Plan. Similarly to the Parliamentary Ombudsman, several actors noted that the right to self-determination of persons at various institutions is violated through restrictive practices. The Human Rights Report also included some topics related to the right to self-determination of persons with disabilities and sexual and gender minorities. The objective of inclusion included in Finland's international human rights policy, as well as the rights of indigenous peoples, are closely related to the right to self-determination. The rights of the Sámi indigenous people are also topical, considering the ongoing negotiations on the Nordic Sámi Convention. International recommendations reveal various shortcomings in the realisation of the right to self-determination. For example, the right to self-determination of the elderly, the right to sexual self-determination and the right of individuals to access information on them have recently also been widely discussed in public. The right to self-determination is a very broad topic, for which reason the Action Plan deals with only a few topics related to it.

The key projects of the present Government include digitalisation of public services. In addition to the provision of electronic services, the people's right to decide about and monitor their personal information will be enhanced, while ensuring the smooth transfer of data between the authorities. Furthermore, help will be given to people who are not used to or are unable to use digital services. Considering the Government's recent actions in respect of digitalisation, its objective of ensuring the realisation of fundamental rights in this context and the concerns expressed by the supreme overseers of legality, fundamental rights and digitalisation was selected as one priority area for the Action Plan. This is also well-founded as rights should already be considered when, for example, new information systems are designed.

In addition to the above, the Parliamentary Ombudsman's observations justify the selection of the theme fundamental rights and digitalisation as a priority area for the Action Plan. The Parliamentary Ombudsman has presented that combating increasing inequality should be examined in the action plan from the perspective of how digitalisation, for example, affects the realisation of the participation rights of those who are in a vulnerable situation. The Chancellor of Justice of the Government and many non-governmental organisations have also expressed their concern about the realisation of the rights of different groups, such as the elderly and persons with disabilities, in connection with digitalisation. Consideration of fundamental rights is of particular importance for the realisation of the rights of persons with disabilities, for example, meaning that the topic is also in line with the Human Rights Report and the priorities of international human rights policy. The chapter on fundamental rights and digitalisation also discusses the protection of privacy and information security issues, which have become topical and important fundamental and human rights issues. As stated above, this priority area also contains measures relating to addressing hate speech.

### 3. Follow-up and evaluation of the Action Plan

The Government network of fundamental and human rights contact persons will monitor the implementation of the Action Plan on Fundamental and Human Rights. An independent evaluation is to be carried out on the implementation of the Action Plan at the beginning of the following government term. In addition, independent supervisory authorities, such as the special ombudsmen, the Human Rights Centre and the Human Rights Delegation as well as non-governmental organisations have a significant role as independent supervisors of the implementation of the Action Plan.

Indicators have been defined for each measure in the Action Plan for monitoring their implementation. In this Action Plan, indicators primarily mean general indicators of implementation. In October 2016, a research group at the University of Tampere published a report which outlines a rights-based framework of human rights indicators appropriate for Finland.<sup>10</sup> The work on indicators will be continued in the framework of this Action Plan through developing equality indicators and a fundamental rights barometer.

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<sup>10</sup> Pauli Rautiainen, Juha Lavapuro, Jari Hartzell, Emma Lehtinen, Niina Meriläinen, Riku Neuvonen and Elina Todorov (2016). Use of human rights indicators for monitoring the fundamental and human rights situation in Finland (available in Finnish: Ihmisoikeusindikaattorien käyttäminen Suomen perus- ja ihmisoikeustilanteen seurantaan). Publications of the Government's analysis, assessment and research activities 36/2016.

## 4. Structures supporting fundamental and human rights

Fundamental and human rights structures refer to an entity constituted by various fundamental and human rights actors. These include both national and international actors which participate in the monitoring and evaluation of the realisation of fundamental and human rights. Fundamental and human rights structures include Parliament's Constitutional Law Committee, supreme overseers of legality, courts of law, special ombudsmen and international treaty monitoring bodies. In addition, different ministries have several advisory boards which examine issues related to the realisation of fundamental and human rights. Civil society also plays a significant role among the fundamental and human rights actors.

Each ministry is responsible for safeguarding fundamental and human rights in the legislative drafting within its mandate. A legislative proposal must be assessed in relation to the Constitution (in respect of fundamental rights, in particular) and human rights treaties to ensure that the proposal conforms to the Constitution and human rights obligations. The duty of Parliament's Constitutional Law Committee is to give its statement during a parliamentary hearing on the constitutionality of legislative proposals submitted for its consideration and on their bearing on international human rights instruments. The Constitutional Law Committee's practice is a key source for evaluating the realisation of fundamental and human rights in Finland.

Courts of law have an important role in the ex-post monitoring of constitutionality. 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. The primacy of the Constitution together with legal interpretation sensitive to fundamental and human rights by courts of law ultimately guarantee that the realisation of fundamental and human rights is considered in the application of the law.

The supreme overseers of legality, i.e. the Chancellor of Justice of the Government and the Parliamentary Ombudsman, ensure that the courts of law and other authorities and civil

servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of their duties, they both monitor the realisation of fundamental and human rights. The Chancellor of Justice is also responsible for supervising the legality of the official actions of the Government and the President of the Republic. For example, the Office of the Chancellor of Justice reviews in advance the presentation agendas and documents of Government sessions and presidential sessions. In Finland, there are also four independent and autonomous special ombudsmen established by law: the Non-Discrimination Ombudsman, the Ombudsman for Equality, the Ombudsman for Children, and the Data Protection Ombudsman. The special ombudsmen promote and develop the realisation of the fundamental and human rights that are central to their field of expertise. The ombudsmen also handle individual cases, with the exception of the Ombudsman for Children.

In practice, fundamental and human rights are implemented, however, by national, regional and local authorities and officials, such as police officers, border surveillance authorities, employees in social and health sector and teachers. Fundamental and human rights are, in fact, related to the activities of each official, and the obligation to safeguard them applies to all public authorities. According to the Constitution, the exercise of public powers shall be based on an Act and in all public activity, the law shall be strictly observed. This also covers the observance of fundamental and human rights. In practice, authorities have the obligation, where necessary, to provide training, give guidance and monitor activities involving the exercise of public powers. The Chancellor of Justice of the Government and the Parliamentary Ombudsman, for example, have paid attention to shortcomings in the self-monitoring and internal control among the authorities. Furthermore, the Administrative Procedure Act contains the principles of good administration, including legal principles of administration, according to which an authority shall treat the customers of the administration on an equal basis and exercise its competence only for purposes that are acceptable under the law. The acts of the authority shall be impartial and proportionate to their objective, and they shall protect legitimate expectations as based on the legal system. In respect of the realisation of fundamental and human rights, it is essential that the authorities comply with the laws and the principles of good administration and interpret them in a manner sensitive to fundamental and human rights.

The fundamental and human rights structures have been improved over the past few years. The previous Action Plan on Fundamental and Human Rights established a Government network of fundamental and human rights contact persons. Some ministries also have internal networks of fundamental and human rights contact persons. Experiences from the networks have been positive. After having completed the Action Plan on Fundamental and Human Rights, the Government network of fundamental and human rights contact persons will focus on improving internal coordination within the Government.

In March 2016, a new network for human rights in foreign policy began its activities at the Ministry for Foreign Affairs. Its 21 members are key experts of foreign and social policy, leaders of human rights and other non-governmental organisations and representatives of universities.

Along with the entry into force of the new Non-Discrimination Act and the amendments to the Act on Equality between Women and Men (Equality Act) in January 2015, the former Ombudsman for Minorities was replaced with a Non-Discrimination Ombudsman, who monitors a wide range of discrimination issues. All the special ombudsmen were organised under the administrative branch of the Ministry of Justice as independent agencies. The National Discrimination Tribunal and the Equality Board were replaced by a National Non-Discrimination and Equality Tribunal of Finland.

In 2012, the Human Rights Centre and its Human Rights Delegation began their activities. Together with the Parliamentary Ombudsman, they constitute Finland's National Human Rights Institution. The Human Rights Centre has the task to promote information provision, education, training and research on fundamental and human rights as well as co-operation in these issues, to draft reports on the realisation of fundamental and human rights, to take initiatives and give statements, to participate in European and international cooperation related to the promotion and protection of fundamental and human rights and to perform other similar tasks associated with the promotion and realisation of fundamental and human rights. The Human Rights Delegation, on the other hand, deals with fundamental and human rights issues of a far-reaching significance and principal importance, yearly approves the plan of action and annual report of the Human Rights Centre and functions as a national cooperative body for fundamental and human rights actors.

Some of the national fundamental and human rights actors have special tasks related to the enforcement of international treaty obligations. The Non-Discrimination Ombudsman acts as the National Rapporteur on Trafficking in Human Beings and supervises the implementation of the removal of foreigners to be deported or refouled from the country. The Ombudsman for Children, on the other hand, has a special role in promoting the implementation of the UN Convention on the Rights of the Child. The Parliamentary Ombudsman acts as the National Preventive Mechanism pursuant to the Optional Protocol to the UN Convention against Torture. In addition, the Parliamentary Ombudsman, the Human Rights Centre and the Human Rights Delegation constitute an independent and autonomous framework in accordance with the UN Convention on the Rights of Persons with Disabilities for promoting, protecting and monitoring the implementation of the Convention.

The Human Rights Report drew attention to the need to examine the role of fundamental and human rights actors as well as the division of their tasks and the development of their cooperation in the changed situation. In accordance with the policy guideline of the report, the Ministry of Justice appointed a working group in January 2015 which studied the position, division of tasks and resourcing of different fundamental and human rights actors. The working group examined the supreme overseers of legality, the Human Rights Centre, the special ombudsmen, the National Non-Discrimination and Equality Tribunal, some advisory boards appointed by the Government and the Government network of fundamental and human rights contact persons. According to the report completed in May 2015, the tasks of various actors should be defined clearly and effectiveness assessed on a continuous basis. Other approaches and forms of cooperation should be developed continuously to ensure effective action. In addition, the opportunities for participation and consultation of organisations and other civil society actors should be improved.

There are still many relatively small authorities operating in the field of fundamental and human rights. In 2016 the Ministry of Justice investigated whether the Ombudsman for Gender Equality and the Non-Discrimination Ombudsman could be merged but the idea was abandoned, in particular due to objections by women's organisations. In the future, it is important to develop synergies between different fundamental and human rights actors.

## II PRIORITY AREAS



# 1. Fundamental and human rights education and training

## General

Awareness of fundamental and human rights is a prerequisite for their realisation. Fundamental and human rights education and training make people aware of their own rights and of those of others and provide them with tools for promoting these rights. According to the UN Declaration on Human Rights Education and Training (2011), human rights education has fundamental importance in contributing to the promotion, protection and effective realisation of all human rights.<sup>11</sup>

The UN Declaration on Human Rights Education and Training can be considered to represent the current conception of the content of human rights education and training in international law.<sup>12</sup> It is not a legally binding instrument but can be regarded as expressing the commitment of the UN member states to human rights education and training. According to the Declaration, human rights education and training comprise all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for human rights and fundamental freedoms. As stated in the Declaration, human rights education and training encompasses:

- provision of information on human rights norms and principles and on their underpinning values as well as on mechanisms for protecting them;
- learning and teaching in a manner that respects both educators and learners; and
- empowering persons to enjoy and exercise their rights and to respect and uphold those of others.

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<sup>11</sup> United Nations Declaration on Human Rights Education and Training, Resolution of the UN General Assembly A/RES/66/137.

<sup>12</sup> Human Rights Centre (2014). Human Rights Education in Finland, p. 6.

The Declaration emphasises that human rights education is a lifelong process concerning people of all ages and all parts of society at all levels of education.

In this Action Plan, human rights education and training refer to education and training activities which cover both human rights safeguarded in international treaties and the fundamental rights guaranteed in the Constitution of Finland and which are consistent with the general principles established in the UN Declaration on Human Rights Education and Training.

According to the UN Declaration on Human Rights Education and Training, everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education. States and relevant governmental authorities have the primary responsibility to promote human rights education and training. In addition, according to the UN Declaration on Human Rights Defenders (1999), the state has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education.<sup>13</sup> Furthermore, according to the Council of Europe (CoE) Charter on Education for Democratic Citizenship and Human Rights Education (2010), states should guarantee everybody the opportunity to democracy and human rights education, and as stated in the recommendation by the CoE Committee of Ministers, states must take measures to implement the Charter.<sup>14</sup> However, the state obligations relating to human rights education and training can be regarded as being already founded on the UN Universal Declaration of Human Rights of 1948.<sup>15</sup> In addition, several human rights treaties include obligations relating to human rights education.<sup>16</sup> All human rights treaties oblige states to take necessary measures, by all appropriate means, in order to fulfil the rights recognised in them. Human rights education and training can be considered to belong to these means of the state, and thus it is an essential element in the implementation of all of its human rights obligations.

The obligations laid down in the Constitution of Finland are highly relevant for the legal basis of fundamental and human rights training intended especially for the authorities. According to Section 22 of the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights. The fulfilment of this obligation

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13 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1999), A/RES/53/144.

14 Recommendation of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, CM/Rec(2010)7.

15 Universal Declaration of Human Rights, General Assembly Resolution 217 A (III), 10 December 1948.

16 Obligations relating to human rights education and training are included in the UN International Covenant on Economic, Social and Cultural Rights (Article 13(1)), the UN International Convention on the Elimination of All Forms of Racial Discrimination (Article 7), the UN Convention on the Rights of the Child (Article 29 and 42), the UN Convention on the Rights of Persons with Disabilities (Article 8(2) and 24(1)) and in the UN Convention on the Elimination of All Forms of Discrimination against Women (Article 10).

necessitates ensuring that the authorities have an adequate knowledge of fundamental and human rights.

Guaranteeing fundamental and human rights education and training on all levels requires cooperation between the Government and various stakeholders, such as municipalities. The Human Rights Centre, established in 2012, is an important partner of the Government in the field of fundamental and human rights education and training since one of its statutory tasks is to promote fundamental and human rights education and training. Other key partners include human rights organisations, which have a significant role as implementers of fundamental and human rights education and training in Finland.

Examples of concepts closely related to human rights education include democracy education, citizenship education and global education. A special characteristic of fundamental and human rights education and training is that the rights are norms binding on the states. However, these different types of education often deal with highly similar themes and values. According to the CoE Charter on Education for Democratic Citizenship and Human Rights Education, education for democratic citizenship and human rights education differ in focus and scope rather than in goals and practices. Education for democratic citizenship focuses primarily on democratic rights and responsibilities and active participation, in relation to the civic, political, social, economic, legal and cultural spheres of society, while human rights education is concerned with the broader spectrum of human rights and fundamental freedoms in every aspect of people's lives.<sup>17</sup>

Since education for democratic citizenship and human rights education are mutually supportive, the Action Plan on Fundamental and Human Rights was prepared with a view to synergies with the measures concerning democracy education in the Government Action Plan on Democracy Policy. Measures 1.1.1 (Strengthening the fundamental and human rights competence of Government officials) and 1.2.3 (Learning for equal participation: promoting inclusion at schools in the development of democracy and human rights education and in the implementation of new curricula) of the Action Plan are also included in the Action Plan on Democracy Policy.

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17 Charter on Education for Democratic Citizenship and Human Rights Education, CM/Rec(2010)7.

## Current situation

Fundamental and human rights education and training were not comprehensively covered in the previous Action Plan on Fundamental and Human Rights, although it included individual projects related to education and training. The independent evaluation of the Action Plan drew attention to the need to invest in human rights education in order to strengthen the national human rights culture. The evaluation group suggested that fundamental and human rights education and training should be included in the following Action Plan on Fundamental and Human Rights and that it should be made a priority in human rights policy.

According to the Government Human Rights Report (2014), more attention should be paid to fundamental and human rights education and training at all levels. The increased importance of fundamental and human rights requires that authorities are better able to recognise fundamental and human rights issues and know their content in national, EU-level and international activities. Both citizens and public actors must have adequate information on fundamental and human rights and on the possibilities of claiming them. According to the report's relevant policy guideline, fundamental and human rights education and training will be reinforced at all levels, and the next National Action Plan on Fundamental and Human Rights should contain a section on education and training. Another policy guideline in the report states that the Government will also develop its internal training cooperation, its division of labour in information activities, and its cooperation with regional and local authorities concerning ESC rights and the practices of applying these rights. It is further stated that the perspective of persons belonging in sexual and gender minorities should also be taken into consideration in fundamental and human rights education and training. According to the policy guideline related to Finland's international human rights activities, liaisons between the Government and civil society and participatory operating methods will be developed, including cooperation in the areas of raising awareness about human rights and human rights training.

When the Human Rights Report was discussed by Parliament, parliamentary committees stated that it is important to reinforce fundamental and human rights education and training at all levels of administration and education.<sup>18</sup> The Grand Committee particularly stressed the need to raise awareness of the EU Charter of Fundamental Rights.<sup>19</sup>

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18 Foreign Affairs Committee report UaVM 24/2014, Constitutional Law Committee statement PeVL 52/2014, Administration Committee statement HaVL 34/2014, Employment and Equality Committee statement TyVL 15/2014, Education and Culture Committee statement SiVL 15/2014.

19 Grand Committee statement SuVL 6/2014.

The Human Rights Centre published a national baseline study on the implementation of human rights education and training in the Finnish education system in 2014. According to the study, the value basis and target-setting of the Finnish education system create rather a good basis for human rights education and training. Nevertheless, the field is marked by heterogeneity and lack of a systematic approach. The implementation of human rights education and training depends too much on the interests and activeness of individual teachers, educators and education providers in this field, and human rights are not always taught as norms of international law. The most significant shortcomings were found in the education of teachers and educators and in the training of civil and public servants. Based on the results of the study, the Human Rights Delegation of the Human Rights Centre adopted seven recommendations for promoting human rights education and training in Finland. According to the Delegation, the Government should draft an action plan on human rights education and training and human rights should be included in all forms of education and training. Human rights education should support and promote an environment where human rights are respected. The human rights knowledge and skills of public servants and other persons entrusted with public authority should be ensured, and the human rights knowledge and skills of teachers and educators should be strengthened. Furthermore, learning materials and teaching methods should be developed. In addition, human rights teaching, education and knowledge and skills must be monitored, evaluated and developed.<sup>20</sup>

In 2014, the Ministry of Education and Culture published a study commissioned by it on the implementation of objectives and content of democracy education and human rights education in teacher training at universities and teacher training colleges. According to the study, democracy and human rights are seen as key values in teacher training and as part of the operation culture. However, there are very few study modules in different disciplines that deal with democracy and human rights directly. In addition, there were differences between education units in the implementation of democracy and human rights education, and education was rather dependent on the commitment and interests of the teaching personnel. The study recommended that human rights and democracy should be made more visible and better incorporated into the education of teachers. The study also emphasised, for example, the importance of support for professional development, networking and cooperation between various actors.<sup>21</sup>

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20 Human Rights Centre (2014). Human Rights Education in Finland.

21 Matti Rautiainen, Liisa Vanhanen-Nuutinen, Arja Virta (2014). Democracy and human rights. Objectives and content in teacher education. Reports of the Ministry of Education and Culture 2014:18.

Finland has also received recommendations on human rights education and training from international human rights monitoring bodies. The Commissioner for Human Rights of the Council of Europe has recommended that Finland should include human rights education and training in each action plan aimed at reinforcing the human rights culture in society. Furthermore, human rights should be fully integrated into education and awareness-raising, using concrete and accessible language. Teaching methods should encourage critical thinking and create a participatory learning environment based on tolerance and non-discrimination.<sup>22</sup> Furthermore, several UN human rights treaty monitoring bodies have urged Finland to increase general awareness of human rights treaties, Finland's periodic reports and recommendations concerning Finland among the authorities, non-governmental organisations and the general public.<sup>23</sup>

Finland has also received recommendations on the human rights training of various professional groups. For example, according to the European Commission against Racism and Intolerance (ECRI), the authorities need to take more measures to teach human rights at schools and to prepare teachers to work in a multicultural environment.<sup>24</sup> According to the UN Committee on the Rights of the Child, Finland should strengthen knowledge among professionals working with children of the Convention on the Rights of the Child and national legislation related to the rights of children.<sup>25</sup> The UN Human Rights Committee has stressed, in particular, the need to raise awareness of the UN International Covenant on Civil and Political Rights among judges, lawyers and prosecutors.<sup>26</sup> According to the ECRI, the police should be provided with initial and in-service training on racism and racial discrimination.<sup>27</sup> According to the UN Committee against Torture, Finland should step up the training of law enforcement authorities on the Convention against Torture and the prohibition of torture as well as collect and assess information on the existing training of public officials.<sup>28</sup> Finland has also been urged to provide training on the identification, assistance and protection of victims of trafficking in human beings to professionals who may come into contact with victims of trafficking in human beings in their work.<sup>29</sup>

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22 Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe 2012 (COM-MDH(2012)27).

23 UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), UN Committee on Economic, Social and Cultural Rights 2014 (E/C.12/FIN/CO/6), UN Committee on the Elimination of Racial Discrimination 2012 (CERD/C/FIN/CO/20-22), UN Committee against Torture 2011 (CAT/C/FIN/CO/5-6), UN Committee against Elimination of Discrimination against Women 2014 (CEDAW/C/FIN/CO/7), UN Committee on the Rights of the Child 2011 (CRC/C/FIN/CO/4).

24 European Commission against Racism and Intolerance 2013 (CRI(2013)19).

25 UN Committee on the Rights of the Child 2011 (CRC/C/FIN/CO/4).

26 UN Human Rights Committee 2013 (CRC/C/FIN/CO/6).

27 European Commission against Racism and Intolerance 2013 (CRI(2013)19).

28 UN Committee against Torture 2016 (CAT/C/FIN/CO/7).

29 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings 2015 (CP(2015)1), UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), Universal Periodic Review of the UN Human Rights Council 2013, recommendation 89.34 (recommendation for Finland by the United States) (A/HRC/21/8 and A/HRC/21/8/ADD.1).

For example, the Non-Discrimination Ombudsman and the Ombudsman for Children as well as numerous non-governmental organisations have stated that fundamental and human rights education and training should be included in the Government Action Plan on Fundamental and Human Rights. The Ombudsman for Children and non-governmental organisations have, in particular, stressed the importance of strengthening the fundamental and human rights training of officials and the development of assessment of fundamental and human rights impacts. The training-related themes brought up by non-governmental organisations include digital fundamental rights and the rights of persons with disabilities. Organisations have also emphasised the role of fundamental and human rights education in curricula and the importance of strengthening the fundamental and human rights competence and in-service training of teachers.

The perspectives of fundamental and human rights education and training brought up in the documents, studies and recommendations discussed above were taken into account in the preparation of the Action Plan. The SWOT analysis below summarises the strengths, weaknesses, opportunities and threats identified during the preparation of the Action Plan. The SWOT analysis allows for identifying areas where development of fundamental and human rights education and training would be particularly important. It highlights, in particular, the training of officials and the implementation of fundamental and human rights education at schools.

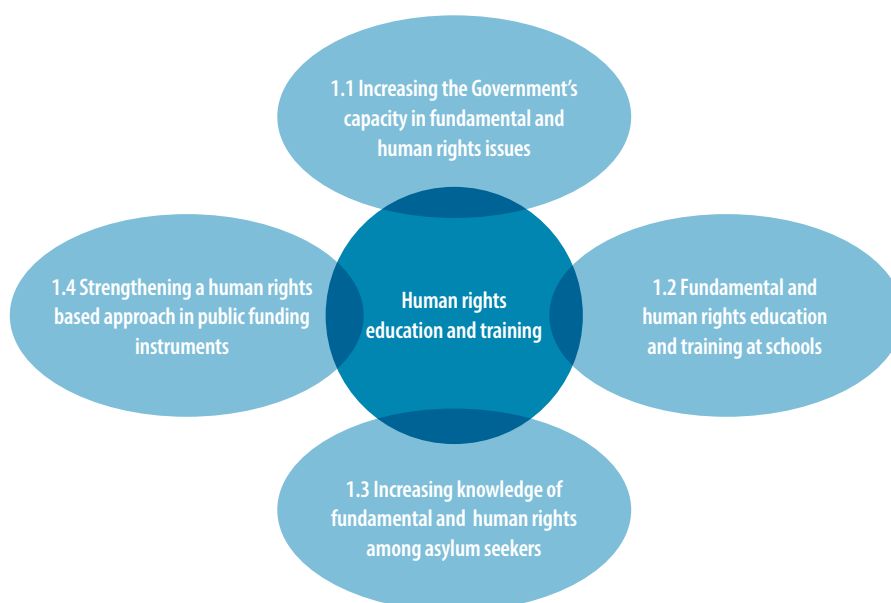
## Fundamental and human rights education and training - SWOT analysis

<p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• the value basis and target-setting of the Finnish education system create a good basis for implementing fundamental and human rights education and training</li> <li>• well-functioning structures for assessing education and training</li> <li>• the new national core curricula of basic and general upper secondary education better acknowledge fundamental and human rights, and human rights are dealt with in the teaching contents of several subjects and in a pupil-sensitive manner</li> <li>• contents on fundamental and human rights have been to some extent incorporated into teacher education</li> <li>• availability of a large variety of materials designed for teaching (such as ihmisoikeudet.net, maailmakoulu.fi, the living history forum)</li> <li>• training material produced by the Human Rights Centre</li> <li>• human rights competence has improved among officials and different professional groups</li> </ul>	<p><b>Weaknesses</b></p> <ul style="list-style-type: none"> <li>• the implementation of human rights education and training in basic education depends too much on the interests and activeness of individual teachers, educators and education providers</li> <li>• inconsistencies in teacher education and in in-service training of officials and employees</li> <li>• human rights are not always thought of and taught as norms of international law, and thus people may not understand their binding nature</li> <li>• human rights training of state and municipal public servants is not implemented adequately in Finland</li> <li>• hardly any fundamental and human rights training is available for regional and local officials</li> <li>• insufficient information on human rights treaties binding on Finland and their supplementary protocols among various professional groups, such as judicial authorities, and the general public</li> </ul>
<p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>• the curricula reform gives new opportunities to develop fundamental and human rights education in basic and general upper secondary education</li> <li>• fundamental and human rights training for officials can be incorporated into the existing Government training structures</li> <li>• utilisation of the Finnish Education Evaluation Centre in the evaluation of fundamental and human rights education and training</li> <li>• new web pages of the Finnish National Board for Education where material is collected e.g. on fundamental rights</li> <li>• existing funding instruments can be used for supporting fundamental rights training in different sectors and levels of education</li> <li>• gender equality and equality planning processes at schools</li> <li>• the statutory task of the Human Rights Centre to promote fundamental rights education and training</li> <li>• as a result of increased knowledge, people invoke fundamental and human rights and courts apply them more frequently</li> </ul>	<p><b>Threats</b></p> <ul style="list-style-type: none"> <li>• fundamental and human rights training specifically targeted at different professional groups is not available or sufficiently concrete</li> <li>• training does not reach those who would need it</li> <li>• those who need training do not find the topic interesting or necessary</li> <li>• due to the hardened climate or strong prejudices people are not motivated to safeguard fundamental rights in their own actions, regardless of knowledge</li> <li>• the national core curricula are not adopted at the grass-root level due to inadequate fundamental and human rights competence of teachers</li> <li>• as a result of the economic situation, training is cut or not organised at all or people do not have time to participate in it</li> <li>• the topic is considered difficult and complicated with no connection to daily activities</li> <li>• workplace culture results in the authorities not taking fundamental rights into consideration in their activities despite training and competence</li> </ul>



## Selection of objectives and measures for the Action Plan

The figure below illustrates the objectives of the Action Plan that are related to fundamental and human rights education and training, namely increasing the Government capacity in fundamental and human rights issues, strengthening fundamental and human rights education and training at schools, increasing knowledge of fundamental and human rights among asylum seekers and strengthening a human rights based approach in public funding instruments for the development cooperation sector. The baseline study on human rights education and training in Finland conducted by the Human Rights Centre was used as a significant starting point in defining the objectives, and the recommendations by the Human Rights Delegation relating to the study and their implementation up to now were taken into account in the preparation of the Action Plan.<sup>30</sup> Education and training needs of various groups both on fundamental and human rights in general and on specific themes were also assessed in the preparation stage. The objectives of the Action Plan aim at promoting fundamental and human rights education through concrete and targeted measures.



The measures emphasise the nature of human rights as binding norms of international law and deal, where applicable, with both national fundamental rights and international treaties as well as with the EU dimension of fundamental rights. Training should take into

<sup>30</sup> On the implementation of the recommendations, see the Human Rights Centre Annual Report 2015, pp. 16-18.

account civil and political rights, on the one hand, and economic, social and cultural rights, on the other. In addition, attention is paid to the equal realisation of rights and to the rights of specific groups. The measures are implemented with a view to the needs of the target group in an environment respective of fundamental and human rights.

With regard to strengthening the fundamental and human rights training of officials, the Action Plan focuses, in particular, on developing the fundamental and human rights training of the Government's own officials by, for example, incorporating human rights themes into the introductory training of new Government officials and by organising a separate lecture course on fundamental and human rights. Training will also be organised on issues related to data protection. The knowledge of officials dealing with Sámi affairs will be improved through training focusing on the rights of the Sámi.

The Ministry of Justice published a handbook for legislative drafters in 2013, which includes comprehensive information on how to take fundamental and human rights into account in legislative drafting.<sup>31</sup> Tools for safeguarding fundamental rights in legislative drafting have also been developed on the EU level.<sup>32</sup> The Human Rights Report, however, revealed a stronger need to assess fundamental and human rights impacts in the preparation phase of statute projects, which has also been noted by the Constitutional Law Committee and the Chancellor of Justice of the Government.<sup>33</sup> In addition, the evaluation of the previous Action Plan on Fundamental and Human Rights, the Ombudsman for Children and non-governmental organisations, for example, have called for strengthening a proactive assessment of fundamental and human rights impacts. The assessment of fundamental and human rights impacts will be developed in statute drafting as part of the Action Plan. Pilot projects were selected for the Action Plan where fundamental and human rights impacts will be assessed particularly thoroughly. In accordance with the Government Programme, attention will be paid to the realisation of fundamental and human rights in connection with projects related to intelligence legislation.

In relation to the national implementation of the UN Guiding Principles on Business and Human Rights, a human rights-based approach will be strengthened in connection with Finland's public funding instruments which are targeted at the private sector and related to development cooperation. According to the Government Human Rights Report, an attempt should be made to prevent any negative impacts on human rights associated with companies' operations abroad. The measures, means and possibilities of achieving

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31 The handbook is available in Finnish at <http://lainkirjoittaja.finlex.fi/>.

32 See e.g. the Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union (COM(2010) 573 final) and the Guidelines on methodological steps to be taken to check fundamental rights compatibility at the Council preparatory bodies (5377/15).

33 See e.g. the Annual Report of the Chancellor of Justice of the Government 2015 and Constitutional Law Committee statements PeVL 52/2014, PeVL 33/2016 and PeVL 19/2016; see also the Administration Committee statement HaVL 34/2014 and the Employment and the Equality Committee statement TyVL 15/2014.

this should be examined further. During the discussion on the report at Parliament, the Employment and Equality Committee, in particular, brought up the need to pay attention to the human rights responsibility of companies and to the UN principles on business and human rights.<sup>34</sup>

The awareness of fundamental and human rights among children and adolescents can be improved by developing fundamental and human rights education at schools. The new national core curricula for basic and general upper secondary education consider fundamental and human rights more comprehensively in the value basis, general objectives and content of education.<sup>35</sup> The core curricula will enter into force in phases, starting from autumn 2016. For supporting their adoption as well as fundamental and human rights education at schools, the measures of the Action Plan promote, for example, inclusion in the school community and strengthen the teachers' capacities for encountering adolescents from different backgrounds and for addressing hate speech, racism and sexual harassment. The accessibility of teaching materials concerning fundamental and human rights will also be improved by collecting materials produced by various actors into one place.

The Action Plan also seeks to raise asylum seekers' awareness both of their own fundamental and human rights and of those of others. Asylum seekers often arrive from countries with no firmly established fundamental and human rights culture, and their knowledge about human rights may be weak. In addition, asylum seekers need information on the Finnish system of fundamental rights. The fundamental and human rights content of the basic course on Finnish society organised at reception centres will be developed as part of the Action Plan.

Elements of fundamental and human rights education and training are also included in measures covered by the other priority areas of this Action Plan, which are related, for example, to awareness-raising of certain fundamental and human rights themes among the ministries' officials, police administration, municipal employees, asylum seekers and organisations.<sup>36</sup> An attempt was made to incorporate fundamental and human rights training of local authorities especially into the measures related to equality and the right to self-determination.

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34 Employment and Equality Committee statement TyVL 15/2014.

35 National core curricula for basic education 2014, national core curricula for general upper secondary education 2015.

36 See e.g. the following measures: 2.1.1 Increasing the Government capacity to assess the realisation of equality, identify and address discrimination and promote equality, 2.1.2 Supporting equality planning in municipalities, 2.1.3 Developing the gender equality and equality plans of sports organisations, 2.1.4 Promoting equality in work life, 2.3.1 Preventing hate speech as part of the Meaningful in Finland Action Plan and its follow-up, 2.4.1 TRUST – Good Relations in Finland project, 2.5.3 Increasing the participation of immigrants in leisure and organisational activities, 3.2.1 Enhancing combating hate speech, 3.2.2 Strengthening the prevention of violence against women through timely and accurate information and targeted training.

Training targeted at preventing trafficking in human beings is not covered by this Action Plan, but the Government Action Plan against Trafficking in Human Beings 2016–2017 includes measures for enhancing training on actions against trafficking in human beings and on identification of its victims as well as for raising awareness.<sup>37</sup>

One of the objectives of the Government Action Plan for Gender Equality 2016–2019 is to reinforce awareness of gender equality in early childhood education and education. The measures of the Action Plan include incorporating gender- and equality-aware contents and methods into the basic and continuing education of teachers, educators and student counsellors, supporting gender equality planning in comprehensive schools and upper secondary educational institutions, and strengthening the training of experts in the economic affairs and employment administration for reducing gender segregation of the labour market.<sup>38</sup>

## MEASURES

### 1.1 Increasing the Government’s capacity in fundamental and human rights issues

#### 1.1.1 Strengthening the fundamental and human rights competence of Government officials

- a) **Contents:** The fundamental and human rights competence of Government officials will be strengthened by developing online materials and training on fundamental and human rights themes as part of, for example, the introductory training programme of new officials and training on legislative drafting. The project will be implemented in cooperation under the Government Action Plan on Fundamental and Human Rights and the Government Action Plan on Democracy Policy. A course on fundamental and human rights intended for Government officials will be implemented as a pilot project. The online material related to the course and other material on fundamental and human rights will be collected and published on the Government Intranet site where they will be readily available to all Government officials. Officials will also be offered training on issues related to data protection, and the training will draw attention to the practical implementation of the protection of privacy and personal data.

<sup>37</sup> Government Action Plan against Trafficking in Human Beings 2016–2017, measures 2.3, 4.1, 5.2, 61.-6.4.

<sup>38</sup> Government Action Plan for Gender Equality 2016–2019, measures 4.2, 4.3 and 2.2.

- b) **Legal basis:** Section 22 and 10 of the Constitution, parliamentary committee statements and Committee for Foreign Affairs report on the Human Rights Report (UaVM 24/2014, PeVL 52/2014, SuVL 6/2014, HaVL 34/2014, SiVL 15/2014, TyVL 15/2014), human rights treaties ratified by Finland, Article 6 of the Treaty on European Union, EU Charter of Fundamental Rights, UN Declaration on Human Rights Education and Training, UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Article 15)
- c) **Responsible ministries:** Prime Minister's Office/Government Administration Unit, Ministry of Justice
- d) **Indicators:** implementation of education, feedback on the course, number of participants, online materials

### 1.1.2 Developing the assessment of fundamental and human rights impacts of statute projects

- a) **Contents:** The drafting instructions for Government proposals (HELO) will be revised. Means for improving and strengthening the assessment of fundamental and human rights impacts as part of Government proposals will also be evaluated in connection with the revision. The Ministry of Justice will provide support for this, if necessary. Training on legislative drafting will draw attention to considering fundamental and human rights in statute drafting. Ministries will evaluate and write down fundamental and human rights impacts of their pilot statute projects they have announced in advance:
  - i. Reform project of legislation on the child custody and rights of access, Ministry of Justice
  - ii. Legislation project on military intelligence, Ministry of Defence
  - iii. Legislation project on civil intelligence, Ministry of the Interior
  - iv. ASREK project related to the establishment of an electronic register of residential housing companies, with the objective of promoting reasonably-priced housing, Ministry of Agriculture and Forestry
  - v. Government Decree on Accessibility Requirements of Buildings, Ministry of the Environment.
- b) **Legal basis:** Section 22 of the Constitution and Constitutional Law Committee statement PeVL 52/2014.
- c) **Responsible ministry:** Ministry of Justice and the ministries responsible for the relevant pilot statute projects

- d) **Indicators:** The importance of the assessment of fundamental and human rights impacts, including in respect of Section 22 of the Constitution, has been emphasised in connection with the revision of the drafting instructions for Government proposals, and instructions for including an impact assessment in Government proposals have been incorporated into the guide. Training on legislative drafting has drawn attention to the assessment of fundamental and human rights impacts and to its strengthening in statute drafting. Fundamental and human rights impacts have been assessed in the pilot statute projects announced in advance by the ministries, and the assessments of statutes have been included in the Government proposals and in the complementary memorandum in respect of the Government Decree.

### 1.1.3 Basic course on Sáminess for officials responsible for Sámi affairs

- a) **Contents:** A course on Sáminess will be organised for officials responsible for Sámi affairs. The Sámi Parliament will prepare the course with the University of Lapland.
- b) **Legal basis:** Section 6, 17(3) and 121(4) of the Constitution, UN Declaration on the Rights of Indigenous Peoples, ICCPR, ICESCR, UN International Convention on the Elimination of All Forms of Racial Discrimination, CoE Framework Convention for the Protection of National Minorities, concluding observations and recommendations of the UN and CoE treaty monitoring bodies and other human rights bodies, Article 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice in cooperation with the Sámi Parliament and the University of Lapland
- d) **Indicators:** implementation of the course

## 1.2 Fundamental and human rights education and training at schools

### 1.2.1 In-service training for teachers

- a) **Contents:** Teaching personnel will be provided with in-service training in 2016 and 2017 which offers concrete tools for acting in a diverse working environment, conducting discussions on difficult topics and encountering each adolescent. This involves strengthening the teaching personnel's competence to address, for example, hate speech or racist behaviour and sexual harassment and identify processes and signals associated with violent radicalisation. The training will ensure that persons working with children and adolescents have capacities for acting in a manner which reinforces democratic values, awareness of fundamental and human rights and the feeling of inclusion among children and adolescents.

- b) **Legal basis:** Section 6, 11, 12 and 22 of the Constitution, UN International Convention on the Elimination of All Forms of Racial Discrimination, Article 29 of the Convention on the Rights of the Child, Non-Discrimination Act, Equality Act, Article 10, 11, 20, 21 and 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture; partners: Finnish National Board of Education, regional state administrative agencies
- d) **Indicators:** implementation of training

### 1.2.2 Collecting existing online materials on human rights education

- a) **Contents:** The new core curricula for basic education that entered into force in summer 2016 include fundamental and human rights education and new approaches to teaching them. In order to ensure the quality of teaching and to facilitate the teachers' work, the Finnish National Board of Education will collect the existing material on human rights education into the Edu.fi web pages.
- b) **Legal basis:** Section 16 and 22 of the Constitution, UN Declaration on Human Rights Education and Training, Article 29 of the Convention on the Rights of the Child, Article 14 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture; implementation by the Finnish National Board of Education
- d) **Indicators:** implementation of the website

### 1.2.3 Learning for equal participation: promoting inclusion at schools in the development of democracy and human rights education and in the implementation of new curricula

- a) **Contents:** The new core curricula for basic education that entered into force in summer 2016 include democracy and media education, fundamental and human rights education and new approaches to teaching them. A section on inclusion and student boards was added to the Basic Education Act in 2013. The section obliges the provider of teaching to promote the opportunities of pupils to influence school operations and the related decision-making and to participate in them. It will be examined, within the resources available, how cooperation between schools and organisations could be strengthened with a view of providing teaching on and encouraging into civic and voluntary activities. It will also be examined, within the resources available, how the Nuortenideat.fi channel for submitting ideas could be introduced into teaching and student board activities. The results will be used for drafting a model for schools. Time-table: 2017–2018.

- b) **Legal basis:** Section 6(3), 14, 16 and 22 of the Constitution, Article 12 and 29 of the Convention on the Rights of the Child, Article 20, 21 and 24 of the EU Charter of Fundamental Rights
- c) **Responsible party:** Ministry of Justice and Ministry of Education and Culture  
Other parties: Finnish National Board of Education
- d) **Indicators:** amount of cooperation between schools and organisations, use of the Nuortenideat.fi website at schools/number of users, the model created for schools

### 1.3 Increasing knowledge of fundamental and human rights among asylum seekers

- a) **Contents:** Knowledge of their own fundamental and human rights and of those of others will be increased among asylum seekers as part of the basic course on Finnish society organised at reception centres. The content of the course will be assessed and developed in respect of fundamental and human rights. A basic course on Finnish society will be organised for asylum seekers at reception centres in connection with initial introduction and work and study activities. The course will provide necessary basic information about living at a reception centre and about the rights and obligations there. A further objective of the course to provide asylum seekers with initial information and an introduction into Finnish society and its culture. The course consists of initial information provided by reception centres and on themes included in the Miellivok materials, including Finnish society, working in Finland, Finnish legislation, gender equality and sexuality.
- b) **Legal basis:** Section 22 of the Constitution, Article 20, 21 and 22 of the EU Charter of Fundamental Rights, Section 15 of Act on the Reception of Applicants for International Protection
- c) **Responsible ministry:** Ministry of the Interior. Key stakeholders: Finnish Immigration Service and reception centres, asylum seekers
- d) **Indicators:** assessment of the course content and its effectiveness in practice in a pre-planned manner



## 1.4 Strengthening a human rights-based approach in Finland's public funding instruments for the private sector

- a) **Contents:** The Government Report to the Parliament on Finland's Development Policy (2016) outlines that the realisation of human rights is a key goal in Finland's development policy. The guidance note of the Ministry for Foreign Affairs on human rights-based approach in Finland's development cooperation (2015) emphasises that in the case of private sector funding instruments, the UN Guiding Principles on Business and Human Rights set the minimum standards for ensuring that development cooperation is human rights sensitive and thus respectful of human rights. The Government adopted a national action plan on the implementation of the UN Principles in autumn 2014. In continuation to the implementation, the Ministry for Foreign Affairs will carry out a project where tailored training is offered on the implementation of the human rights-based approach in connection with 3 to 6 public funding instruments with development impacts. The project supplier will conduct a needs assessment on the funding instruments to define how they could be strengthened further in respect of the realisation of the UN Principles. The supplier will make recommendations for action on the basis of the analysis and provide support for the instruments in the implementation of the recommendations.
- b) **Legal basis:** UN Guiding Principles on Business and Human Rights, Recommendation of the Committee of Ministers on the Implementation of the UN Guiding Principles (CM/Rec(2016)3)
- c) **Responsible ministry:** Ministry for Foreign Affairs, Ministry of Economic Affairs and Employment
- d) **Indicators:** implementation of the planned actions (tailored training, needs analysis and drafting of recommendations for action)

## 2. Equality

### General

Equality is a right safeguarded both in the Constitution of Finland and in several human rights treaties. For example, the following UN treaties safeguard equality: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of the Child. EU anti-discrimination directives, which have been implemented in Finland by the Non-Discrimination Act, include detailed provisions on discrimination.<sup>39</sup>

Equality can also be examined either as an individual right or in relation to the realisation of other rights, such as the ESC rights. International human rights treaties define equality in particular through equal and indivisible human dignity and through prohibitions of discrimination. According to the first Article of the UN Universal Declaration of Human Rights, all human beings are born free and equal in dignity and rights. The Constitution of Finland also guarantees the inviolability of human dignity and the freedom and rights of the individual and promotes justice in society. According to Section 6 of the Constitution, everyone is equal before the law, and no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person. Discrimination in its various forms violates the dignity of the person subjected to it and prevents the realisation of justice in society. Equality does not, however, necessitate the same treatment of all people. What is essential is whether different treatment can be justified in a manner acceptable from the perspective of the system of fundamental rights. In its observations

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<sup>39</sup> Council Directive (2000/43/EC) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive (2000/78/EC) establishing a general framework for equal treatment in employment and occupation.

on equality, the Constitutional Law Committee has particularly emphasised the realisation of formal and *de facto* equality and the importance of improving the position of children and gender equality.<sup>40</sup> It has also paid attention to an equal realisation of other fundamental rights, such as the freedom of religion and conscience as well as linguistic and cultural rights.

Finland's equality legislation was reformed at the beginning of 2015.<sup>41</sup> The reform strengthened the legal protection of victims of discrimination and extended the scope of application of the prohibitions of discrimination and the obligations relating to the promotion of equality. In addition, amendments to the Act on Equality between Women and Men, adoption of amendments to the Marriage Act that allow same-sex marriage and ratification of the UN Convention on the Rights of Persons with Disabilities have reinforced equality legislation in Finland over the past few years.

The purpose of the Non-Discrimination Act is to foster equality and prevent discrimination as well as to improve the legal protection of those who have been discriminated against. The Act defines the forms of prohibited discrimination and how the Act is to be monitored as well as imposes obligations on authorities, employers and providers of education in the promotion of equality. The Act applies to both public and private activities. Provisions on the prohibition of discrimination based on gender, gender expression and gender identity are laid down in the Equality Act. The Ombudsman for Equality supervises compliance with the Equality Act.

The new Non-Discrimination Ombudsman and National Non-Discrimination and Equality Tribunal became operational at the beginning of 2015. People can turn to the Non-Discrimination Ombudsman if they have experienced or witnessed discrimination on the basis of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activism, family connections, state of health, disability, sexual orientation or other personal characteristics. The tasks of the Non-Discrimination Ombudsman also include promoting equality and preventing discrimination. In addition, the Ombudsman supervises

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40 See Tuomas Ojanen and Martin Scheinin (2011). Yhdenvertaisuus ja syrjinnän kieltö (PL 6 S) (Equality and prohibition of discrimination, Section 6 of the Constitution of Finland), in Hallberg, Karapuu, Scheinin, Ojanen, Tuori and Viljanen: Perusoikeudet (Fundamental Rights), Helsinki 2011, pp. 256–257. See also Constitutional Law Committee statement PeVL 44/2010.

41 Provisions on equality and non-discrimination are also included in, for example, the Non-Discrimination Act, the Equality Act, the Employment Contracts Act, the Seafarers' Employment Contracts Act, the Act on Civil Servants in Local Government, the State Civil Servants' Act, the Basic Education Act, in the Acts on various educational institutions, such as the Universities Act and the Act on Universities of Applied Sciences, in the Act on the Status and Rights of Patients, the Act on the Status and Rights of Social Welfare Clients, the Conscription Act and the Non-Military Service Act, the Consumer Protection Act and the Criminal Code. Accessibility legislation, which is deemed to include the Land Use and Building Act, the Land Use and Building Decree and the Decree of the Ministry of the Environment on Barrier-free Construction, road traffic legislation, such as the Public Transport Act and the Taxi Transport Act, and communication legislation also form part of the equality legislation.

es the removal from the country of foreign nationals and acts as the National Rapporteur on Trafficking in Human Beings. The National Non-Discrimination and Equality Tribunal is an impartial and independent low-threshold judicial body appointed by the Government. Its task is to provide legal protection for those who consider that they have been discriminated against or subjected to prohibited victimisation related to discrimination. Occupational safety and health authorities supervise the realisation of equality in work life. The Non-Discrimination Ombudsman may also foster equality in work life and promote, for example, a settlement between the parties in individual cases.

The Non-Discrimination Act also imposes obligations on various actors to assess and promote equality. Authorities, education providers and larger employers need to have the plans required in the Non-Discrimination Act in place by the beginning of 2017. Various materials have been drafted to support the drafting of equality plans, and at the beginning of 2016, the Ministry of Justice published an online tool for assessing equality.<sup>42</sup> The Non-Discrimination Ombudsman and occupational safety and health authorities supervise the preparation of equality plans.

## Current situation

Over the past few years, issues related to equality and discrimination have been the subject of numerous studies. Information on discrimination has been collected, in particular, within the national discrimination monitoring system since 2008.<sup>43</sup> The purpose of studies has been to examine manifestations of discrimination in various spheres of life and as experienced by different population groups. In addition to experiences of discrimination, information has been collected on suspected cases of discrimination reported to the authorities, on decisions by various courts on discrimination, and on hate speech, including hate crime. The Ministry of the Interior published a summary of the information collected within the monitoring system in 2014.<sup>44</sup> Based on research and studies, a large number of people have experiences of discrimination (approximately 10 to 15% of the population) and discrimination focuses especially on visibly ethnic and religious minorities, persons belonging to sexual and gender minorities, different age groups and on persons with disabilities.

<sup>42</sup> Tool for the assessment of equality, [yhdenvertaisuus.finlex.fi/](http://yhdenvertaisuus.finlex.fi/).

<sup>43</sup> Web page of the discrimination monitoring system, [www.yhdenvertaisuus.fi/syrjinnan\\_seuranta/](http://www.yhdenvertaisuus.fi/syrjinnan_seuranta/).

<sup>44</sup> Discrimination in Finland (available in Finnish: Syrjintä Suomessa). Information report 2014. Publication of the Ministry of the Interior 7/2014, [yhdenvertaisuus-fi-bin.directo.fi/@Bin/73e4139cdf2d2ddd2f88c5011841e-0fa/1478258963/application/pdf/334467/Julkaisu\\_A4\\_042014-web.pdf](http://yhdenvertaisuus-fi-bin.directo.fi/@Bin/73e4139cdf2d2ddd2f88c5011841e-0fa/1478258963/application/pdf/334467/Julkaisu_A4_042014-web.pdf).

Finland has received numerous recommendations from human rights treaty monitoring bodies in relation to combating discrimination against various population groups and promoting equality. The observations by the treaty monitoring bodies have concerned, for example, discrimination experienced by various groups (sexual and gender minorities, persons with disabilities, ethnic, linguistic and religious minorities, adolescents, etc.), monitoring and complaint mechanisms of equality legislation, multiple discrimination (disabled women, women of Roma, Sámi or immigrant origin), racist crime and hate speech on the Internet. Finland has been urged to, for example, address bullying at school and drop-out from school, which are common among children of immigrant and Roma origin, combat discrimination based on sexual orientation and sexual identity as well as discrimination of persons with disabilities in the labour market, increase the opportunities of minorities to participate in decision-making affecting them, enhance combating hate speech especially on the Internet, avoid ethnic profiling in the authorities' activities, combat prejudice against the Roma and foster the Sámi culture as part of cultural diversity and heritage.<sup>45</sup>

The issue of equality also arises in the work of the supreme overseers of legality. The Parliamentary Ombudsman has recognised equality issues related to, for example, the equal realisation of linguistic rights, accessibility of prisons, realisation of the rights of persons with disabilities, status of undocumented persons and the rights of children.<sup>46</sup> In his duties, the Chancellor of Justice of the Government encounters the issue of equality in fundamental and human rights statements pertaining to legislative drafting and in decisions related to legality supervision. The Chancellor of Justice has noted, for example, that legislative proposals should include an assessment of the proposed provisions in respect of their fundamental and human rights impacts on different population groups.<sup>47</sup>

In 2015, the Non-Discrimination Ombudsman processed a total of 496 discrimination cases, which concerned all the grounds for discrimination prohibited under the Non-Discrimination Act. The majority of the cases related to suspected instances of discrimination based on ethnic origin and disability. As regards the different spheres of life, suspected discrimination cases were usually related to private services, work life, housing and ser-

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45 UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), UN ESCR Committee 2014 (E/C.12/FIN/CO/6), UN Committee on the Elimination of Racial Discrimination 2012 (CERD/C/FIN/CO/20-22), European Commission against Racism and Intolerance 2013 (CRI(2013)19), UN Committee on the Rights of the Child 2011 (CRC/C/FIN/CO/4), UN Committee on the Elimination of Discrimination against Women 2014 (CEDAW/C/FIN/CO/7), Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe 2012 (COMMMDH(2012)27), Recommendations by the CoE Committee of Ministers on the Implementation of the Framework Convention for the Protection of National Minorities 2012 (ResCMN(2012)3), UN Universal Periodic Review 2013 (A/HRC/21/8 and A/HRC/21/8/ADD.1), Recommendations of the CoE Committee of Ministers on the European Charter for Regional or Minority Languages 2012 (CM/RecChL(2012)3), UN Special Rapporteur on the Rights of Indigenous Peoples 2011 (A/HRC/18/35/ADD.2).

46 [Annual Report](#) of the Parliamentary Ombudsman 2015.

47 [Annual Report](#) of the Chancellor of Justice of the Government 2015.

vices of the authorities. The Ombudsman has also paid attention to, for example, discrimination in recruitment, hate speech on the Internet, ethnic profiling in the monitoring of foreign nationals and to the authorities' responsibility to set an example for addressing discrimination.<sup>48</sup>

Occupational safety and health authorities monitor compliance with the Non-Discrimination Act in work life. The purpose is to investigate whether an employer has complied with the prohibition of discrimination in the workplace under the Non-Discrimination Act. The monitoring measures are governed by the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces. The Ministry of Social Affairs and Health published instructions for monitoring equality and discrimination in autumn 2016.<sup>49</sup> No nationwide statistics are available on contacts relating to labour discrimination from 2015, but, for example, the Occupational Safety and Health Division at the Regional State Administrative Agency of Southern Finland was contacted a total of 288 times in matters related to discrimination at work in 2015.<sup>50</sup>

The Human Rights Report issued by the Government in 2014 included several policy guidelines relating to equality and non-discrimination. The rights of groups at risk of discrimination and the eradication of discrimination on multiple grounds were set out as one priority of Finland's international human rights policy. According to the relevant policy guideline in the report, Finland stresses the recognition, prevention and eradication of discrimination on multiple grounds and supports bringing up the perspective of women, children and young people, persons with disabilities, and indigenous peoples and minorities, including the Roma, in international decision-making. The policy guidelines related to national human rights policy called for the Government to step up measures to prevent and recognise hate speech, in particular against ethnic and other minorities as well as girls and women, and harassment in the media, in online environments and in the social media. Furthermore, the realisation of the fundamental and human rights of persons belonging to sexual and gender minorities must be monitored and information about them must be disseminated. The fundamental and human rights of sexual and gender minorities should be promoted by drawing up a national strategy or action plan for them. The Government also set as its objectives accessibility in society, the built environment, services, communi-

48 [Annual Report](#) of the Non-Discrimination Ombudsman 2015.

49 Monitoring of equality and discrimination (available in Finnish: Yhdenvertaisuuden ja syrjinnän valvonta). Instructions for Occupational Safety Monitoring 2/2016. Ministry of Social Affairs and Health, Department for Occupational Safety and Health, [http://www.tyosuojelu.fi/documents/14660/198601/Yhdenvertaisuuden\\_ja\\_syrjinnan\\_valvonta022016.pdf/bc7a6af5-14c7-4d71-8208-411db33de6fe](http://www.tyosuojelu.fi/documents/14660/198601/Yhdenvertaisuuden_ja_syrjinnan_valvonta022016.pdf/bc7a6af5-14c7-4d71-8208-411db33de6fe).

50 Regional State Administrative Agency of Southern Finland (2016). Monitoring of prohibition of discrimination in Southern Finland in 2015. Report on client-initiated monitoring of the Non-Discrimination Act in work life (available in Finnish: Syrjinnän kiellon valvonta Etelä-Suomessa vuonna 2015. Raportti yhdenvertaisuuslain asiakasaloitteisesta valvonnasta työelämässä.). [www.tyosuojelu.fi/documents/14660/722336/Syrjinnan\\_valvonta\\_ESA-VI2015/946302c7-9bd2-4782-8761-2179d44af310](http://www.tyosuojelu.fi/documents/14660/722336/Syrjinnan_valvonta_ESA-VI2015/946302c7-9bd2-4782-8761-2179d44af310).

cation and transport. According to the report, the possibilities of persons with disabilities and the organisations representing them to take part in decision-making processes will be safeguarded equally with other civil society actors, and in decisions on budgets and policy, adequate financial and personnel resources will be reserved for the equal implementation of the fundamental and human rights of persons with disabilities.

Equality and discrimination against different minorities were also brought up in the consultations organised during the preparation of the Action Plan. In their assessments of the fundamental and human rights situation in Finland, non-governmental organisations drew attention, for example, to the problems in the realisation of the human rights of various population groups, such as persons with disabilities, LGBTI groups, children and the elderly, the Roma and the Sámi, as well as different patient groups, including persons suffering from memory loss or mental disorders. In particular, concerns were expressed over the situation of unaccompanied asylum-seeking children and the status of immigrant women and undocumented persons. The organisations also paid attention to discrimination based on religion and to hate speech, the non-realisation of the freedom of religion, the position of conscientious objectors, the position of children in legal processes, the reduction of homelessness and to discrimination in recruitment.

The development of equality and the overall situation of the above-mentioned problems related to discrimination can be assessed by means of a SWOT analysis. The table below presents observations on equality collected during the preparation of the Action Plan in respect of strengths, weaknesses, opportunities and threats.

## Equality – SWOT analysis

<p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• equality as a fundamental right is related to all public and private activities as well as to relations between individuals</li> <li>• international norms and international case law, including the EU anti-discrimination directives</li> <li>• the new more comprehensive Non-Discrimination Act which covers the gaps in EU legislation</li> <li>• the new Non-Discrimination Ombudsman and National Non-Discrimination and Equality Tribunal as low-threshold legal remedies</li> <li>• the more extensive statutory obligation related to equality planning</li> <li>• international human rights actors also bring up challenges related to equality and new forms of discrimination are identified</li> <li>• discrimination is also addressed by the EU and in Finland's foreign policy, for example</li> <li>• the Government Programme mentions, for example, zero tolerance for racism</li> <li>• research information on discrimination is available in Finland (discrimination monitoring system) and awareness has increased</li> <li>• the organisations representing groups at risk of discrimination are active</li> <li>• citizens regard equality and gender equality as important values</li> </ul>	<p><b>Weaknesses</b></p> <ul style="list-style-type: none"> <li>• comprehensive addressing of different forms of discrimination, in particular intersecting discrimination, is challenging</li> <li>• gaps in the EU anti-discrimination legislation</li> <li>• victim surveys, statistics and recommendations by international human rights actors indicate that extensive problems are associated with the realisation of equality</li> <li>• recognition of several different forms of discrimination is challenging both for victims and perpetrators, especially in the case of indirect and structural discrimination</li> <li>• discrimination at work, in particular in recruitment, is often not exposed</li> <li>• victims of discrimination seldom report of discrimination cases</li> <li>• a high threshold for claiming redress at court, a slow and heavy process with the risk of legal expenses</li> <li>• challenging to obtain sufficient evidence on discrimination, especially in a criminal procedure but also in a civil procedure</li> <li>• persons belonging to visible minorities face discrimination particularly frequently</li> </ul>
<p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>• the more extensive obligation related to equality planning</li> <li>• new tools for assessing equality and for equality planning</li> <li>• discrimination can be prevented by assessing the equality impacts of legislation and actions</li> <li>• the new Non-Discrimination Act allows for building up case law on, for example, reasonable adjustments and new forms of discrimination</li> <li>• strong civil society and tradition of organisational activities, exposure of discrimination experienced by various groups</li> <li>• joint actions of various population groups against discrimination may also increase solidarity and improve relations between population groups</li> <li>• non-discrimination and accessibility may constitute a competitive advantage and an important part of the image in the international labour market and in tourism marketing</li> <li>• non-discrimination is a guarantee of civil peace</li> </ul>	<p><b>Threats</b></p> <ul style="list-style-type: none"> <li>• spreading of hate speech in the social media, in particular, and its influence on prejudices and consequently on discrimination and violence</li> <li>• hardening of attitudes and polarisation of debate and their influence on the prevalence of discrimination</li> <li>• discrimination impairs relations between population groups and undermines trust that is important to society</li> <li>• threats and hate speech directed, in addition to individuals and groups, at the representatives of various professional groups when they bring up and address discrimination (e.g. researchers, journalists, judges)</li> <li>• juxtaposition of the challenging economic situation and various groups may impair relations between population groups</li> <li>• discrimination may result in serious problems, such as marginalisation, which is expensive for society and also wastes resources</li> <li>• impacts of legislative amendments if no thorough equality impact assessment is performed</li> </ul>



## Selection of objectives and measures for the Action Plan

The SWOT analysis gives a complex picture of the realisation of equality in Finland in respect of all elements. Key issues from the perspective of promoting equality and addressing discrimination are, for example, how discrimination is identified, addressed and prevented in practice. It can also be evaluated how well measures for promoting equality of different population groups are known and used.

Increasing research-based information and lowering the threshold for reporting discrimination are key means for improving **identification of discrimination** and for making it visible through, for example, legal cases. The low number of discrimination cases at various courts of law indicates, however, weaknesses in producing evidence on discrimination both in criminal and civil procedures. The role of civil society in helping the victims of discrimination can be developed further as the new Non-Discrimination Act allows for organisations to refer discrimination cases to the National Non-Discrimination and Equality Tribunal for consideration at the consent of the injured party. The systematic use of information on discrimination can be developed further by means of, for example, discrimination indicators. The development of discrimination indicators is part of the more extensive development project of fundamental and human rights indicators.<sup>51</sup> A monitoring mechanism would contribute to the analysis of the effectiveness of equality legislation and to the development of equality policy.

Finland's reformed equality legislation can be regarded as a strength since it provides a framework for **addressing discrimination** in its various forms. Awareness should still be increased among citizens of the role of the Non-Discrimination Ombudsman, the occupational safety and health authorities and the National Non-Discrimination and Equality Tribunal in addressing discrimination. In addition, obligations relating to the promotion of equality allow for developing an anti-discrimination policy in all spheres of life. Increasing competence in equality assessment and planning requires training and further development of methods.

According to a study in social psychology<sup>52</sup>, discrimination can be **prevented** by influencing the attitudes, experienced safety, interaction between various groups and inclusion

51 A research group at the University of Tampere conducted a development project of fundamental and human rights indicators funded by the Prime Minister's Office in 2015 and 2016. Final report of the project: Pauli Rautiainen, Juha Lavapuro, Jari Hartzell, Emma Lehtinen, Niina Meriläinen, Riku Neuvonen and Elina Todorov (2016). Use of human rights indicators for monitoring the fundamental and human rights situation in Finland (available in Finnish: Ihmisoikeusindikaattorien käyttäminen Suomen perus- ja ihmisoikeustilanteen seurantaan). Publications of the Government's analysis, assessment and research activities 36/2016.

52 See e.g. Nick Johnson and John Tatam (2009). Good relations: a conceptual analysis. Equality and Human Rights Commission Research report 42, Institute of Community Cohesion (iCoCo), [www.equalityhumanrights.com/sites/default/files/research-report-42-good-relations-a-conceptual-analysis\\_0.pdf](http://www.equalityhumanrights.com/sites/default/files/research-report-42-good-relations-a-conceptual-analysis_0.pdf).

in society. The spread of hate speech and hardened attitudes pose a clear threat to the emergence of positive attitudes in Finland. Awareness-raising and influencing attitudes and debate culture are key objectives of the measures related to the attitudinal climate. The objective is closely linked with the implementation of fundamental and human rights education, which was discussed in the previous chapter.

According to research, mutual interaction between different population groups influences the emergence of positive attitudes. **Good relations policy** has been developed in Finland over the past few years in various development projects (e.g. Good Relations project<sup>53</sup>), and it has been proven to have positive effects in other European countries. The objective of good relations policy is to enhance interaction between various groups and inclusion and thus influence the feeling of security and attitudes among people.

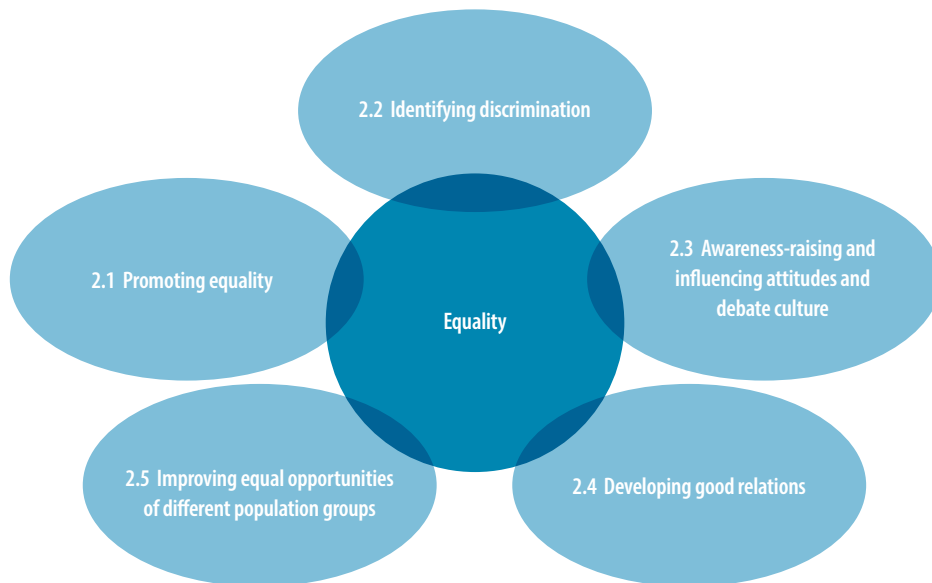
**Increasing the equality of different population groups** is a key objective laid down in equality legislation. In respect of groups at risk of discrimination, this may require an exception from the principle of formal equality so as to realise *de facto* equality. According to research, in Finland such groups include, in particular, ethnic minorities which differ visibly from the majority population, such as the Roma, different groups of disabled persons and sexual and gender minorities.<sup>54</sup> Group-specific special issues may be accounted for in the implementation of obligations related to the promotion of equality, such as equality planning, but they may also require dedicated special measures. A large number of group-specific development proposals were made during the preparation of the Action Plan, particularly in relation to the promotion of the equality of immigrants and asylum seekers, persons with disabilities, LGBTI groups and the Roma and the Sámi.

In line with the above-mentioned problems and areas for development, the objective areas of the Action Plan concerning equality can be illustrated as presented in the figure on the next page. Concrete measures were searched for each objective area during the preparation of the Action Plan.

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53 [http://www.yhdenvertaisuus.fi/vad\\_da\\_equality\\_fi/kampanjer/good-relations/](http://www.yhdenvertaisuus.fi/vad_da_equality_fi/kampanjer/good-relations/).

54 Discrimination in Finland (available in Finnish: Syrjintä Suomessa). Information report 2014. Publication of the Ministry of the Interior 7/2014.



## MEASURES

### 2.1 Promoting equality

#### 2.1.1 Increasing the Government's capacity to assess the realisation of equality, identify and address discrimination and promote equality

- a) **Contents:** Equality planning will be developed and introduced into different sectors.
  - A person/persons responsible for equality issues will be trained for each ministry, and they will provide support in equality issues, including equality planning, for the authorities in their administrative branches.
  - The ministries will ensure that all authorities in their administrative branches have an equality plan based on the assessment of the situation.
  - Equality planning at the ministries will be monitored by the network of fundamental and human rights contact persons.
- b) **Legal basis:** Section 6 of the Constitution, Section 5 of the Non-Discrimination Act, Equality Act, several UN human rights treaties, Article 20, 21 and 23 of the EU Charter of Fundamental Rights, Article 14 of the European Convention on Human Rights and its 12th Protocol, recommendations to Finland by human rights treaty monitoring bodies (UN Human Rights Committee, ESCR, CRC, CE-DAW and CERD Committees, ECRI, FCNM), UPR recommendations, recommendations by the CoE Commissioner for Human Rights to Finland

- c) **Responsible ministry:** Ministry of Justice and all other ministries
- d) **Indicators:** follow-up study on equality planning, training organised for responsible persons, equality plans drafted at the ministries

## 2.1.2 Supporting equality planning in municipalities

- a) **Contents:** The objective of the Rainbow Rights project is to enhance the implementation of national anti-discrimination legislation by assisting municipalities in equality planning, by developing regional and local policy programmes for promoting the equality of LGBTI persons and by combating multiple discrimination faced by LGBTI persons. The municipalities' equality plans will be examined during the project, and good practices will be developed with pilot municipalities for the implementation of equality plans. Other project activities at the local and regional levels include training for key personnel and events relating to the promotion of equality. During the project, the Ministry of Justice will also produce a study on multiple discrimination experienced by LGBTI persons and launch cooperation with organisations in order to address multiple discrimination. The project will be implemented between 2017 and 2018.
- b) **Legal basis:** Section 6 of the Constitution, Non-Discrimination Act, Equality Act, several UN human rights treaties, Article 20, 21 and 23 of the EU Charter of Fundamental Rights, Article 14 of the European Convention of Human Rights and its 12th Protocol, recommendations to Finland by human rights treaty monitoring bodies (UN Human Rights Committee, ESCR, CRC, CEDAW and CERD Committees, ECRI, FCNM), UPR recommendations, recommendations by the CoE Commissioner for Human Rights to Finland
- c) **Responsible ministry:** Ministry of Justice, in cooperation with the Association of Finnish Local and Regional Authorities and the Finnish LGBTI Rights Organisation Seta
- d) **Indicators:** equality plans of municipalities (number/quality), implementation of the study on multiple discrimination, training organised for key personnel

## 2.1.3 Developing the gender equality and equality plans of sports organisations

- a) **Contents:** Improving gender equality and equality in sports-related civic activities. When considering whether sports-promoting organisations are eligible for government aid and deciding on its amount, the determinant factor will be how they promote gender equality and equality. A gender equality plan and an equality plan will be set as requirements for granting government aid to sports-promoting organisations starting from 2017. Gender equality and equality planning will be extended from the organisations' administration to

their activities, and models will be designed for this in cooperation with the organisations. They will be supported in the development of their gender equality and equality work, including in the collection and dissemination of good practices and training.

The implementation of gender equality and equality plans and the development of planning as well as actions promoting gender equality and equality will be monitored and assessed in sports-promoting organisations that receive government aid by means of indicators developed by the National Sports Council.

- b) **Legal basis:** Section 6 of the Constitution, Section 7 and 8 of the Non-Discrimination Act, Section 6a, 6c and 7 of the Equality Act, Section 10 and 11 of the Act on the Promotion of Sports and Physical Activity, several human rights treaties, Article 20, 21 and 23 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture
- d) **Indicators:** gender equality and equality plans of the organisations and monitoring of their implementation

#### 2.1.4 Promoting equality in work life

- a) **Contents:** Addressing discrimination at work, in particular in relation to recruitment.  
Objectives: lowering the threshold for reporting discrimination at work; enhancing addressing discrimination in recruitment, in particular; improving exchange of information and cooperation between the authorities (e.g. in relation to information provision). Means: paying attention to discrimination at work, including in recruitment, through joint communication and training. For example, the Working life 2020 project will be used as an information provision channel.
- b) **Legal basis:** Section 6 and 18 of the Constitution, Non-Discrimination Act, several human rights treaties, Article 15, 20, 21, 23 and 26 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Economic Affairs and Employment in cooperation with the Ministry of Justice, the Non-Discrimination Ombudsman, the Ministry of Social Affairs and Health and regional state administrative agencies
- d) **Indicators:** training material completed and made publicly available, number of training events, number of contacts with regional state administrative agencies

## 2.2 Identifying discrimination

### 2.2.1 Publishing equality and non-discrimination indicators

- a) **Contents:** The national discrimination monitoring system will be developed by defining follow-up indicators for equality and non-discrimination. A web page concerning equality indicators will be published on the portal [www.yhdenvertaisuus.fi](http://www.yhdenvertaisuus.fi), where up-to-date information will be collected on the indicators. The same information will also be published as an information report on discrimination.
- b) **Legal basis:** Section 6 of the Constitution, Section 5 of the Non-Discrimination Act, several human rights treaties, Article 20 and 21 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice
- d) **Indicator:** the web page and publication implemented

### 2.2.2 Implementing a fundamental rights barometer

- a) **Contents:** Implementing a fundamental rights barometer intended for citizens in order to chart their views on the equal realisation of fundamental rights in Finland. The barometer will complement the European survey on the EU's fundamental rights which is being prepared by the European Union Agency for Fundamental Rights. The barometer will map, for example, the general knowledge of fundamental rights in Finland among different population groups, conceptions about the importance of different rights and experiences on their realisation in people's daily life. The fundamental rights barometer is part of the larger development project relating to the fundamental and human rights monitoring system (fundamental and human right indicators).
- b) **Legal basis:** fundamental and human rights
- c) **Responsible ministry:** Ministry of Justice, Human Rights Centre
- d) **Indicator:** the web page and publication implemented

## 2.3 Awareness-raising and influencing attitudes and debate culture

### 2.3.1 Preventing hate speech as part of the Meaningful in Finland Action Plan and its follow-up

- a) **Contents:** Preventing and addressing hate speech through culture and youth work. The competence of youth work actors will be reinforced further in promoting human rights and equality and in combating hate speech by deepening and broadening activities on the basis of the results of a training project intended for municipal youth work actors. The objective is to make everybody working with adolescents aware of how racism and hate speech can be prevented and addressed. Inclusion of human rights and anti-discrimination actions in youth work education programmes at all levels of education will be promoted.

Government aid will be guaranteed for activities for combating hate speech. The Meaningful in Finland challenge will be implemented with the objective of increasing contacts, mutual meetings and interaction between the majority population and immigrants, other minorities and special groups through shared activities and hobbies.

The implementation and effects of the project and its parts will be monitored.

- b) **Legal basis:** Section 6 of the Constitution  
 c) **Responsible ministry:** Ministry of Education and Culture  
 d) **Indicators:** implementation of different sub-projects and sustainability of effects

## 2.4 Developing good relations

### 2.4.1 TRUST – Good relations in Finland project

- a) **Contents:** The objective of the TRUST project is to promote the equality of asylum seekers, build up the capacities of local and regional actors for promoting good relations and develop local cooperation models for the reception of asylum seekers and integration of persons who have been granted a residence permit. The project includes developing approaches to good relations, increasing awareness of equality and of fundamental and human rights in general by developing training material intended for asylum seekers, recognising evolution of tensions between population groups at an early stage and preventing conflicts. The means and tools for early-stage recognition and prevention are based on indicators of good relations, which allow for measuring and analysing population relations. An analysis to be conducted at the local level will serve as a basis for launching measures for fostering good relations between

population groups, combating discrimination and promoting equality. A further objective is to identify and prevent activities of extremist movements and their channels of operation on the local level by testing approaches and structures in target areas which have proven effective in other EU member states. The project will be implemented between 2016 and 2018.

- b) **Legal basis:** UN International Convention on the Elimination of All Forms of Racial Discrimination, Section 6 of the Constitution, Non-Discrimination Act, Act on the Promotion of Immigrant Integration, international recommendations according to which it is necessary to promote tolerance between ethnic groups and take practical integration measures through inclusion of representatives of minorities (CERD Committee, ECRI and FCNM), Article 20, 21 and 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice in cooperation with the Ministry of Economic Affairs and Employment
- d) **Indicators:** the training implemented and evaluated, the survey on population relations performed and the related projects implemented

#### 2.4.2 Promoting cultural diversity and mobility

- a) **Contents:** The development programme of cultural diversity and mobility, which is a permanent programme, is based on the statutory task of the Arts Promotion Centre. Its action priorities will be revised annually. The programme promotes an understanding of diversity in arts, intercultural dialogue and internationalisation of artists through cultural exchange and export. This takes place through government aid, development projects and expert work. Cultural diversity is promoted by highlighting suitable artistic means and by launching and coordinating cooperation between various actors, including in joint projects of majority and minority cultures. Internationalisation is strengthened through action in international networks in the field of art, participation in projects promoting international interaction and mobility of artists and through supporting internationalisation also on the domestic level.
- b) **Legal basis:** Constitution, Article 13 and 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture, Arts Promotion Centre
- d) **Indicators:** implementation of the development programme



## 2.5 Improving equal opportunities of different population groups

### 2.5.1 Realisation of fundamental and human rights in reception activities for asylum seekers

- a) **Contents:** Monitoring and developing the realisation of fundamental and human rights in reception activities as part of the monitoring programme for reception activities. The monitoring aims at ensuring the legality, quality and economy of reception activities and services. The monitoring of reception centres will focus on three entities. These are the content and quality of reception services, the operational framework and conditions of reception centres as well as their safety. The monitoring is also used for streamlining the content and cost structure of reception services and for ensuring the economy of actions. It also aims at ensuring that clients are treated equally and receive the services they need. The monitoring of practical reception activities takes place through six methods:
1. plans drafted for activities and self-monitoring
  2. steering and counselling
  3. steering and evaluation visits and auditing of activities
  4. requests for clarification
  5. legality supervision
  6. economic governance and control.
- b) **Legal basis:** The Finnish Immigration Service is responsible for the steering, planning and monitoring of practical activities in the reception of asylum seekers. The content of monitoring is defined by national legislation, EU legislation and international treaties binding on Finland, as well as by the Finnish strategy for the reception system for asylum seekers 2020, the performance targets of the Ministry of the Interior and the measures of the Finnish Immigration Service and Government related to asylum policy. According to Section 2(3) of the Constitution of Finland, the exercise of public powers shall be based on an Act and in all public activity, the law shall be strictly observed. According to Section 22 of the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights. The purpose of the Reception Act is to ensure support and care for asylum seekers respecting human and fundamental rights in line with the EU legislation and international treaties binding on Finland. Article 20, 21 and 22 of the EU Charter of Fundamental Rights.
- c) **Responsible ministry:** Ministry of the Interior  
Key stakeholders: Finnish Immigration Service and reception centres, asylum seekers
- d) **Indicators:** implementation of the monitoring methods (numbers and outcomes)

## 2.5.2 Accelerating the transition of immigrants to education and work life

- a) **Contents:** The purpose of the measure is to accelerate the education paths and employment of persons who have been granted residence permits. The thresholds for integration and subsequent trainings will be lowered, if necessary by means of pilot projects. Immigrants who have completed university-level or vocational studies will be guided faster to appropriate further training. The expertise of educational organisations will be better utilised in this process.

Preparatory instruction and guidance for vocational education and training intended for immigrants will be increased as well as degree-oriented education, in particular competence-based qualifications and related training for improving studying capacities starting from 2017. Immigrants/education will be directed to fields and areas with demand for labour.

All the available services of the TE services will be utilised in order to promote employment and entrepreneurship among immigrants in cooperation with, for example, entrepreneur organisations, regional enterprise services, employers and educational institutions.

A pilot project for employing immigrants will be implemented using an impact investing model. The project combines fast employment and training in parallel with work, and its objective is to create 2500 jobs.

- b) **Legal basis:** Section 6 of the Constitution, Section 34 of the Act on the Promotion of Immigrant Integration, Article 14 and 15 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture, Ministry of Economic Affairs and Employment
- d) **Indicators:** implementation of the projects and their follow-up

## 2.5.3 Increasing the participation of immigrants in leisure and organisational activities

- a) **Contents:** Increasing intercultural dialogue and the participation of immigrants by means of arts, cultural and sports activities, youth work and liberal adult education. Cultural project funding will be directed to communal and creative leisure time activities related to different art forms which support encounters between people and the doing together, which are necessary for integration, and introduce immigrants to the Finnish culture. Libraries will be given funding for acquiring foreign-language literature.

Further training will be provided for the personnel of youth workshops and municipal youth workers for encountering adolescents from different backgrounds. Activation material will be developed to accelerate integration.

The extent to which nationwide youth centres offer activities intended for asylum-seeking and immigrant adolescents will be set as a temporary priority in their funding. Support will be provided for nationwide projects for activating young asylum seekers.

Aid intended for non-discriminatory sports will be directed to motivating participation in sports activities among men and especially women and girls as well as groups that are most difficult to reach.

The possibilities of liberal adult education will be utilised for promoting intercultural dialogue.

- b) **Legal basis:** Section 6 of the Constitution, Section 34 of the Act on the Promotion of Immigrant Integration, Article 13, 20, 21, 22 and 23 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Education and Culture
- d) **Indicators:** implementation and follow-up of the projects

#### 2.5.4 Equal housing opportunities for the Roma

- a) **Contents:** A study will be conducted on the housing situation of the Roma. Its themes include changes in the housing situation of the Roma in comparison with the previous study conducted in 2011, mapping of homelessness among the Roma and any problems in the selection of residents for government-supported housing, attitudes hindering the access of the Roma to housing and equality in their access to housing. The results of the study will be used for designing necessary further measures.
- b) **Legal basis:** Section 6 and 19(4) of the Constitution, UN ESCR Committee: to reduce homelessness municipalities should provide low-cost social housing units, in particular, to the Somali and the Roma.
- c) **Responsible ministry:** Ministry of the Environment in cooperation with the Housing Finance and Development Centre of Finland ARA
- d) **Indicators:** the study has been concluded and implementation of the measures to be taken on the basis of it has started

#### 2.5.5 Promoting the equality of persons with intellectual disabilities in housing

- a) **Contents:** The realisation of equality will be investigated in respect of government-funded housing projects intended for persons with intellectual disabilities. Government-supported housing units for persons with intellectual disabilities have mainly been group homes with a place for 15 or more persons. In the future, government funding should be directed to decentralised housing solutions for persons with intellectual disabilities and to living in ordinary

apartments, where they will receive the support and services they need. Consequently, the implementation of government-subsidised housing projects intended for persons with intellectual disabilities will be studied in comparison to government-subsidised 'ordinary' rental apartments and in relation to various factors of housing equality, such as location, quality, regulations, rent and taxation. The study will be used as a basis for launching necessary measures for promoting the equality of persons with intellectual disabilities in housing.

- b) **Legal basis:** Section 6, 9(1) and 19 (4) of the Constitution, Article 19 of the UN Convention on the Rights of Persons with Disabilities, Article 26 of the EU Charter of Fundamental Rights. CoE Commissioner for Human Rights: Finland should still seek to deinstitutionalise persons with disabilities and encourage community living. UN ESCR Committee: municipalities should provide more reasonably-priced social housing solutions.
- c) **Responsible ministry:** Ministry of the Environment
- d) **Indicators:** the study has been concluded and implementation of the measures to be taken on the basis of it has started

### 2.5.6 Promoting the status of sign language and the rights of persons using it within the context of the Council of Europe; conducting a baseline study on various options

- a) **Contents:** The project would raise awareness of the status of sign language and of the rights of persons using it, in particular in the context of the Council of Europe. The study would implement the Council of Europe disability strategy and update previous studies conducted within the CoE framework. The project would aim at increasing discussion on the status of sign language through various political channels and at concretely improving, for example, the availability of sign-language services in countries where their availability is currently very limited.
- b) **Legal basis:** Section 17(3) of the Constitution, Non-Discrimination Act, Sign Language Act, Administrative Procedure Act, Act on Interpretation Services for Persons with Disabilities, UN Convention on the Rights of Persons with Disabilities, Council of Europe Disability Strategy, Article 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry for Foreign Affairs and Ministry of Justice
- d) **Indicators:** An updated study has been completed. The status of sign language has been brought up in Finland's addresses and at events. The issue has been prepared in close cooperation with organisations promoting the rights of persons using sign language.

### 2.5.7 Supporting human rights defenders, conducting a baseline study for developing activities concerning human rights defenders in Finland

- a) **Contents:** This is a continuation project to the guidelines for supporting human rights defenders drafted by the Finnish Foreign Service. The study will analyse actions and practices of a few like-minded countries in supporting human rights defenders (e.g. the Netherlands, Norway, Ireland) and map the current situation of support for human rights defenders in Finland, considering both political and financial support. The study will further examine current actions of some Finnish municipalities and cities or their capacities for supporting human rights defenders. Elements of the project will be utilised by the new working group of the CoE Steering Committee for Human Rights (CDDH-INST), which deals with civil society.
- b) **Legal basis:** Section 12 and 13 of the Constitution, UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, European Union Guidelines on Human Rights Defenders, Public Guidelines of the Foreign Ministry of Finland on the Implementation of the European Union Guidelines on Human Rights Defenders
- c) **Responsible ministry:** Ministry for Foreign Affairs
- d) **Indicators:** A baseline study including concrete recommendations for developing activities has been conducted. The study has been implemented in a human rights-based manner in consultation with Finnish and international human rights defenders and other human rights actors.

## 3. Right to self-determination

### General

The right to self-determination refers, for example, to the right of an individual, people, municipality or state to decide for themselves or the right to participate in decisions affecting them. Children also have the right to self-determination and they shall, under the Convention on the Rights of the Child, be allowed to participate in matters affecting themselves in accordance with their maturity. The right to self-determination is linked with several fundamental rights and can be considered to consist of rights which provide persons with, for example, a certain sphere of freedom within which they may exercise their freedom according to their own consideration.<sup>55</sup>

The ICCPR and ICESCR Covenants provide for the right to self-determination of peoples. According to Article 1(1) of both Covenants, by virtue of the right of self-determination, peoples freely determine their political status and freely pursue their economic, social and cultural development. Furthermore, according to Article 27 of the ICCPR, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. According to the UN Declaration on the Rights of Indigenous Peoples (2007), the right to self-determination of indigenous peoples also means that they freely determine their political status and freely pursue their economic, social and cultural development.<sup>56</sup> The outcome document of the first World Conference on Indigenous Peoples organised in 2014 in connection with the UN General Assembly reinforces the commitment of states to the UN Declaration on the Rights of Indigenous Peoples.<sup>57</sup> The *travaux préparatoires* of the

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55 See e.g. Riku Neuvonen ja Pauli Rautiainen (2015), Perusoikeuksien tunnistaminen ja niiden sisällön määrittelyminen Suomen perusoikeusjärjestelmässä (Identifying fundamental rights and defining their content in the fundamental rights system of Finland), *Lakimies journal* 1/2015, pp. 28–53.

56 United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295.

57 Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, A/RES/69/2.

Constitution of Finland also use the concept of the right to self-determination in relation to the Sámi indigenous people.

The right to self-determination of an individual is a right closely linked with several provisions of the Constitution of Finland, even though the actual concept is not included in its text. However, the realisation of the right to self-determination can be regarded as indispensable in the safeguarding of several other fundamental rights mentioned in the Constitution. The right to self-determination is found as a concept in the *travaux préparatoires* of the Constitution, in statements of Parliament's Constitutional Law Committee<sup>58</sup> as well as in national legislation<sup>59</sup>. Many international human rights obligations are related to the right to self-determination, and the concept is used, for example, in the UN Convention on the Rights of Persons with Disabilities, which refers to individual autonomy, including the freedom of persons to make their own choices. The recent EU Data Protection Regulation emphasises throughout the document the right to self-determination, i.e. the possibility of people to control their own data. The concept is also found both in national and in international case law.

The right to self-determination is a multidimensional concept linked with several fundamental rights, such as the right to personal liberty and integrity and the right to privacy. The right to privacy covers, for example, the right of an individual to self-determination and to decide about his or her body. The concept may also be related to the provisions on the inviolability of dignity and the freedom of movement in the Constitution. Furthermore, the right to self-determination is linked with the freedom of religion and conscience, the freedom of expression and the freedom of assembly and association.

The Constitution contains fundamental rights provisions on the rights to vote in different elections and on the duty of the public authorities to promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her. This could be implemented, for example, by developing legislation relating to various participation systems. An individual can exert influence by, for example, participating in free civic activities or through specific mechanisms established for this purpose, such as a citizens' initiative.

The realisation of the right to self-determination needs to be assessed when, for instance, fundamental rights are restricted. For example, it may be necessary to restrict the fundamental rights of a person in psychiatric care or of a prisoner. When authorities make a decision on disciplinary isolation of a prisoner, for example, the restrictions must be based on

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58 See e.g. Constitutional Law Committee statement PeVL 10/2012.

59 See e.g. the Act on the Status and Rights of Patients (785/1992), the Act on the Status and Rights of Social Welfare Clients (812/2000) and the Act on Special Care for Persons with Intellectual Disabilities (519/1977).

law and they need to be justified separately in each case in respect of each fundamental right. Consequently, the right to self-determination is in several respects related to the requirements of proportionality and necessity of fundamental rights restrictions, to their use as the ultimate measure and to the fact that they must be abandoned as soon as possible. In practice, it may be necessary to weigh fundamental rights against one another but intervention in the 'core' of a certain fundamental right is not allowed. In situations where fundamental rights are restricted through regulation by an ordinary law, it is necessary to ensure that adequate legal protection and monitoring arrangements are available.

Shortcomings in the realisation of the right to self-determination do not always result from gaps in legislation or authorities' actions but they may also be caused by activities of private persons or communities. The authorities have, however, the obligation to intervene also in these kinds of situations that violate the right to self-determination, such as violence crimes and situations where a community limits its members' right to self-determination in relation to the right to privacy, such as the right of an individual to establish and maintain relations with other people or the right to use contraception.

The realisation of the right to self-determination may also be influenced by access to adequate information, such as provision of information for a patient on available options, as well as by good governance and legal protection. The weak economic situation and limited number of personnel at institutions increase the risk that the elderly, for example, are confined to their rooms against their will or that the time prisoners are allowed to spend outside their cells is reduced excessively.

## Current situation

The realisation of the right to self-determination is promoted by legislation and actions of the Government and authorities. The Government Action Plan for Gender Equality, for example, includes measures for reducing intimate partner violence, i.e. strengthening the right to self-determination in relation to physical integrity.

However, the recommendations to Finland by international human rights treaty monitoring bodies, for example, reveal that various challenges are currently associated with the realisation of the right to self-determination.

Numerous recommendations received by Finland are related to **physical integrity and the right to self-determination**. All violence against children must be prohibited by law, and family violence must be taken into account when decisions are made on the custody of children. It is necessary to combat violence against women, criminal provisions on rape and



sexual abuse need to be revised and female genital mutilation criminalised. The monitoring of racist violence must be enhanced. It needs to be ensured that the statute of limitations does not apply to crimes of torture and that the victim or his or her relatives are entitled to redress, compensation and rehabilitation. The recommendations on trafficking in human beings have concerned, for example, identification of victims of human trafficking who have experienced sexual violence, reduction of prostitution and investigation of crimes.<sup>60</sup>

In respect of **personal freedom and the right to self-determination**, the recommendations have emphasised that remand prisoners should be transferred quicker from police detention facilities to ordinary prisons. The use of remand imprisonment should be reduced and legal proceedings expedited. Finland should also reduce the overcrowding of prisons and ensure that prisoners have the opportunity for daily outdoor exercise and that prisons are equipped with appropriate sanitary facilities. Furthermore, young prisoners should be kept separate from adult prisoners. Other alternatives than detention should be considered in the case of asylum seekers and illegal immigrants whenever possible. Detention must be justified, necessary, reasonable and proportionate, and decisions must be appealable. The police and border guard detention facilities should not be used, in particular, for detaining persons in vulnerable situations.<sup>61</sup>

Recommendations on the right to **self-determination in social and health services** have emphasised that the opportunities of mental health patients to be heard and participate in decisions affecting them should be improved.<sup>62</sup> The Mental Health Act has been amended so as to provide a patient with the right to have a statement on the continuation of treatment against his or her will from a physician not employed by the hospital where the patient is placed.

The recommendations related to the **Sámi indigenous people** emphasise that the right to self-determination and opportunities for influence of the Sámi need to be enhanced. The resources of the Sámi Parliament need to be increased, and an advance consent is

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60 UN Committee on the Rights of the Child 2011 (CRC/C/FIN/CO/4), UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), UN ESCR Committee 2014 (E/C.12/FIN/CO/6), Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe 2012 (COMM DH(2012)27), UN Committee on the Elimination of Discrimination against Women 2014 (CEDAW/C/FIN/CO/7), UN Committee against Torture 2011 (CAT/C/FIN/CO/5-6) and 2016 (CAT/C/FIN/CO/7), Universal Periodic Review of the UN Human Rights Council 2013 (A/HRC/21/8 and A/HRC/21/8/ADD.1), European Commission against Racism and Intolerance 2013 (CRI(2013)19), Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings 2015 (CP(2015)1).

61 UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), UN Committee against Torture 2011 (CAT/C/FIN/CO/5-6) and 2016 (CAT/C/FIN/CO/7), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2009 (CPT/INF(2009)5), UN Committee on the Rights of the Child 2011 (CRC/C/FIN/CO/4), European Commission against Racism and Intolerance 2013 (ECRI(2013)19).

62 UN Committee against Torture 2011 (CAT/C/FIN/CO/5-6) and 2016 (CAT/C/FIN/CO/7), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2009 (CPT/INF(2009)5), Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe 2012 (COMM DH(2012)27).

necessary for decisions directly affecting the Sámi, such as mining permits. A specific system for communicating with the Sámi Parliament needs to be established at the level of the central Government. In addition, the opportunities for influence and participation of the Sámi Parliament, Skolt Village meeting and other relevant communities as well as the linguistic and cultural rights and livelihoods of the Sámi must be safeguarded in the implementation of the Act on the Finnish State Forest Enterprise.<sup>63</sup>

In addition to the above-mentioned recommendations, Finland has received recommendations related to the consultation and participation of children, the elderly, persons with disabilities and national and ethnic minorities.

**The status of gender minorities** has been addressed in discussions on several international fora. According to the recommendations by the CEDAW Committee and the report on Finland issued by the Council of Europe's Commissioner for Human Rights (2012), Finland should promptly amend the Act on Legal Recognition of the Gender of Transsexuals so that sterilisation or infertility for some other reason is not required for the recognition of gender.<sup>64</sup> In 2015, the Parliamentary Assembly of the Council of Europe issued a resolution on the issue<sup>65</sup>, and according to the European Court of Human Rights, denial of gender reassignment surgery because, for example, the applicant is not infertile violates the right to privacy.<sup>66</sup> In practice, a further problem is that persons are at a higher risk of facing discrimination or even violence in service provision, for example, if their appearance does not correspond to the gender indicated in their identification document. In Finland, the Ombudsman for Equality and the Non-Discrimination Ombudsman noted in their joint statement of 11 October 2016 that the present Trans Act violates the right to self-determination of transgender persons. The statement refers, for example, to the report of Parliament's Legal Affairs Committee<sup>67</sup>, which considers that an overall examination of the amendments needed to the Trans Act is justified. The requirement of infertility has been removed from the corresponding acts in Norway, Denmark, Sweden and several other countries. A legislative proposal on the issue was submitted to Parliament in Finland in 2016.

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63 UN Human Rights Committee 2013 (CCPR/C/FIN/CO/6), UN ESCR Committee 2014 (E/C.12/FIN/CO/6), UN Committee on the Elimination of Racial Discrimination 2012 (CERD/C/FIN/CO/20-22), Recommendations of the CoE Committee of Ministers on the European Charter for Regional or Minority Languages 2012 (ResCMN(2012)3), UN Special Rapporteur on the Rights of Indigenous Peoples 2011 (A/HRC/18/35/ADD.2) and 2016 (A/HRC/33/42/Add.3).

64 UN Committee on the Elimination of Discrimination against Women 2014 (CEDAW/C/FIN/CO/7), Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe 2012 (COMMDDH(2012)27).

65 Resolution 2048 (2015) of the Parliamentary Assembly of the Council of Europe: Discrimination against transgender people in Europe <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21736&lang=en>.

66 Judgment in *Y.Y. v. Turkey*, 14793/08, 10 June 2015. After the judgment was issued, several complaints concerning the rights of transgender persons have been filed with the European Court of Human Rights.

67 Legal Affairs Committee report LaVM 7/2015.

The rights of intersex persons have also been discussed at the international human rights fora during the past few years. For example, cosmetic surgeries of intersex children are considered to violate their right to self-determination.<sup>68</sup> Operations may be irreversible and lead to infertility. In Finland, the National Advisory Board on Social Welfare and Health Care Ethics ETENE issued a statement in 2016, suggesting that operations modifying children's external gender characteristics should not be performed in children's care until the child can both define his or her gender himself or herself and take a stand on his or her sexuality. According to ETENE, it is problematic that the gender is defined and modified by somebody else, for example by an authority, since the gender is part of a person's inner personality.

The Government Human Rights Report of 2014 included policy guidelines relating to sexual and gender minorities. According to the report, the realisation of the fundamental and human rights of persons belonging to sexual and gender minorities must be monitored and information about them must be disseminated. Parliament expressed its strong support for the implementation of the report's policy guidelines.

According to the report's policy guideline relating to the right to self-determination of persons with disabilities, the possibilities of persons with disabilities and the organisations representing them to take part in decision-making processes will be safeguarded equally with other civil society actors. Finland's Disability Policy Programme (VAMPO 2010-2015) has served as a work plan for implementing disability policy. The programme promoted the right to self-determination of persons with disabilities and the implementation of the objectives of the UN Convention on the Rights of Persons with Disabilities.

The Sámi Parliament and Sámi organisations have stated that there are challenges in the realisation of the right to self-determination of the Sámi indigenous people because the authorities do not always comply with the obligation laid down in the Act on the Sámi Parliament to negotiate with the Sámi Parliament. It is hoped that the Nordic Sámi Convention and activities of the regional advisory boards stipulated in the new Act on the Finnish State Forest Enterprise will assist in strengthening the realisation of the right to self-determination of the indigenous people.

The Parliamentary Ombudsman, other overseers of legality and many non-governmental organisations have also drawn attention to shortcomings in the realisation of the right to self-determination. One of these is the lack of an act on the right to self-determination in social welfare and health care, which is not challenging only in terms of the legal protection of the elderly and patients suffering from memory loss, mental disorders and alcohol use

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68 See e.g. A/HRC/19/41 and UN GA A/HRC/22/53 as well as the joint petition of the UN and several human rights experts against harmful medical practices, published on the Intersex Awareness Day on 26 October 2016, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E).

disorders but also in terms of the legal protection of health care professionals. According to the supervisory authorities, fundamental rights are restricted without a statutory ground in institutional care, for example in child welfare and in the care of the disabled and elderly, even though fundamental rights restrictions are not allowed by virtue of institutional authority. Restrictive measures may be unfounded or excessive and inconsistent. According to the supervisory authorities, restrictions have not always been justified or recorded appropriately or the patients have not been given adequate information. On the other hand, the right to self-determination of a client in social welfare and health care is not always restricted even if this were justified for saving the person's life, i.e. for safeguarding another fundamental right. Legislative gaps in the safeguarding of the right to self-determination and in the restriction of fundamental rights may result in a situation where an individual employee needs to make decisions requiring challenging weighing of fundamental rights. The lack of legislation may also lead to inadequate guidance, training and monitoring.

With regard to physical integrity, many non-governmental organisations have pointed out shortcomings in the legislation or actions of the authorities concerning intimate partner violence, sexual violence and violent hate crimes. For example, persons belonging to sexual minorities are at a higher risk of facing violence. In the case of hate crimes, the potential motive is not always recognised or investigated. The annual hate crime study by the Police University College reveals that the number of hate crimes reported to the police increased by more than 50 per cent in 2015 compared to the previous year.

Non-governmental organisations have voiced their concern over the fact that the right of persons to access information on themselves is not realised in full. Data protection and confidentiality requirements are not always fulfilled during, for example, the doctor's round at hospitals if there are several patients in the same room. The right of persons to access information on themselves is not fulfilled either when, for example, a decision is made on the use of photos taken during the treatments of intersex children by somebody else than the child himself or herself or his or her guardian.

Furthermore, according to non-governmental organisations, there are shortcomings in the realisation of the right to self-determination relating to the freedom of religion and conscience. Practising a religion at schools and nursery schools is problematic in respect of the right to self-determination since the freedom of religion and conscience also includes the right to not express one's conviction. Religious services in connection with other activities of the authorities have also been cited as an example.

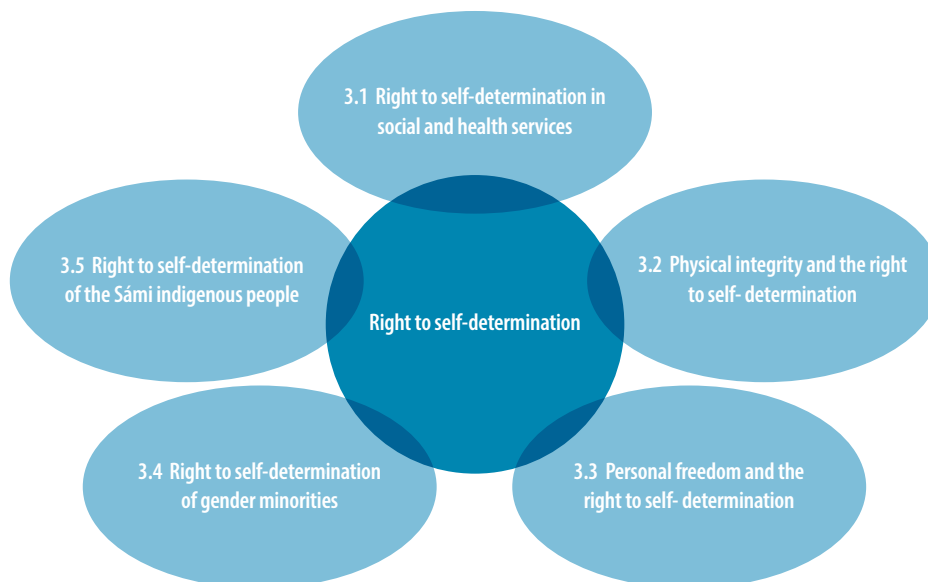
The realisation of the right to self-determination and the overall situation of the associated problems can be assessed by a SWOT analysis. The table below illustrates observations on the realisation of the right to self-determination collected during the preparation of the Action Plan in respect of strengths, weaknesses, opportunities and threats..

## Right to self-determination – SWOT analysis

<p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• a multidimensional concept related to several fundamental and human rights covering both individual and collective rights</li> <li>• the right to self-determination is safeguarded as part of other fundamental rights even though the concept is not used in the Constitution</li> <li>• the right to self-determination is safeguarded by several international conventions, e.g. by the Convention on the Rights of Persons with Disabilities</li> <li>• the right to self-determination is explicitly safeguarded in some national laws</li> <li>• the content of the right to self-determination has been elaborated, for example, in statements by the Constitutional Law Committee and in case law</li> <li>• the right to self-determination is promoted and safeguarded in several ways by the Government and authorities although the actual concept is not always used</li> <li>• public debate on the realisation of the right to self-determination of various groups brings up shortcomings in its realisation</li> <li>• measures fostering consultation and inclusion contribute to the realisation of the right to self-determination</li> </ul>	<p><b>Weaknesses</b></p> <ul style="list-style-type: none"> <li>• inadequate legislation results in unfounded limitations and inconsistent practices as well as to situations where limitations of the right to self-determination necessary for safeguarding another fundamental right are not carried out</li> <li>• inadequate training, guidance and monitoring</li> <li>• the authorities and individuals have too little information on the right to self-determination</li> <li>• the right of persons to access information on themselves is not realised adequately</li> <li>• the higher risk of certain groups of experiencing violations of the right to self-determination and inadequate addressing of these situations</li> <li>• shortcomings in the realisation of the right to self-determination in the activities of authorities and private actors, such as religious communities, other communities and individuals</li> <li>• violations of the right to self-determination due to inadequate information on the requirements of good governance, including inadequate consultation procedures and legal remedies</li> <li>• access to legal remedies by persons in a vulnerable situation</li> </ul>
<p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>• the right to self-determination can be strengthened and restrictive practices harmonised through legislative amendments</li> <li>• development of consultation and participation procedures will reinforce the realisation of rights and result in a better consideration of people's wishes, opinions and individual needs</li> <li>• raising awareness of the challenges related to the right to self-determination of one group may result in questioning the fundamental rights limitations directed at another group</li> <li>• training, guidance and monitoring can promote an appropriate and consistent enforcement of legislation</li> <li>• training on the requirements of good governance and legal protection will contribute to the realisation of the right to self-determination</li> <li>• data protection and confidentiality can be improved in the design phase of new information technology solutions</li> <li>• investigation of violations of rights can be enhanced and victims supported e.g. through the Internet</li> </ul>	<p><b>Threats</b></p> <ul style="list-style-type: none"> <li>• shortcomings in the realisation of the right to self-determination result in the non-realisation of related fundamental rights</li> <li>• increased regulation on the conditions for the use of restrictive measures will increase their use even though they should only be used as the ultimate measure</li> <li>• the right of people to access information on themselves will be compromised if information systems enable access to and transmission of information between the authorities without limitations and adequate supervision</li> <li>• political decisions requiring weighing of fundamental rights in relation to the right to self-determination will not be made because they are challenging</li> <li>• trust in the authorities will be eroded if the right to self-determination is not respected</li> <li>• violations of rights will not be exposed if the weak economic situation results in decreased internal and external monitoring or in reduced availability of legal remedies and support services</li> <li>• the low number of personnel at institutions increases the risk of inappropriate use of restrictive measures</li> </ul>

## Selection of objectives and measures for the Action Plan

The right to self-determination is a broad concept which is linked with several fundamental rights. Consequently, this Action Plan can address only some of the challenges associated with the realisation of the right to self-determination. The measures selected for the Action Plan promote the realisation of the right to self-determination in social and health services, in particular, and as part of the right to physical integrity and personal freedom. A further objective is to promote especially the realisation of the right to self-determination of certain groups, such as the Sámi indigenous people and persons belonging to gender minorities.



The right to self-determination within social and health services was selected as a theme because shortcomings in this field have been brought up by the Parliamentary Ombudsman, the National Supervisory Authority for Welfare and Health (Valvira), various authorities and several non-governmental organisations. In addition, Finland has received recommendations concerning, for example, the Mental Health Act from international human rights bodies. The lack of an act on the right to self-determination in social welfare and health care has broad effects on the practical realisation of the right to self-determination of children within child welfare, the elderly and persons with alcohol and mental disorders.

Finland has received a large number of recommendations from international human rights bodies relating to the right to self-determination as well as to physical integrity and personal freedom. For this reason, these themes were selected as the objectives of the Action Plan. National human rights actors have also brought up problems related to these topics.

Physical integrity and the right to self-discrimination is a broad theme. Considering the other priority areas of the Action Plan, the topic has also been examined from the perspective of equality. The selected projects aim, in particular, at addressing hate crimes, i.e. violence related to various grounds of discrimination, for example. The objectives of the Action Plan for Gender Equality adopted by the Government on 4 May 2016 included reducing violence against women and intimate partner violence, i.e. it includes several measures related to this topic. A further consideration in the selection of projects was the fact that the police have already launched a project to enhance the addressing of sexual violence of children especially on the Internet.

Trafficking in human beings is also a serious problem related to physical integrity and the right to self-determination. Government-level actions against human trafficking have been developed over the past few years. In 2014, a coordinator against trafficking in human beings started to act at the Police Department of the Ministry of the Interior, supported by a secretariat for coordinating Government actions against trafficking in human beings. This time projects directly related to human trafficking were not selected for the Action Plan on Fundamental and Human Rights, but the Government adopted an Action Plan against Trafficking in Human Beings 2016–2017 on 4 October 2016.

The projects selected under the theme of personal freedom and the right to self-determination are related to the activities of the police and prisons. Restrictions on the freedom of mental health patients and persons suffering from memory loss are discussed in connection with the theme related to the right to self-determination in social and health services.

Considering the policy guidelines in the Human Rights Report of 2014, Parliament's strong support for their implementation, recommendations by international human rights actors and concerns expressed by organisations, a decision was made to select the right to self-determination of gender minorities one of the themes for this chapter.

This chapter also includes projects aiming at strengthening the participation of the Sámi indigenous people. The selection of the theme for the Action Plan is supported by the international recommendations received by Finland, the evolving law on indigenous peoples and the concerns expressed by the Sámi Parliament and organisations. Promoting the rights of indigenous peoples is one of the priorities in Finland's international human rights policy. Convincing action at the international fora also requires promotion of the same objectives on the national level.

The measures selected for this chapter do not promote the right to self-determination in relation to the freedom of religion and conscience but issues related thereto can be dealt with, for example, in projects concerning fundamental and human rights education and training as well as in equality planning.

The inclusion and consultation of people belonging to different groups will be promoted through the different objectives of both this Action Plan and the Government Action Plan on Democracy Policy by, for example, raising awareness of fundamental and human rights and through equality planning.

Some perspectives of the right to self-determination in personal data protection are discussed in the chapter on fundamental rights and digitalisation.

## MEASURES

### 3.1 Right to self-determination in social and health services

#### 3.1.1 Strengthening the right to self-determination of social welfare and health care clients and patients

- a) **Contents:** Preparing legislation: an Act on strengthening the right to self-determination of social welfare clients and patients and on the conditions for use of restrictive measures (known as the Act on the Right to Self-Determination, the RSD Act). Continuing the preparation of a more comprehensive Act on the Right to Self-Determination. Amendments are needed to the legislation on the right to self-determination in respect of, for example, child welfare, mental health services and alcohol and substance abuse counselling services, which were excluded from the earlier preparation of the RSD Act. It will also be checked that provisions on the right to self-determination of persons with intellectual disabilities are included in the RSD legislation covering the whole social welfare and health care sector. The realisation of human rights and client-orientation will be strengthened, and people will be provided with the possibility of making their own choices. The use of expertise based on experience and people's participation will also be reinforced.
- b) **Legal basis:** Section 7, 10, 14 and 19 of the Constitution, international human rights treaties, Article 1, 2, 3, 7, 34, 36, 39 and 40 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Social Affairs and Health
- d) **Indicators:** submission of a Government proposal to Parliament during 2017 and entry into force of the act in 2019



### 3.1.2 Overall reform of disability services legislation

- a) **Contents:** The present Disability Services Act and the Act on Intellectual Disabilities will be amended and consolidated into an act on special services provided on the basis of disability. The act would be applied to a person who, due to a long-term disability or capacity limitation caused by an illness, necessarily and regularly needs assistance or support to cope with daily life. The realisation of human rights of persons with disabilities and client-orientation will be strengthened, and disabled people will be provided with the possibility of making their own choices. The use of expertise based on experience and people's participation will also be reinforced.
- b) **Legal basis:** Section 7, 10, 14 and 19 of the Constitution, UN Convention on the Rights of Persons with Disabilities, revised European Social Charter of the Council of Europe and Article 1, 2, 3, 7, 34, 36, 39 and 40 of the EU Charter of Fundamental Rights, recommendations by international committees (Committee of the Rights of the Child, ESCR Committee, CoE Commissioner for Human Rights)
- c) **Responsible ministry:** Ministry of Social Affairs and Health
- d) **Indicators:** submission of a Government proposal to Parliament during 2017 and entry into force of the act in 2019

## 3.2 Physical integrity and the right to self-determination

### 3.2.1 Enhancing combating hate crimes

- a) **Contents:** A study will be conducted under the Ministry of the Interior on how exposure and investigation of hate crimes should be enhanced and what kind of research and knowledge-based support is needed for developing actions. The development needs identified in the study will be implemented. Good practices established in the Good Practice+ project and any continuation projects will be implemented in the referral of hate crime victims to services. Addressing hate speech which constitutes an offence will be enhanced on the Internet and elsewhere. The TACHLE training developed by the OSCE for identifying and investigating hate crimes will be implemented within the police administration.
- b) **Legal basis:** Section 6 and 22 of the Constitution, Chapter 6, Section 5 of the Criminal Code, Non-Discrimination Act, Chapter 1, Section 1 of the Police Act, Article 20 and 21 of the EU Charter of Fundamental Rights, EU Framework Decision on Racism, Additional Protocol to the Council of Europe Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, International Convention on the Elimination of All Forms of Racial Discrimination, recommendations to Finland by international treaty monitoring bodies on addressing hate crimes, including hate speech

- c) **Responsible ministry:** Ministry of the Interior
- d) **Indicators:** hate crimes reported to the police, number of cases classified as hate crimes by the police

### 3.2.2 Strengthening the prevention of violence against women through timely and accurate information and targeted training

- a) **Contents:** As a party to the UN Convention on the Elimination of All Forms of Discrimination against Women, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (‘Istanbul Convention’) and other key human rights instruments, Finland is committed to undertake measures to prevent and eliminate violence against women, to protect victims of violence and to make perpetrators accountable for their actions. Treaty monitoring bodies monitoring the implementation of international and regional human rights treaties have stated that, regardless of certain national measures, violence against women is persistently one of the major human rights issues in Finland. Timely and accurate information and targeted training are needed on measures against violence against women, particularly on prevention measures, and on the related obligations. Within the project, targeted training will be organised in the form of a seminar and workshops, for example, on the prevention of violence against women and awareness will be raised of women’s rights, such as the UN Convention on the Elimination of All Forms of Discrimination against Women and its optional protocol as well as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The project will also support the implementation of the above-mentioned Conventions and periodic reporting on their implementation and provide tools for monitoring the enforcement of recommendations related to violence against women.
- b) **Legal basis:** Section 6 and 7 of the Constitution, Equality Act, Criminal Code, UN Convention on the Elimination of All Forms of Discrimination against Women, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, concluding observations and recommendations of UN treaty monitoring bodies (UN Human Rights Committee, ESCR, CEDAW, CRC and CAT Committees), UPR recommendations, Article 20, 21 and 23 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry for Foreign Affairs  
Key stakeholders: non-governmental organisations
- d) **Indicators:** implementation of the training, feedback from the training, mapping of needs for further training, number of participants, material from the training

### 3.2.3 Improving services for victims of sexual violence: piloting and modelling a victim support centre

- a) **Contents:** The project will launch a support centre which will provide treatment for acute rape victims. The services needed by victims at the acute stage are concentrated in one service point in the capital region, and this service point for acute care will ensure referral to further treatment and services. The purpose of the support centre is to function as a national pilot which will be modelled. A long-term objective is that in the future, every social and health service area/province would have a separate support centre for victims of sexual violence. (Another objective not included in this project is to ensure long-term support for the victim through care and service pathways. This measure is included in the Action Plan for Gender Equality.)
- b) **Legal basis:** Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, recommendations by international committees (UN Human Rights Committee, ESCR, CEDAW and CAT Committees, UPR recommendations)
- c) **Responsible ministry:** Ministry of Social Affairs and Health
- d) **Indicators:** launching of a support centre in the capital region and its modelling for expansion to other regions by the end of 2018

## 3.3 Personal freedom and the right to self-determination

### 3.3.1 Reducing the number of remand prisoners held in police detention facilities and increasing alternatives to remand imprisonment

- a) **Contents:** It is proposed that the Remand Imprisonment Act be amended by shortening the period remand prisoners may be held in a police detention facility and tightening the conditions for detention. The provisions on alternatives to remand imprisonment in the Coercive Measures Act will be supplemented by adding provisions on an enhanced travel ban and house arrest. The objective is to reduce the use of remand imprisonment and to shorten the periods remand prisoners are held in police detention facilities.
- b) **Legal basis:** Section 7 of the Constitution, Article 3 and 6(2) of the European Convention on Human Rights, Article 10 of the ICCPR, recommendations to Finland by the UN Committee against Torture and the Council of Europe Anti-Torture Committee, statements of national authorities overseeing legality (e.g. the Parliamentary Ombudsman and the Deputy Ombudsman), Article 3 and 4 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice in cooperation with the Ministry of the Interior

- d) **Indicators:** Monitoring the periods remand prisoners are held in police detention facilities. Monitoring the introduction of an enhanced travel ban and house arrest.

### 3.3.2 Interactive Work Project of the Criminal Sanctions Agency

- a) **Contents:** One of the objectives of the project is to increase prisoners' participation in activities and the time spent outside the cell in closed prisons, in particular for prisoners who currently have the worst opportunities for this.
- b) **Legal basis:** Section 7 of the Constitution, Article 3 and 6(2) of the European Convention of Human Rights, Article 10 of the ICCPR, European Prison Rules of the Council of Europe (Part 2, Rule 25.1 and 25.2), recommendations to Finland by the UN Committee against Torture and the Council of Europe Anti-Torture Committee, statements of national authorities overseeing legality (e.g. the Parliamentary Ombudsman and the Deputy Ombudsman), Article 3 and 4 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice
- d) **Indicators:** Monitoring the number of prisoners living in separate cells, prisoners' participation in activities and the number of prisoners not participating in activities as well as the development of interactive work of prison personnel with prisoners.

### 3.3.3 Amending the Act on the Treatment of Persons in Police Custody

- a) **Contents:** The need for amending the Act on the Treatment of Persons in Police Custody (841/2006) and other related acts (e.g. the Act on the Treatment of Intoxicated Persons (461/1973)) will be examined. The objective is to carry out an overall reform where the legislation on the treatment of persons in police custody will be clarified and updated. The proposal can be drafted as a Government proposal. During the process, the amendments needed to the act will also be assessed from the perspective of fundamental and human rights.
- b) **Legal basis:** Constitution, Act on the Treatment of Persons in Police Custody, Police Act, Coercive Measures Act
- c) **Responsible ministry:** Ministry of the Interior
- d) **Indicators:** a reduction in the number of observations on Finland by international (and national) judicial review bodies

## 3.4 Promoting integrity and the right to self-determination of persons belonging to gender minorities

### 3.4.1 Study on the rights and experiences of intersex children

- a) **Contents:** It will be studied how the solutions made at the birth of intersex children and childhood treatments have affected their life. Experiences of the parents of intersex children will also be investigated: what kind of information and support did they receive when the child was born and later on and what kind of information and support they consider necessary. Information will also be collected on good practices of taking intersex children into account in day care, schools, hobby groups, health care and in similar communities working with children. The study will focus on the following topics:
1. Treatment experiences. What kind of memories persons have of their own treatments, how have these affected their attitudes towards health care services later in life, what kind of an impression did the health care personnel give of their situation? Did the person or his/her parents receive information on the possibility of deciding on treatment-related matters / did they receive enough information for making decisions?
  2. Intersexuality. What kind of an impression have they formed of gender and themselves, what kind of information have they received? What kind of issues have the persons faced since their own gender is built differently from the mainstream? What kind of assistance has the surrounding community received for supporting growth?
  3. Practices. What kind of good practices exist for taking intersex children into account in day care, school, hobby groups and health care?
- In addition, a study examining the situation of intersex persons in a few other countries will be conducted (legislation, good practices, other supportive measures).
- b) **Legal basis:** UN Convention on the Rights of the Child, Council of Europe Convention on Human Rights and Biomedicine and several other human rights treaties include obligations relating to the children's right to self-determination and to be heard as well as to their right to physical integrity and equality; statements by the European Union Agency for Fundamental Rights and the Human Rights Commissioners of the Council of Europe and the UN on the treatment practices modifying children's external gender organs; Section 6 and 7 of the Constitution of Finland, Equality Act, Act on the Status and Rights of Patients, Section 2 of the Child Welfare Act, statement of 22 March 2016 by the National Advisory Board on Social Welfare and Health Care Ethics ETENE on the treatment of intersex children, Article 20, 21 and 24 of the EU Charter of Fundamental Rights

- c) **Responsible ministry:** Ministry of Justice and Ministry for Foreign Affairs in cooperation with the Ombudsman for Children and various organisations (online community [www.intersukupuolisuus.fi](http://www.intersukupuolisuus.fi), Finnish Association for Transgender and Intersex Rights Trasek and Seta's Transgender Support Centre).
- d) **Indicators:** the studies conducted

## 3.5 Developing the right to self-determination of the Sámi indigenous people

### 3.5.1 Developing the participation of the Sámi indigenous people in decision-making affecting them in Finland

- a) **Contents:** Finland supports the strengthening of the opportunities for participation of the Sámi indigenous people. As the Chair of the negotiations for the Nordic Sámi Convention, Finland seeks to promote rapid entry into force and ratification of the Convention. The participation rights of the Sámi indigenous people in decision-making affecting them in Finland will also be strengthened through the reform of the Act on the Sámi Parliament. Cooperation between the Government and the Sámi Parliament will be improved by, for example, adopting the discussion day on topical issues between the ministries and the Sámi Parliament as a regular practice. The operation of municipal-specific advisory boards of the State Forest Enterprise will be established in the Sámi Homeland.
- b) **Legal basis:** Section 17(3) and 121(4) of the Constitution, Act on the Sámi Parliament, UN International Covenant on Civil and Political Rights, UN Declaration on the Rights of Indigenous Peoples, concluding observations and recommendations by the UN and CoE treaty monitoring bodies and other human rights bodies, Article 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice, Ministry of Agriculture and Forestry and other ministries
- d) **Indicators:** completion, approval and ratification of the Nordic Sámi Convention, completion of a Government proposal on the Act on the Sámi Parliament, number of meetings of municipal-specific advisory bodies of the State Forest Enterprise

### 3.5.2 Participation of indigenous peoples in decision-making affecting them, particularly at the UN

- a) **Contents:** In the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, the member states agreed to consider how to promote the participation of indigenous peoples in UN meetings concerning indigenous peoples. As part of the follow-up to the above-mentioned conference, discussions on the participation of indigenous peoples and in particular of their representative bodies, such as the Sámi Parliament, in UN meetings in issues affecting them were organised during an informal consultation process open to indigenous peoples and member states in connection with the 70<sup>th</sup> and 71<sup>st</sup> session of the General Assembly. One of the advisors to the President of the General Assembly is Finland's Permanent Representative Ambassador **Kai Sauer**. The General Assembly has expressed the wish that decisions should be made on the issue during the 71<sup>st</sup> session. Finland will continue to participate actively in discussions for promoting the participation of indigenous peoples in issues affecting them at the UN. Finland will continue and, where possible, increase its support for the Voluntary Fund for Indigenous Populations (VFIP) administered by the Office of the United Nations High Commissioner for Human Rights, for the fund supporting the UN Permanent Forum on Indigenous Issues (PFII) as well as general support for the Office of the United Nations High Commissioner for Human Rights, which has a key role in promoting the rights of indigenous peoples within the UN system. Finland will support the independent work by Ms. Anne Nuorgam as a member of the Permanent Forum on Indigenous Issues during the term 2017–2019.
- b) **Legal basis:** Section 17(3) and 121(4) of the Constitution, Act on the Sámi Parliament, Non-Discrimination Act, UN International Covenant on Civil and Political Rights, UN Declaration on the Rights of Indigenous Peoples, outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, concluding observations and recommendations by the UN and CoE human rights treaty monitoring bodies and other human rights bodies, Article 22 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry for Foreign Affairs
- d) **Key stakeholders:** Sámi Parliament, Sámi Council
- e) **Indicators:** A resolution of the UN General Assembly on the participation of indigenous peoples has been adopted by the UN.

## 4. Fundamental rights and digitalisation

### General

The ongoing digitalisation process will affect the policies and approaches of each ministry and authority. When implementing changes, the authorities need to observe their obligation to safeguard fundamental and human rights. In respect of the realisation of rights, it is particularly important to consider fundamental and human rights already in the planning stage of changes to approaches in order to ensure that they do not violate rights. Furthermore, afterwards it may be difficult and expensive to eliminate problems related to the realisation of rights.

Digitalisation has various effects on fundamental and human rights but this Action Plan focuses only on the effects of digitalisation on equality, including accessibility, and on the protection of privacy and personal data. Hate speech limiting the freedom of expression will also be addressed. Various actors have drafted documents concerning digital rights but the same fundamental and human rights apply to the Internet and digital services as to the other spheres of life.<sup>69</sup> In connection with digitalisation, it is also important to consider issues related to legal protection, such as safeguards for good governance and the requirement of the Constitution that the exercise of public powers shall be based on an Act and in all public activity, the law shall be strictly observed. For example, when the authorities deal with large amounts of personal data, they need to strictly observe the law, which also necessitates ensuring that compliance with the law is monitored adequately.

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69 For example, the Code of EU Online Rights and the Charter of Digital Rights of the European Digital Rights (EDRi) organisation. Judgments of the European Court of Human Rights relating to the Internet, see e.g. *K.U. v. Finland*, 2 December 2008; *Times Newspapers Ltd v. the United Kingdom* (nos. 1 and 2), 10 March 2009; *Węgrzynowski and Smolczewski v. Poland*, 16 July 2013; *Yıldırım v. Turkey*, 18 December 2012; *Gengiz v. Turkey*, 1 December 2015; *Roman Zakharov v. Russia [GC]*, 4 December 2015, *Delfi AS v. Estonia*, 16 June 2015, and *Magyar Tartalomszolgáltatók Egyesülete and Index. hu Zrt v. Hungary*, 2 February 2016.



It is important to consider **equality impacts** in connection with digitalisation, such as the practical opportunities of different population groups to use electronic services. Access to services may be denied in practice if identification is complicated and requires installation of a certain program, purchasing of a device or bank access codes. The need for assistance in the use of information technology increases the risk of misuse of bank access codes. Access to services may also be hindered for economic reasons, for instance. Particular attention should be paid, for example, to the elderly, children and persons with disabilities. Neglect of linguistic rights in the designing of web pages and information systems may also prevent equal access to services.

According to the UN Convention on the Rights of Persons with Disabilities, community services and facilities for the general population must be available on an equal basis to persons with disabilities and be responsive to their needs. In practice this means that barriers to **accessibility** must be identified and eliminated. In the design and coding phase of electronic services and information systems, the rights and needs of visually disabled persons must be considered. The possibilities of persons with disabilities to receive services and participate fully in society will be promoted by improving accessibility. Services are accessible when everybody can use them and participate in their development on an equal basis. Intelligibility of communication is an important part of accessibility. Consequently, the starting point in organising services is to provide general services intended for everybody, which will be supplemented with special services, if necessary. Accessibility will be promoted, for example, by the provision in the new Public Procurement Act which stipulates that accessibility for persons with disabilities must be in principle considered in the description of the object of procurement or that the design must fulfil the requirements of each user when the object of procurement is intended for use by natural persons.

The Constitution includes a general provision on equality and prohibition of discrimination.<sup>70</sup> According to the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights. Provisions on discrimination based on gender and on gender equality are laid down in the Act on Equality between Women and Men, and discrimination on other grounds is stipulated in the Non-Discrimination Act. According to the Non-Discrimination Act, denial of reasonable accommodation necessary for implementing equality of persons with disabilities is a form of discrimination. The Non-Discrimination Act and the underlying international obligations, including EU regulations, necessitate positive actions for the realisation of *de facto* equality. In addition to the obligations to promote equality, the Act allows for positive special treatment, i.e. actions necessary for safeguarding *de facto* equality which aim at the improvement of the status and conditions of a certain group. In other words, the Government may implement target-

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<sup>70</sup> The chapter on equality in this Action Plan includes more detailed information on equality and its realisation.

ed measures to ensure that everybody would have practical possibilities of using digital services regardless of, for example, their age or economic situation.

The widespread use of the Internet and electronic services will have a major impact on the realisation of the **freedom of expression**. The freedom of expression and opinion are key fundamental and human rights. The Constitution guarantees everyone's right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. This right is included in several human rights treaties, such as the European Convention on Human Rights. Provisions have been specified on the national level by, for example, the Act on the Exercise of the Freedom of Expression in the Mass Media. The right of access to information is thus an important element in the freedom of expression, and it is also essential that people can separate factual information from, for example, fake news. The European Court of Human Rights has stated that the freedom of expression does not only concern positive, harmless or irrelevant information and ideas but also insulting, shocking and disconcerting information and ideas.<sup>71</sup> The freedom of expression is not, however, an absolute right but has been limited through national legislation, especially in order to safeguard other fundamental rights. The exercise of the freedom of expression involves rights and obligations, and the rights may not be abused. The European Court of Human Rights, for example, has outlined what kind of statements do not fall within the scope of protected freedom of expression.<sup>72</sup>

During the past years, **hate speech** has been widely discussed in society, both on the international and national level.<sup>73</sup> According to the Council of Europe recommendation on hate speech, hate speech covers all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.<sup>74</sup> The concept of hate speech is not mentioned in national legislation. Hate speech may,

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71 See e.g. the judgement in *Erbakan v. Turkey*, 6 July 2006 (59405/00).

72 See e.g. the judgement of the European Court of Human Rights in *Féret v. Belgium*, 16 July 2009, where the Court stated that the freedom of expression was especially important for an elected representative who defended the interests of the people. Equality is a cornerstone of a democratic and plural society. Consequently, it may have been necessary to impose sanctions to prevent arguments which incited hate based on intolerance or which regarded this as justified. The European Court of Human Rights noted that the complainant had in his writings presented foreign immigrants as criminals who entered the country to abuse benefits they derived from living in the country. In addition, he had also sought to make fun of them. The speeches involved the inevitable risk of arousing, particularly among less knowledgeable members of the public, feelings of rejection or even hatred towards foreigners. Racist discrimination and hatred towards foreigners were to be opposed in their all forms as far as possible and even when a speech did not urge taking a certain violent or otherwise criminal action.

73 See e.g. the General Policy Recommendation No. 15 on Combating Hate Speech, issued by the European Commission against Racism and Intolerance (ECRI), 8 December 2015, [https://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation\\_N15/REC-15-2016-015-ENG.pdf](https://www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N15/REC-15-2016-015-ENG.pdf)

74 Recommendation No. R (97) 20 of the Committee of Ministers to Member States on "hate speech", 30 October 1997, [www.coe.int/t/dghl/standardsetting/hrpolicy/other\\_committees/dh-lgbt\\_docs/CM\\_Rec\(97\)20\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec(97)20_en.pdf).

however, be punishable as incitement against an ethnic group.<sup>75</sup> Hate speech may also be punishable, for example, as defamation, illegal threat or public incitement to an offence. In determining the sentence, the punishment may be increased if the offence has been committed for a motive based on race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or on another corresponding ground.

In addition to the provisions of the Criminal Code, hate speech may also be prohibited as harassment under the Non-Discrimination Act. The Non-Discrimination Act prohibits harassment, which refers to deliberate or *de facto* infringement of the dignity of a person, if the behaviour creates a degrading or humiliating, intimidating, hostile or offensive environment towards the person due to the person's origin, disability or sexual orientation. In addition, legislation restricts the freedom of expression in several other ways. For example, unfair marketing which violates the human dignity or is discriminatory is prohibited.

As a result of digitalisation, certain problems, such as hate speech, will become increasingly popular and the attitudinal climate will harden and polarise. This influences civil peace, including relations between population groups, the feeling of security, the freedom of expression, the number of hate crimes and discrimination cases, and radicalisation. Racist and xenophobic acts violate fundamental and human rights and threaten the principles of the rule of law and the use of democratic rights of action. In addition to certain population groups and individuals, hate speech and threats are increasingly directed at the representatives of different professional groups, such as journalists, researchers, judges and human rights defenders, which affects adversely the realisation of the freedom of expression. The negative impacts of social media also include the fact that bullying at school, for example, may take place online, i.e. also outside the school.

Digitalisation also essentially affects the **right to privacy, protection of personal data and confidential communications**. The Constitution guarantees everyone's private life, honour and the sanctity of the home. More detailed provisions on the protection of personal data are laid down, for example, in the Personal Data Act and in the Act on the Openness of Government Activities. Human rights instruments also provide for the right to privacy. The Data Protection Ombudsman gives guidance and advice relating to the processing of personal data and monitors their processing. The Finnish Data Protection

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<sup>75</sup> According to Chapter 11, Section 10 of the Criminal Code, 'a person who makes available to the public or otherwise spreads among the public or keeps available for the public information, an expression of opinion or another message where a certain group is threatened, defamed or insulted on the basis of its race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or a comparable basis, shall be sentenced for ethnic agitation to a fine or to imprisonment for at most two years'. If the offence is assessed as aggravated, the offender may be sentenced to imprisonment for even four years. This penalty provision is based, for example, on the UN Convention on the Elimination of Radical Discrimination, the Additional Protocol to the Council of Europe Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the EU Framework Decision on Racism, 2008/913/JHA, 28 November 2008.

Board deals with certain questions of principle concerning personal data processing. The Finnish Communications Regulatory Authority has produced, for example, guidance and advice on information security from the consumer's perspective.<sup>76</sup>

According to the EU Charter of Fundamental Rights, everyone has the right to respect for his or her private and family life, home and communications. The Charter further provides that everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. In addition, everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority. The EU Charter of Fundamental Rights became legally binding through the Treaty of Lisbon. The scope of application of the Charter of Fundamental Rights is, however, limited as it only applies in matters concerning EU law. The Treaty on the Functioning of the European Union also provides for the protection of personal data. The duty of the EU Data Protection Commissioner is to ensure that the EU institutions and other bodies respect the right of citizens to privacy in the processing of personal data. The EU Data Protection Regulation and Directive adopted in December 2015 will harmonise European legislation on data protection.

Collection of data by the authorities and in particular risks associated with mass collection of data have given rise to intense international debate, especially after Edward Snowden disclosed information on, for example, the operation of US intelligence authorities in 2013. The EU Agency for Fundamental Rights has considered the topic and is examining mass monitoring from the perspective of the right to privacy and respect for family life and the right to the protection of personal data guaranteed in the Charter of Fundamental Rights. Digitalisation of private services is also linked with data protection issues. More and more companies collect large amounts of personal data, which raises the question on the purpose of data collection, on the ownership of data and on their selling and monetary value. The EU Data Protection Commissioner has emphasised the need for clear provisions and their importance for the economic operating environment of enterprises. Large databases involve information security risks, and identity thefts, for example, may become more common. Insufficient knowledge of the topic among the general public, such as of the risks related to devices connected to the Internet, for example smart televisions and house electrical equipment, can also be regarded as a challenge in relation to the right to privacy and data protection.

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76 [www.viestintavirasto.fi/kyberturvallisuus/tietoturvaohjeet.html](http://www.viestintavirasto.fi/kyberturvallisuus/tietoturvaohjeet.html).

The Court of Justice of the European Union has given decisions outlining the right to privacy and data protection. The judgement concerning the right to be forgotten<sup>77</sup> has received a lot of publicity, although the registrar was already before the judgment obligated to rectify, remove or supplement registered personal data which were incorrect, unnecessary, inadequate or outdated in respect of the processing purposes. In its decision of December 2016, the Helsinki District Court stated that the Data Protection Ombudsman was allowed to order the removal of two URL addresses from the Google Search service when searches were carried out using the name of a certain person.<sup>78</sup> In the case, the Court referred to the above-mentioned judgment of the Court of Justice. In its judgment in the case of *Digital Rights Ireland* in April 2014, the Court of Justice stated that the obligation imposed by the Directive on retention of telecommunications data to retain telecommunications data and the right of the authorities to access the data seriously intervene in the protection of privacy and personal data and declared the Directive invalid.<sup>79</sup> In October 2015, the Court of Justice declared invalid a previous decision of the Commission, which stated that the United States guarantees an adequate level of protection of personal data transferred there. According to the Court of Justice, general access of the authorities to the content of electronic communications violates the key elements of the right to privacy. The Court further noted that individuals must have the possibility of accessing personal data concerning them or have them rectified or removed.<sup>80</sup>

## Current situation

The key projects of Prime Minister Juha Sipilä's Government include digitalisation of public services. In addition to the provision of electronic services, the people's right to decide about and monitor their personal information will be enhanced, while ensuring the smooth transfer of data between the authorities. Furthermore, help will be given to people who are not used to or are unable to use digital services.

In February 2016, the Government adopted principles of digitalisation which apply to all public services and serve as commonly agreed rules for developing public services. The principles include the development of services based on customers' needs and the building of easy-to-use and secure services. By adopting the principles of digitalisation the Government also committed itself to promoting, for example, equality and information security and to safeguarding the citizens' life and health. Customer-orientation means, for

77 Judgment in *Google Spain and Google*, C-131/12, EU:C:2014:317.

78 Decision of the Helsinki Court of Appeal, 8 December 2016, 16/1028/5, not final.

79 Judgment C-293/12 and 594/12, EU:C:2014:238.

80 Judgment in *Maximilian Schrems v. Data Protection Commissioner*, C-362/14, EU:C:2015:650.

example, that accessibility is taken into consideration in the designing and coding phase of the authorities' websites.

The Government has large projects pending in relation to digitalisation with impacts on fundamental and human rights. In the context of the national service architecture, the objective is to create digital services in accordance with the one-stop-shop principle as well as a service website for citizens, the possibility of managing their own data (My data) and a strong identification system. The fundamental rights impacts include the promotion of equality and information security. It is necessary to ensure, in connection with the province reform and in respect of the licencing and supervisory authority (under preparation), that the authorities have adequate fundamental and human rights competence. The national implementation of the EU Data Protection Regulation and Directive and the Accessibility Directive will have implications for several national laws and activities of the public authorities. On the other hand, the ongoing statute projects related to military and civil intelligence require the weighing of fundamental rights and assessing the possibilities of limiting them. An expert working group, appointed by the Ministry of Justice in connection with the ongoing preparation of intelligence legislation on the basis of the Government Programme, prepared a proposal during 2016 for reviewing the Constitution so that an ordinary act could provide for limitations to the secrecy of communications which are necessary for protecting national safety, provided that requirements considered essential are fulfilled. The new regulation would not, however, allow for adopting provisions on general and all-inclusive monitoring of telecommunications.

## Equality and accessibility

According to the policy guideline in the Government Report on Human Rights issued in 2014, the Government sets the target of accessibility in society, the built environment, services, communication and transport.

The Government actions and topical challenges in the realisation of equality are discussed in chapter 2 of the second section of this Action Plan. The realisation of equality in digitalisation has been promoted at the Government level in connection with the reform of the Information Society Code. One of the objectives of the Information Society Code, which entered into force at the beginning of 2015, is to foster the supply and use of electronic communications services and to ensure that everyone across Finland has access to communications networks and services at reasonable conditions. In other words, the Act seeks to ensure that reliable communications networks and reasonably priced basic electronic communications services of high quality would be available nationwide in Finland. The Information Society Code also contains provisions on consumer protection and information security of communications.

The supreme overseers of legality have considered equality in digitalisation. According to the Parliamentary Ombudsman, the fact that the Tax Administration offered its customers the possibility of complying with their obligation to provide information only electronically did not fulfil the legal principles of good administration under the Administrative Procedure Act, such as the principles of proportionality, equality and service. The service principle requires that the customers' possibilities and abilities of using services are taken into account in the ways services are implemented. The authority should also guarantee adequate freedom of choice. Assessments should not be carried out paying attention only to the needs of the administration.<sup>81</sup>

The Chancellor of Justice of the Government has examined equal availability of electronic services in a situation where a social assistance application could be filed electronically using only the access codes of certain banks for identification.<sup>82</sup> Equal access to health status data has also been brought up in a case examined by the Chancellor of Justice where appropriate language versions had not been made available in patient and customer data archives.<sup>83</sup>

Various organisations have also brought up problems in the realisation of equality in the availability of electronic services. Attention has been drawn, for example, to the fact that the elderly, persons with disabilities and children, for example, need assistance for using information technology. Furthermore, organisations have argued that accessibility of services should be improved and the need for different language versions of services considered. The use of digital media and online services should also be guaranteed in areas with dispersed settlement. According to the organisations, a functioning alternative available to everyone should be guaranteed in areas where telecommunications connections function poorly.

The Chancellor of Justice of the Government has dealt with the use of pupils' own electronic devices in teaching. According to the Chancellor of Justice, the equal right to free and equal basic education requires at least that everybody has, free of charge, at their disposal a device which enables participation in teaching and performance of the given assignments. This does not prevent the voluntary use of pupils' own devices in addition to the devices offered free of charge. The equal position of pupils nationwide is important so that pupils have equal opportunities for preparing for electronic school leaving exams and for further education after basic education.<sup>84</sup> The Trade Union of Education (OAJ) has argued that the digitalisation of education progresses unevenly at different levels of edu-

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81 Decision of the Deputy Ombudsman EOAK 4653/4/14.

82 Decision of the Chancellor of Justice of the Government OKV/65/1/2014.

83 Case number OKV/1327/1/2016. The matter is still pending.

84 Decision of the Chancellor of Justice of the Government OKV/14/1/2014.

cation. For example, in basic education only a fifth of the pupils use information and communications technology daily and a third hardly ever uses it. Inadequate in-service training of teachers affects adversely the use of information and communications technology at educational institutions, as well as an inadequate number of available computers and too slow wireless networks. The Parliamentary Ombudsman has also observed during his inspections that the teachers' ICT competences vary considerably.<sup>85</sup>

In addition, actors have also highlighted the need to study the realisation of fundamental rights in work life in the context of digitalisation and platform economy and to modernise the legislation on occupational safety and health to extend it to cover digital and mobile work, work at automated workplaces and work with robots.

### Hate speech limiting the freedom of expression

The Government Human Rights Report of 2014 includes a policy guideline according to which the Government supports activities aiming to prevent hate speech and feels that it is necessary to increase and support young people's actions against hate speech and violence. When discussing the Human Rights Report, Parliament urged the Government to actively implement the report's policy guidelines relating to hate speech limiting the freedom of expression.

The Government has stated in various contexts that it is committed to zero tolerance for racist and other hate speech in its activities. In Finland, Internet surveillance has been centralised in order to include it in national crime prevention and intelligence structures. In the strengthening of Internet surveillance, it is also essential to instruct the citizens to actively report crimes they have detected in information networks. Citizens may use the Net Tip service of the police for submitting information on pages they have discovered on the Internet in relation to, for example, racism and hatred against human beings.<sup>86</sup> In September 2016, the Government decided to allocate more resources to the anti-hate speech activities of the Internet police and to the investigation of hate speech crimes. The Government aims at improving the prevention, disclosure and investigation of crimes related to violent extremist movements and at creating approaches to criminal investigation and cooperation between prosecutors. Visible police activities on the social media also increase the citizens' safety.

<sup>85</sup> Annual Report of the Parliamentary Ombudsman of Finland 2014, pp. 254-256.

<sup>86</sup> [www.poliisi.fi/nettivinkki](http://www.poliisi.fi/nettivinkki).



In March 2016, the Ministry of Justice published a study with the objective of producing information on the impacts of hate speech and harassment on the feeling of safety among persons belonging to different population groups.<sup>87</sup> The Good Practice Plus project of the Ministry of the Interior, which was completed in 2016, developed procedures for addressing racist and religion-based hate crimes. The principal objective of the project was to maintain and increase the trust of different population groups in the authorities, in particular in the police. The project included training for the police and prosecutors and developing an approach to supporting victims of racist crimes.

In May 2016, the European Commission and certain large information technology companies published a Code of Conduct on countering illegal hate speech online. The Code of Conduct includes commitments to combat illegal online hate speech in Europe. One of the objectives is that the companies review the majority of valid notifications for removal of illegal hate speech in less than 24 hours and remove or disable access to such content, if necessary.

Many international human rights monitoring bodies have given recommendations to Finland in relation to hate speech. According to the recommendations, the efforts to combat online incitement to racial hatred and racial discrimination must be improved, also by collecting more efficiently information on the prevalence of online racist hate speech and by implementing information campaigns on the issue, targeted at the youth, mass media and politicians.<sup>88</sup> Hate speech targeted at girls and women has been specifically brought up, and according to the recommendations, actions to address this kind of hate speech in the mass media, including online discussion forums and social media, need to be improved.<sup>89</sup> Furthermore, Finland should ensure that relevant legislation is implemented and allocate resources to the police that are necessary for combating online racism.<sup>90</sup> The Commissioner for Human Rights of the Council of Europe has stated that eradication of racism and xenophobia requires more efficient actions and that prosecutors and courts of law should carefully examine cases involving incitement against an ethnic group.<sup>91</sup> The Non-Discrimination Ombudsman, the Ombudsman for Equality and many organisations have also brought up the need to address hate speech.

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87 "I often find myself thinking how I should be or where I shouldn't go" Survey on hate speech and harassment and their influence on different minority groups. Publication of the Ministry of Justice, reports and guidelines 7/2016.

88 See e.g. the UN Committee on the Elimination of Racial Discrimination 2012 (CERD/C/FIN/CO/20-22) and the European Commission against Racism and Intolerance 2013 (ECRI(2013)19).

89 UN Committee on the Elimination of Discrimination against Women 2014 (CAT/C/FIN/CO/7).

90 European Commission against Racism and Tolerance 2013 (CRI(2013)19).

91 Report on Finland by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe (COM-MDH(2012)27).

## Right to privacy and data protection

The Data Protection Ombudsman has presented that the whole national framework should be considered, problems mapped and the current situation improved in connection with the national implementation of the EU Data Protection Regulation and Directive. The UN Special Rapporteur on the Right to Privacy has also raised issues related to the right to privacy which should be examined in more detail.<sup>92</sup> Organisations have, for example, brought up the need to provide different professional groups with training on data protection issues and expressed their concern over the implementation of fundamental and human rights in the Government's intelligence projects. Parliament's Administration Committee has stated that in the future, more emphasis must be placed on designing information systems so that their incorporated structures already guide the user to correct and legal approaches and that the needs of legality supervision are considered in their development.<sup>93</sup>

The Deputy Ombudsman has stressed the need to pay attention to issues related to legal and data protection in connection with information system reforms.<sup>94</sup> In his decisions on complaints, the Chancellor of Justice of the Government has also taken a stand on issues of data protection in digitalisation. The cases have concerned, for example, transmission of confidential data in an unencrypted email such that the automatic acknowledgement message displays the confidential content, transmission of confidential data in an unencrypted email on the basis of a request, and unauthorised viewing of personal data at a health care unit, for example.<sup>95</sup>

The realisation of fundamental and human rights in connection with digitalisation can be assessed by SWOT analysis. The table below presents observations on the realisation of fundamental and human rights in digitalisation collected during the preparation of the Action Plan in respect of strengths, weaknesses, opportunities and threats.

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92 Report of the Special Rapporteur on the right to privacy, Joseph A. Cannataci, A/HRC/31/64 (2016).

93 Administrative Committee statement HaVL 40/2014 – MINS 3/2014.

94 Decision of the Deputy Ombudsman EOAK 4765/2/13.

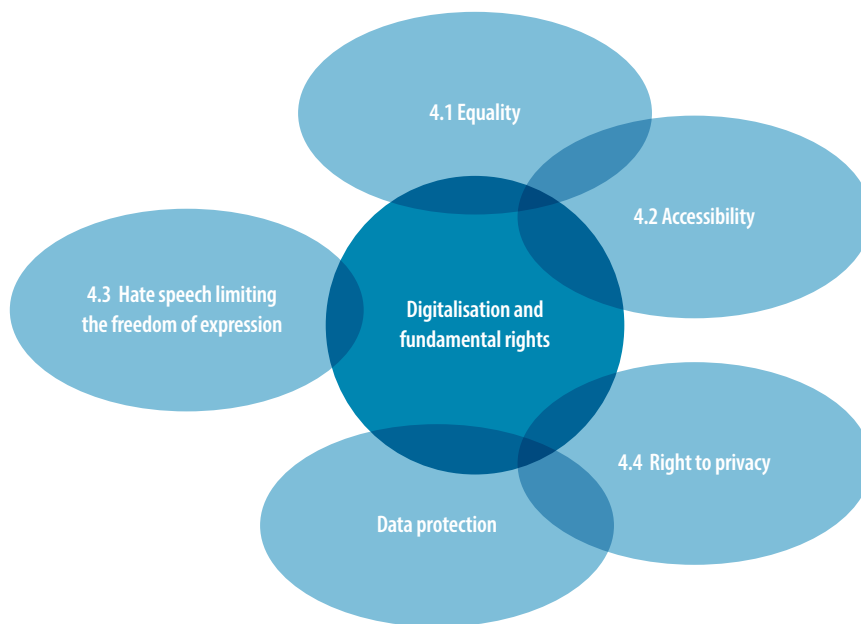
95 See e.g. decisions OKV/96/1/2016, OKV/2156/1/2014, OKV/49/1/2012 and OKV/1155/2007.

## Realisation of fundamental and human rights in connection with digitalisation – SWOT analysis

<p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• the Constitution also safeguards the fundamental rights on the Internet</li> <li>• services are better accessible thanks to digitalisation, which contributes to the realisation of several fundamental rights</li> <li>• international obligations, case law and actions related to the right to privacy and data protection, equality and accessibility and combating hate speech</li> <li>• the Government Programme policy lines on user-based public services and on the people's right to decide about and monitor their personal information</li> <li>• efforts have been made to provide an Internet connection for everybody at reasonable conditions, which is a requirement for the realisation of basic services and fundamental rights</li> <li>• requirements concerning accessibility, for example, are already well accounted for in some existing acts</li> <li>• guidelines and training for authorities in relation to information security, for example</li> <li>• the library network contributes to the access to the Internet and digital services</li> </ul>	<p><b>Weaknesses</b></p> <ul style="list-style-type: none"> <li>• electronic services are not available to everyone and fundamental rights are not realised in full because not everybody has an Internet connection, adequate competence or required technology</li> <li>• shortcomings in the accessibility of digital services or in language versions</li> <li>• digitalisation and regional equality in the availability of public services</li> <li>• information systems do not always support activities in conformity with fundamental rights, their repairing is expensive</li> <li>• digitalisation leads to multiplication of certain problems, such as hate speech, which impairs safe access to the Internet</li> <li>• new forms of crime, as a result of which regulation or intervention takes place a posteriori</li> <li>• inadequate competence and knowledge of the risks associated with the realisation of rights due to rapid changes in the operating environment</li> <li>• shortcomings in the authorities' practices, inadequate steering, training and monitoring</li> <li>• faults in information systems</li> </ul>
<p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>• guidance in the use of information technology, user-based development of technology and development of high-speed Internet connections increase the number of people benefiting from digitalisation</li> <li>• digital learning at schools promotes equal digital literacy and access to sources of information and technology</li> <li>• increased information on services improves their accessibility and the realisation of fundamental rights</li> <li>• information on rights, fundamental and human rights challenges and legal remedies spreads on the Internet</li> <li>• new forms of peer support</li> <li>• the realisation of rights is promoted proactively through assessing fundamental and human rights impacts of legislative proposals and new information systems</li> <li>• digitalisation increases the clients' participation and transparency in the authorities' activities</li> <li>• coordination between ministries and consideration of fundamental rights will make Finland a leading country in digital fundamental rights</li> <li>• new means provided by information technology for addressing crime on the Internet</li> <li>• the amount of illegal hate speech can be reduced by raising awareness of the limits to the freedom of expression and by producing accurate information</li> </ul>	<p><b>Threats</b></p> <ul style="list-style-type: none"> <li>• equal access to services will be hindered in respect of some people due to digitalisation</li> <li>• increasing inequalities in society lead to a situation where some people do not have practical possibilities of accessing the Internet</li> <li>• fundamental rights are not considered in the development of information systems and electronic services, and the systems are not repaired afterwards due to costs</li> <li>• the ease of data collection results in unjustified collection of sensitive data, information security risks increase, monitoring is neglected</li> <li>• the right to privacy is not realised in an equal manner due to nationality, for example</li> <li>• the freedom of expression is limited unreasonably by provisions or practical actions</li> <li>• Internet-related information security risks of various objects are not taken into account</li> <li>• hardened attitudes and debate culture intensify hate speech and no effective means are found for addressing it</li> <li>• failures of information systems</li> </ul>

## Selection of objectives and measures for the Action Plan

The objectives of the priority area concerning fundamental rights and digitalisation in the Action Plan are to safeguard equality, including accessibility, and the right to privacy and data protection in connection with digitalisation. A further objective is to address hate speech limiting the freedom of expression.



Measures promoting equality and accessibility aim at fostering the practical possibilities of different population groups, such as the elderly, school children, persons with disabilities and prisoners, to use electronic services. The chapter on equality in this Action Plan includes other measures relating to equality. Furthermore, the Action Plan on Democracy Policy includes a project for maintaining and improving the accessibility of television contents.<sup>96</sup>

Combating hate speech limiting the freedom of expression entails strengthening the addressing of hate speech through criminal law measures as well as other measures. The chapter on the right to self-determination includes measures for combating all hate crimes, i.e. in addition to punishable hate speech, intervention in other hate crimes is also promoted (3.2.1 Enhancing combating hate crimes). In addition, the purpose of the measures covered in this chapter is, in particular, to strengthen the activities of private actors

<sup>96</sup> The Government Action Plan on Democracy Policy 2017-2019, project 2.1.7 Accessibility of television contents.

against hate speech and develop cooperation between the authorities, companies and non-governmental organisations to ensure effective action. The chapters on fundamental and human rights education and training and on equality also include other than criminal law measures for combating hate speech (e.g. 1.2.1 In-service training for teachers and 2.6.2 Preventing hate speech as part of the Meaningful in Finland Action Plan and its follow-up).

The aim is to safeguard the right to privacy, including the protection of personal data, through a careful assessment of fundamental and human rights impacts in statute projects concerning civil and military intelligence (1.1.2 Developing the assessment of fundamental and human rights impacts of statute projects). The objective to strengthen the fundamental and human rights competence of Government officials, which is covered by the chapter on fundamental and human rights education and training in the Action Plan, includes measures for strengthening the officials' competence in data protection (1.1.1 Strengthening the fundamental and human rights competence of Government officials). The measures of this chapter promote the citizens' trust in the Internet and digital approaches by, for example, improving information security in network and information systems and in digital goods available on the market.

Finland has also received recommendations from international monitoring bodies in relation to digitalisation, concerning combating sexual abuse of children and women, harassment and pestering, and violence in digital media. The measures covered in this chapter do not promote the addressing of sexual abuse of children or women but the chapter on the right to self-determination deals more extensively with violence and hate crimes. The chapter on fundamental and human rights education and training, on the other hand, includes measures aimed at improving the possibilities of teachers to intervene in sexual harassment at schools. The chapter on equality includes measures promoting equality planning which affect, for example, the prevalence of harassment.

## MEASURES

### 4.1 Equality

#### 4.1.1 New approach to customer service - assisting customers in using digital services (AUTA)

- a) **Contents:** AUTA (help) is a pilot project for searching for a new approach to supporting customers in the use of digital services. Its objective is to create a nationwide approach which is applicable to different regional and local contexts and implementable by a variety of different actors. Different experiments will be carried out with a large number of actors for creating the approach. Potential actors for the experiments include the state and municipalities, companies, congregations, third-sector actors and unorganised actors (the fourth sector).
- b) **Legal basis:** Section 6 of the Constitution, Non-Discrimination Act (in particular Section 5 on the authorities' duty to promote equality), Article 20 and 21 of the EU Charter of Fundamental Rights
- a) **Responsible ministry:** Ministry of Finance  
Key stakeholders: Prime Minister's Office, Ministry of Economic Affairs and Employment, Ministry of Social Affairs and Health, Social Insurance Institution of Finland, Tax Administration, Association of Finnish Local and Regional Authorities, municipalities, organisations and entities participating in the experiment
- b) **Indicators:** equal availability/accessibility of services in different parts of the country, use of services possible also for those who cannot themselves use digital services

#### 4.1.2 Developing the use of digital services among prisoners

- a) **Contents:** The information systems of the Criminal Sanctions Agency will be remodelled so that prisoners will have the possibility of using email, digital services and communicating over a video connection. Currently prisoners have a very limited access to these services. The project aims at significantly improving prisoners' possibilities of using digital services.
- b) **Legal basis:** Section 10, 12 and 21 of the Constitution, Article 3, 6, 7, 11 and 47 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice
- d) **Indicators:** The possibilities of using electronic services are introduced for prisoners.

### 4.1.3 Electronic matriculation examination

- a) **Contents:** In connection with the development of general upper secondary education, the matriculation examination will be transformed into an electronic form. This will be implemented in phases. The examinations of German, geology and philosophy were already transformed into an electronic form in autumn 2016. The whole matriculation examination will be in an electronic form starting from spring 2019. A hearing disability, literacy problem, disease, disability and a foreign mother tongue will be taken into account in the matriculation examination. If the examinee has a disease or a reading or writing disorder, his or her exam can be organised differently. The same applies to an examinee who cannot take the exam in the same way as the other examinees due to an illness or a similar reason. The promotion of equality will be continued in connection with the development of the electronic matriculation examination. A working group of the Ministry of Education and Culture submitted its proposals for a better utilisation of the matriculation examination in the universities' student selection on 4 November 2016. The proposals support a more equal procedure for applicants in the universities' student selection. The Ministry of Education and Culture has also appointed a working group to consider the development of the matriculation examination. The deadline for the working group is in March 2017.
- b) **Legal basis:** Section 6 of the Constitution, Article 14, 20, 21 and 26 of the EU Charter of Fundamental Rights, Government Decree on the Matriculation Examination
- c) **Responsible ministry:** Ministry of Education and Culture
- d) **Indicators:** the number of matriculation examination examinees within special arrangements (e.g. longer time for completing the exam or use of special tools or devices)

### 4.1.4 New comprehensive education programme

- a) **Contents:** The New Comprehensive Education programme implements the Government's key project 'New learning environments and digital materials to comprehensive schools', which promotes equal opportunities of comprehensive schools to offer education. The New Comprehensive School Education Programme provides every comprehensive school in Finland with an opportunity for a 'tutoring teacher'. A tutoring teacher refers to a teacher who supports other teachers in introducing changes into the school culture, in implementing new pedagogy and in appropriate utilisation of digitalisation. An experiment centre will be established in connection with the Finnish National Board for Education for coordinating cutting-edge experiments based on the newest research information. The newest learning solutions and technologies will be

adopted in the development and innovation activities of educational institutions. The best experiences will be broadly put into practice at schools, and their dissemination will be supported by subsequent key project funding.

- b) **Legal basis:** Section 6 and 16 of the Constitution, Basic Education Act
- c) **Responsible ministry:** Ministry of Education and Culture
- d) **Indicators:** the number of tutoring teachers, experiments

## 4.2 Promoting accessibility

### 4.2.1 Improving the possibilities of the elderly and persons with disabilities to use online services: implementation of the Accessibility Directive

- a) **Contents:** The Directive lays down common accessibility requirements for network services of public sector bodies. The objective is to help all persons with disabilities, also the elderly, within the EU to participate fully in social activities and at the same time offer better services to all network service users. Accessible network services will ensure that citizens have the opportunity to function in digital society on an equal basis. Accessible network services facilitate in general the expansion of the use of services by eliminating barriers to use, lowering the threshold for starting to use services and reducing the need for user guidance. The project includes drafting a Government proposal and action plan for national implementation of the Accessibility Directive. National implementation measures need to be reported to the Commission within 21 months from the entry into force of the Directive.
- b) **Legal basis:** Section 6 of the Constitution, Non-Discrimination Act, Article 20, 21, 25 and 26 of the EU Charter of Fundamental Right, EU Anti-Discrimination Directive 2000/43/EC, UN Convention on the Rights of Persons with Disabilities, European Disability Strategy
- c) **Responsible ministry:** Ministry of Finance  
Key stakeholders: other ministries, Association of Finnish Local and Regional Authorities, organisations of disabled persons, other stakeholder organisations, Social Insurance Institution of Finland, companies
- d) **Indicators:** fulfilment of technical and administrative requirements under the Directive



## 4.2.2 Mobility as a Service

- a) **Contents:** One of the key projects in the Government Programme includes creating a growth environment for digital business operations. Innovation and service platforms will be promoted in sectors where the public administration plays a role in terms of the functioning of the markets. One such sector is Mobility as a Service (MAAS). The objective of the Mobility as a Service approach is to provide high-quality and low-cost mobility services that correspond to the customers' and users' needs. Customers increasingly acquire their mobility services either from one mobile platform and service provider or by combining various easy-to-use service applications. Utilisation of digitalisation would not only create completely new kinds of business activities but also new kinds of door-to-door services covering the whole travel chain of a passenger without any barriers. In the implementation of the MAAS concept, it is important to ensure that services suitable for serving all user groups without any barriers are available on the market.
- b) **Legal basis:** Section 6 and 9 of the Constitution (equality and freedom of movement), Non-Discrimination Act, Article 20 and 21 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Transport and Communications
- d) **Indicators:** When MAAS approaches are developed, the suitability of the service for as many persons as possible irrespective of age, disability or language is considered. Easy-to-use, accessible MAAS concepts will emerge in the market.

## 4.3 Addressing hate speech limiting the freedom of expression

### 4.3.1 Launching cooperation between authorities, providers of community services and non-governmental organisations for enhancing the forms of addressing hate speech

- a) **Contents:** Cooperation will be launched between the authorities, providers of community services and non-governmental organisations in order to implement in Finland the Code of Conduct published by the EU Commission and certain information technology companies on 31 May 2016. The Code of Conduct includes commitments to combat illegal online hate speech in Europe. The national implementation of the Code of Conduct will be monitored by the sub-group on countering hate speech online which operates under the EU Commission's High Level Group on combating racism, xenophobia and other forms of intolerance. The development of cooperation includes agreeing, if necessary, on contact points for parties acting in different roles, establishing

necessary networks, clarifying the role of different actors in relation to the implementation of the Code of Conduct and identifying and developing ways to enhance the addressing of punishable hate speech, including its removal from the Internet.

- b) **Legal basis:** Section 6, 7, 10 and 12 of the Constitution, Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law (2008/913/JHA, 28 November 2008), Non-Discrimination Act, UN International Convention on the Elimination of All Forms of Racial Discrimination and several other international conventions, concluding observations and recommendations by the UN treaty monitoring bodies to Finland (CERD, CEDAW), UPR recommendations to Finland, recommendations to Finland by the Commissioner for Human Rights of the Council of Europe, Article 1, 2, 3, 4, 6, 7, 11, 20 and 21 of the EU Charter of Fundamental Rights
- c) **Responsible ministry:** Ministry of Justice in cooperation with the Ministry of the Interior/National Police Board, the Ministry of Transport and Communications/Finnish Communications Regulatory Authority and the Ministry of Education and Culture/National Audiovisual Centre. Partners: organisations
- d) **Indicators:** establishment of networks and an agreement on contact points, introduction of new approaches to enhancing actions against hate speech

### 4.3.2 Strengthening the addressing of hate speech constituting a criminal offence

See the chapter on the right to self-determination, project 3.2.1

## 4.4 Protection of private life and personal data<sup>97</sup>

### 4.4.1 Increasing trust in the Internet and digital approaches

- a) **Contents:** In order to increase trust, Finland's information security strategy drafted at the Ministry of Transport and Communications in accordance with the Government Programme will be implemented. Increasing trust is a requirement for the realisation of citizens' fundamental and human rights in the future society. Phenomena undermining trust, such as online violations of information security and the right to privacy, must be addressed appropriately. When fundamental functions in society are digitalised, it is important that citizens can trust in their safe functioning. Serious violations of information

<sup>97</sup> In addition, training on data protection, and assessment of fundamental and human rights impacts in digitalisation projects, see the chapter on fundamental and human rights education and training.

security may in the worst scenario threaten the continuity of vital functions in society. Information security is also becoming an increasingly important requirement for the safety of modern everyday services and devices. In the future, it is essential to promote availability of goods with in-built information security.

- b) **Legal basis:** According to the EU Network and Information Security Directive, member states must adopt a national strategy on the security of network and information systems. The right to life and the right to personal liberty and integrity under Section 7 of the Constitution: large-scale information security breaches may have a negative effect on physical safety. The right to privacy under Section 10 of the Constitution is important for building trust. Article 1, 2, 3, 6, 7 and 8 of the EU Charter of Fundamental Rights.
- c) **Responsible ministry:** Ministry of Transport and Communications
- d) **Indicators:** Digital goods with in-built information security are available on the market, information security and the related competence are studied, measured, monitored and developed, and the authorities assist communities and citizens in improving information security.



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