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COMMISSION STAFF WORKING DOCUMENT

**2021 Rule of Law Report
Country Chapter on the rule of law situation in Finland**

Accompanying the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report
The rule of law situation in the European Union**

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ABSTRACT

The Finnish justice system continues to enjoy a very high level of perceived judicial independence. The recently established National Courts Administration has become fully operational and, apart from performing its regular tasks, assisted the courts in their response to the COVID-19 pandemic. The reform of the National Prosecution Service has helped to increase its efficiency by enabling centralisation, development of uniform practices, better cooperation and more even distribution of resources. The authorities are undertaking several projects to improve the digitalisation of the justice system and to make the system of legal aid more accessible.

Finland continues to be perceived as one of the least corrupt countries in the EU and the world. A dedicated comprehensive Government strategy to fight corruption was adopted on 27 May 2021. The Strategy aims to strengthen the fight against corruption, including through the clarification of responsibilities, awareness raising and prevention, the improvement of transparency and of the effectiveness of anti-corruption legislation, as well as relevant research. While the authorities place a strong emphasis on fighting financial crime and have taken steps to address foreign bribery, detection and prosecution of the latter remains a challenge. Lobbying remains currently unregulated, however, the Government is drafting legislation that would provide for a transparency register. Legislative initiatives are also being discussed to address concerns over revolving doors between the public administration and private interests. A revised system for asset declaration for public officials is under discussion and the proposal to regulate whistleblower protection in a new standalone law is expected to enter into force by the end of 2021.

Finland generally enjoys a free and protected environment for journalists and media professionals. The main media regulatory authority, the Finnish Transport and Communications Agency, is perceived as fair and transparent but its economic situation continues to be challenging. New specific legislation has been adopted obliging media service providers to make publicly accessible information on their ownership structure. A preparatory working group has been appointed in view of further extending the constitutionally guaranteed access to documents by enforcing compliance and covering more information. The Government is also planning changes in the Criminal Code to facilitate the prosecution of unlawful threats and targeting of vulnerable victims, such as freelance journalists. To address hate speech directed towards female journalists, the Government is preparing another change in the Criminal Code for gender to be added among the motives that constitute grounds for increasing the punishment for (any) crime. Moreover, the Government is reflecting on a permanent aid mechanism to support journalism in Finland besides a temporary support scheme that was specifically linked to the COVID-19 pandemic.

The Government has adopted an Action Plan on Better Regulation, which aims at improving the quality, planning and transparency of legislation. Most of the measures taken in the context of the COVID-19 pandemic were adopted based on ordinary legislation. Where emergency powers were used, the approval of Parliament and *ex ante* constitutionality review were required. The reform process to clarify the tasks of the Chancellor of Justice and the Ombudsman, two key independent authorities involved in safeguarding fundamental rights, is supported by both authorities and is planned to be presented to Parliament in autumn 2021. A new Advisory Board for Civil Society Policy, a platform that has been facilitating fruitful interaction between public authorities and civil society, will be elected in the autumn 2021.

I. JUSTICE SYSTEM

The Finnish justice system is composed of the ordinary judiciary, with 20 district courts, five courts of appeal and the Supreme Court, and the administrative judiciary with six regional administrative courts and the Supreme Administrative Court. There are three specialised courts¹. The independent National Courts Administration is in charge of the administration of courts, including management of budgets, buildings and ICT systems². The independent Judicial Appointments Board³ prepares proposals for appointments of judges to the Government, while proposals for Supreme Court and Supreme Administrative Court judges are made by these courts themselves⁴. Judges are formally appointed by the President of the Republic⁵. The National Prosecution Authority is an independent state authority⁶, led by a Prosecutor General, who is appointed by the President on the proposal of the Ministry of Justice and can be dismissed or suspended by the Government⁷. The Finnish Bar Association⁸ is an independent body tasked with the supervision of professional activities of attorneys⁹. Disciplinary proceedings against lawyers¹⁰ are conducted by the Disciplinary Board, an independent supervisory body functioning alongside the Finnish Bar Association¹¹. Finland participates in the European Public Prosecutor's Office¹².

Independence

The Finnish justice system is characterised by a very high level of perceived independence. The perceived independence of courts and judges is very high, with 83% of the general public and 86% of companies perceiving it as 'fairly or very good'¹³. The level remains consistently very high for both the general public and the companies since 2016. As

¹ The Market Court, the Labour Court and the Insurance Court. CEPEJ (2020), Study on the functioning of judicial systems in the EU Member States.

² Courts Act, Chapter 19a, National Courts Administration.

³ It has twelve members – nine judges from different levels of courts, proposed by the judiciary, and three non-judge members (one lawyer, one prosecutor, one member representing legal research and education). All members are appointed by the Government for a five year term.

⁴ All judges of the Supreme Court and Supreme Administrative Court participate to the selection. Courts Act, Chapter 11, Section 7.

⁵ Only one candidate is proposed per vacancy. While the proposal is non-binding, in practice, it is almost always followed, with only one exception each for ordinary court judges (in 2000, the year the Judicial Appointments Board was established) and for Supreme Court judges (in the 1970s).

⁶ Act on the National Prosecution Authority (32/2019), Chapter 1, Section 2.

⁷ The decision to dismiss can be appealed to the Supreme Administrative Court.

⁸ Advocates Act (496/1958).

⁹ There are three types of legal professionals tasked with provision of different types of legal services: attorneys, public legal aid attorneys and licensed legal counsels.

¹⁰ The Disciplinary Board also conducts disciplinary proceedings against two other types of legal professionals, public legal aid attorneys and licensed legal counsels.

¹¹ The Disciplinary Board is composed of a Chair and eleven Members, six of which, in addition to the Chair, are attorneys elected by the supreme decision-making body of the Bar Association. The remaining members, two of which are licensed legal counsels and three of which are lawyers, are appointed by the Government on the proposal of the Ministry of Justice after the Ministry has requested an opinion of the Bar Association on the eligibility of candidates; Sec. 7a of the Advocates Act.

¹² The European Delegated Prosecutors for Finland have not yet been appointed. On 4 June 2021, Finnish authorities and the EPPO reached an agreement and are now working on the practical arrangements for their appointment.

¹³ Figures 48 and 50, 2021 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

regards the general public, it has steadily increased until 2019¹⁴ and as regards companies, it has increased for the past two years¹⁵.

The National Courts Administration became operational in January 2020 and has established itself as an important institution facilitating the work of the courts. After its creation in January 2020, noted in the 2020 Rule of Law Report¹⁶, the National Courts Administration (NCA), a new independent agency responsible for the administration of the courts¹⁷, has in its first year in office established itself by building its own structures and consolidating its procedures¹⁸. At the same time, it has been performing its regular tasks related to providing the central administrative function of all courts and organising trainings for judges in cooperation with the Judicial Training Board¹⁹. It has actively communicated with the courts, facilitating a regular meeting with leadership of all courts in order to assess their needs. Stakeholders report that the NCA took an active role in supporting the courts²⁰. Its establishment has enabled the courts to focus their resources on key tasks and has further strengthened the independence of the judiciary²¹.

Quality

The reform of the Prosecution Service has begun to produce results in terms of increased efficiency and specialisation²². As of September 2019, the Office of the Prosecutor General and eleven local prosecution offices were merged into a single National Prosecution Authority²³. The reorganisation has enabled centralisation and development of uniform national prosecution practices, better cooperation within the Prosecution Service and a more even distribution of resources²⁴. It also allowed for greater specialisation of prosecutors²⁵. This led to an improvement in efficiency as evidenced among others by an increase of the number of cases solved per prosecutor²⁶. The reform also has significance for the fight against corruption (see Section II). The Prosecution Service reported a backlog of

¹⁴ Figure 45, 2020 EU Justice Scoreboard; Figure 48, 2021 EU Justice Scoreboard.

¹⁵ Figures 47 - 50, 2020 EU Justice Scoreboard.

¹⁶ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 2.

¹⁷ The majority of the members the decision making body of the NCA are judges chosen by their peers from all levels of the judiciary, which is consistent with Council of Europe recommendations.

¹⁸ Contribution from the European Network of the Councils of the Judiciary for the 2021 Rule of Law Report, p. 10.

¹⁹ Judicial Training Board is an independent body composed mainly of judges and representatives of other legal professions tasked with planning and coordinating trainings of the staff involved in applying the law at the courts. It also implements the application procedure for the posts of junior judges candidates; Judicial Training Board, <https://oikeus.fi/tuomioistuimet/en/index/tuomioistuinlaitos/lautakunnat/tuomarinkoulutuslautakunta.html>.

²⁰ Contribution from the European Network of the Councils of the Judiciary for the 2021 Rule of Law Report, p. 10; information received in the context of the country visit to Finland from the Supreme Court and the Finnish Association of Judges.

²¹ Information received in the context of the country visit to Finland.

²² For details of the reform see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 3.

²³ Act on the National Prosecution Authority (32/2019).

²⁴ Information received in the context of the country visit to Finland from the National Prosecution Authority.

²⁵ Information received in the context of the country visit to Finland from the National Prosecution Authority.

²⁶ Financial Statements of the National Prosecution Service for 2020, Sec. 1.4.1; information received in the context of the country visit to Finland from the National Prosecution Authority.

cases partially caused by the COVID-19 pandemic²⁷ and received additional funding intended to help resolve this backlog²⁸.

The authorities are undertaking several projects to improve the digitalisation of the justice system. A new case management system for the administrative and special courts, prepared in cooperation with judges, was finalised in December 2020 and has been introduced in all the respective courts, although some technical issues have appeared²⁹. Among others, the system allows users to file complaints, to be served documents, and to check the state of proceedings online³⁰. It also enables producing judgments in a machine readable format³¹. A similar case management system for ordinary courts is under development and it is expected to be completed by the end of 2022³². Furthermore, at the end of 2020 the Ministry of Justice finished a system which allows for automatic anonymization and annotation of decisions of courts and other authorities, which is expected to increase the electronic availability of documents³³. Additionally, the Ministry of Justice is developing a new reporting tool to be used by courts and some other authorities³⁴, which should increase usability of collected information³⁵.

The authorities commissioned projects to make the system of legal aid more accessible. The costs of judicial proceedings are on average considered to be high, which can hinder access to justice, especially in case of medium income earners³⁶. Following the Program of the Government to look into the possibility of raising income limits for legal aid so as to improve accessibility of legal aid to medium income earners³⁷, a research project was initiated by the Ministry of Justice in June 2020 to examine access to legal aid³⁸. The Ministry of Justice has also launched a project to examine the possibilities to create a central National Legal Aid and Guardianship Authority. The new authority would centralise the administration of legal aid³⁹ in order to ensure that it is provided in sufficient and equal manner across the country⁴⁰. The preparation of an on-call legal aid service launched in in 2019⁴¹ is on hold while authorities inquire into the options of funding⁴².

²⁷ Financial Statements of the National Prosecution Service for 2020, Sec. 1.4.1.

²⁸ Information received in the context of the country visit to Finland from the National Prosecution Authority.

²⁹ Information received in the context of the country visit to Finland.

³⁰ Input from Finland for the 2021 Rule of Law Report, p. 12.

³¹ Input from Finland for the 2021 Rule of Law Report, p. 12.

³² Input from Finland for the 2021 Rule of Law Report, p. 13.

³³ Input from Finland for the 2021 Rule of Law Report, p. 12; information received in the context of the country visit to Finland.

³⁴ The tool should collect information such as number of cases and length of proceedings, and combine them with information on financial and human resources.

³⁵ Input from Finland for the 2021 Rule of Law Report, p. 14; information received in the context of the country visit to Finland from the Ministry of Justice.

³⁶ Contribution from the Chancellor of Justice for the 2021 Rule of Law Report; information received in the context of the country visit to Finland; Finnish Government, Study on the impact of public legal aid revenue ceilings.

³⁷ Programme of Prime Minister Sanna Marin's Government 10 December 2019. Inclusive and competent Finland – a socially, economically and ecologically sustainable society, p. 93.

³⁸ Input from Finland for the 2021 Rule of Law Report, p. 10; information received in the context of the country visit to Finland from the Ministry of Justice.

³⁹ Legal aid is provided by public legal aid offices, who are independent in fulfilling their main task. For the purpose of provision of administrative support, the offices are currently divided into six districts.

⁴⁰ Input from Finland for the 2021 Rule of Law Report, p. 10.

⁴¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 4.

The National Courts Administration continued to actively support the courts during the COVID-19 pandemic⁴³. Since the beginning of the COVID-19 pandemic, the NCA made particular efforts to assist the courts in their response to the pandemic⁴⁴. Among others, the agency provided assistance in crisis communication, published a guide on using remote connections at trials and arranged the provision of IT equipment⁴⁵. The regular meetings with the management of the courts (see above) enabled them to discuss methods to address concrete issues and to share their experiences with colleagues.

Efficiency

The justice system continues to perform efficiently⁴⁶. The justice system performs at an average level when it concerns the estimated time to resolve both litigious civil and commercial cases and administrative cases. The clearance rate for the former category has decreased somewhat since 2016, but still remains at 100%⁴⁷, while the clearance rate for administrative cases has decreased from 112% in 2018 to 100% in 2019⁴⁸. The number of pending cases is particularly low for litigious civil and commercial cases and average for administrative cases, showing that the justice system overall copes well with its caseload⁴⁹. Although the courts have in general managed to continue their activities during the COVID-19 pandemic, stakeholders have reported delays in proceedings and some courts now deal with a backlog of cases⁵⁰.

II. ANTI-CORRUPTION FRAMEWORK

Finland has no dedicated anti-corruption agency and the responsibility for the fight against corruption is shared among different authorities and bodies. These include the Ministry of Justice, the Ministry of Finance, the Police, the Tax Administration, the Competition and Consumer Authority, the Parliamentary Ombudsman and Chancellor of Justice, among others⁵¹. The Ministry of Justice's Department of Criminal Policy and Criminal Law continues overseeing efforts to prevent anti-corruption and coordinates the anti-corruption network consisting of representatives of the relevant Ministries, the Police, the Prosecution Service, business and industry and non-governmental organisations.

The perception among experts and business executives is that Finland is one of the least corrupt countries in the world. In the 2020 Corruption Perceptions Index by Transparency International, Finland scores 85/100 and ranks 2nd in the European Union and 3rd globally⁵². However, this perception has deteriorated⁵³ over the past five years⁵⁴.

⁴² Information received in the context of the country visit to Finland.

⁴³ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 4.

⁴⁴ Information received in the context of the country visit to Finland from the NCA, the Supreme Court and the Finnish Association of Judges.

⁴⁵ Input from Finland for the 2021 Rule of Law Report, p. 30; information received in the context of the country visit to Finland.

⁴⁶ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 4-5.

⁴⁷ Figure 12, 2021 EU Justice Scoreboard.

⁴⁸ Figure 13, 2021 EU Justice Scoreboard.

⁴⁹ Figures 6-16, 2021 EU Justice Scoreboard.

⁵⁰ Information received in the context of the country visit to Finland.

⁵¹ Ministry of Justice, Combatting corruption in Finland.

⁵² Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorized as follows: low (the perception among experts and business executives of public

The first national anti-corruption strategy was adopted on 27 May 2021⁵⁵. In November 2019, the Ministerial Working Group on Internal Security and Strengthening the Rule of Law decided to launch further preparation of an anti-corruption strategy. On 23 April 2020, the Ministry of Justice appointed a preparation and steering group to draft an anti-corruption strategy and action plan for Finland to improve the effectiveness of anti-corruption and prevention measures⁵⁶. The Strategy is comprehensive, covering both preventive and reactive aspects, and aims to strengthen the fight against corruption, its awareness raising and prevention, to further clarify responsibilities and enhance cooperation between authorities, and to improve the efficiency of anti-corruption legislation as well as relevant research⁵⁷. The Strategy is accompanied by a detailed Action Plan for the period 2021-2023, covering all domains of the Strategy, establishing precise actions and assigning responsible authorities. The preparatory process itself has contributed to increasing public awareness and broadening consensus on the need for improved availability of information on the subject⁵⁸.

While there are no specialised units for the prosecution of corruption⁵⁹, the reform of the Prosecution Service allowed for greater specialisation of individual prosecutors. The restructuring of the Prosecution Service in 2019 enhanced the consistency of the prosecution practices and allowed for greater specialisation of prosecutors (see Section I)⁶⁰. Currently, six specialized prosecutors have corruption as an area of expertise. In addition, there are 19 prosecutors specialized in prosecuting offences committed in office. All local prosecutors are competent to prosecute minor corruption cases⁶¹. Cooperation between the authorities responsible for the fight against corruption is reportedly effective across the board and cooperation extends to the regional level⁶². The Financial Intelligence Unit (FIU) is closely involved in investigation of suspected cases of corruption.

The average annual number of cases of prosecuted corruption and economic crime offenses has remained relatively stable over the ten-year reporting period with an average of ten cases per year⁶³. In recent years, a very high percentage of corruption cases

sector corruption scores above 80); relatively low (scores between 79-69), relatively high (scores between 68-55), high (scores below 54).

⁵³ In 2015 the score was 90, while in 2020, the score is 85. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁵⁴ The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

⁵⁵ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 6; Ministry of Justice (27 May 2021), Press release, Corruption must be fought in a comprehensive and long-term manner.

⁵⁶ Ministry of Justice (2020), Press release, Working group to prepare an anti-corruption strategy (Työryhmä valmistelemaan korruptionvastaista strategiaa) (24 April 2020, in Finnish and Swedish).

⁵⁷ *Ibid.*

⁵⁸ Information received in the context of the country visit to Finland from the Ministry of Justice.

⁵⁹ Except for one unit in the Prosecutor General Office specialised in crimes committed by police officers, which might also involve corruption; information received in the context of the country visit to Finland.

⁶⁰ The National Prosecution Authority (30 September 2019), Press release, The National Prosecution Authority will start to operate as a single bureau on 1 October.

⁶¹ Input from Finland for the 2021 Rule of Law Report, p. 16.

⁶² Information received in the context of the country visit to Finland from the National Prosecution Authority and the National Bureau of Investigation (which includes the FIU).

⁶³ Data for the years 2010-2019 received in the context of the country visit to Finland.

were ultimately dismissed by the courts⁶⁴. The majority of corruption offences prosecuted by the authorities occur in the area of economic crimes.

Steps to address shortcomings in prevention, detection and prosecution of foreign bribery have been taken. The OECD reports that no foreign bribery case has been detected, investigated or prosecuted since 2017⁶⁵. The Government indicated that it is carrying out a comprehensive assessment of the issue and has launched preventive activities. Training programmes for judges, prosecutors and law enforcement officials are under way⁶⁶. Finland has also developed a detailed guidance document for small and medium-sized enterprises that covers corruption risks, including foreign bribery⁶⁷. The guidance aims to raise awareness about corruption risks and consequences within the private sector when operating in domestic or international markets, and provides companies with practical tools for dealing with corruption.

Concerns have been raised regarding the framework for investigation of members of the Government. Ministers can only be held accountable for an official misconduct⁶⁸ via a special constitutional process where decisions to bring charges are taken by the Parliament after hearing the opinion of the Constitutional Law Committee⁶⁹. The Group of States against Corruption of the Council of Europe (GRECO) has raised concerns on the limited investigation and prosecution powers of this process⁷⁰, which could generate difficulties in the context of high-level corruption cases.

The Code of Conduct for civil servants and top executive functions which consolidates existing guidelines, has been published on 7 May 2021⁷¹. Until now, the ethical framework for public officials had been unconsolidated and spread among several acts⁷². The Code of Conduct unifies rules on values, general duties, secondary occupations, gifts and benefits and is binding for all civil servants, including top executives but excluding Ministers⁷³. The Ministry of Finance has also updated on 1 May 2021 the guidance document on hospitality, benefits and gifts received by civil servants⁷⁴. In autumn 2020, Ministers were provided with guidance on gifts and their registration⁷⁵.

⁶⁴ Information received in the context of the country visit to Finland.

⁶⁵ OECD (2020), Bribery and corruption news, OECD recognises Finland's commitment to combat corruption, but is concerned about lack of foreign bribery enforcement (20 October 2020).

⁶⁶ OECD, Implementing the OECD anti-bribery convention. Phase 4 written follow-up report by Finland (2020), pp. 5-7; Information received in the context of the country visit.

⁶⁷ Ministry of Economic Affairs and Employment (2020), Anti-corruption Guide for SMEs.

⁶⁸ Ministerial responsibility is regulated under the Constitution, including provisions on outside duties and interests declaration and disqualification, and under the Administrative Procedure Act where conflicts of interest provisions apply.

⁶⁹ Input from Finland for the 2021 Rule of Law Report, p. 20.

⁷⁰ GRECO Fifth Evaluation Round – Compliance Report, para. 39.

⁷¹ Finnish Government (2021), Code of conduct for officials (*Virkamieseettinen toimintaohje*); the preparation of the Code of Conduct has been reported on in the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 6.

⁷² The Act on Public Officials in Central Government; The Administrative Procedure Act; The Act on the Openness of Government Activities; The Criminal Code of Finland.

⁷³ Finnish Government (2021), Code of conduct for officials (*Virkamieseettinen toimintaohje*); see also the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 6.

⁷⁴ Ministry of Finance (2021), On hospitality, benefits and gifts (*Vieraanvaraisuudesta, eduista ja lahjoista*).

⁷⁵ Input from Finland for the 2021 Rule of Law Report, p. 17.

Lobbying remains unregulated in Finland and legislation on a transparency register is being prepared⁷⁶. The Ministry of Justice has recently published a report examining lobbying practices in Finland⁷⁷. The report identifies lobbying as a widespread practice which often remains in the dark. A dedicated parliamentary working group continues the work on legislation on a transparency register⁷⁸ with the aim to improve the decision-making process and to boost public trust. As a first step, it is envisaged to impose an obligation to register on lobbyists that influence decisions at the central government level, excluding local and regional governments, although the scope might later be extended⁷⁹. The act on the transparency register is expected to enter into force in 2023 with the goal to simultaneously introduce an electronic register⁸⁰.

The Government is preparing legislative proposals for stricter regulation of revolving doors. A governmental proposal to extend the cooling-off period from six to 12 months for civil servants is expected to be submitted to the Parliament in autumn 2021⁸¹. As for Ministers, the Government is currently preparing a legislative project on limiting revolving doors to tackle potential conflicts of interests arising after their leaving public office. This proposal was planned to be submitted to the Parliament in spring 2021⁸². The revolving door phenomenon has been widely discussed due to some cases reported in national media. Conflict of interest remains undefined in the legislation, although recommendations have previously been made to establish or enhance a formal system for review of the declarations of Ministers and disclosures of other persons entrusted with top executive functions⁸³.

A parliamentary working group is reviewing legislation on political parties and electoral funding. Political party financing is overseen by the National Audit Office⁸⁴. However, there are concerns that the current rules contain loopholes that would make it possible not to disclose the origin of all financial contributions. A parliamentary working group under the National Democracy Programme is reviewing the development of the electoral, party and party funding legislation and will issue its report in 2021⁸⁵.

The asset disclosure system is under revision. Asset disclosure for senior government officials is regulated in the Act on Public Officials in Central Government⁸⁶. A legislative amendment, which would extend the obligation to declare assets also to special advisers to Ministers, is expected to be submitted to the Parliament in the course of 2021⁸⁷. Amendments

⁷⁶ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 7-8.

⁷⁷ Hirvola, Aino, Mikkonen, Salla, Skippari, Mika and Tiensuu, Paul (2021), Towards more open lobbying: Current state of lobbying in Finland at central government level (*Oikeusministeriön julkaisuja, Selvityksiä ja ohjeita 2021*), p.6.

⁷⁸ Ministry of Justice (2019), Gateway to Information on Government Projects (Transparency Register).

⁷⁹ Input from Finland for the 2021 Rule of Law Report, p. 17.

⁸⁰ Input from Finland for the 2021 Rule of Law Report, p. 17.

⁸¹ Ministry of Justice, information on the proposal to amend the Civil servants act, <https://www.lausuntopalvelu.fi/FI/Proposal/Participation?proposalId=797974c6-56bd-400f-b08d-be3a835b47ca>.

⁸² Input from Finland for the 2021 Rule of Law Report, p. 16.

⁸³ GRECO Fifth Evaluation Round - Evaluation Report, recommendation iii); 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 8.

⁸⁴ National Audit Office, Oversight of Election Campaign and Political Party Financing.

⁸⁵ Input from Finland for the 2021 Rule of Law Report, p. 17.

⁸⁶ Act on Public Officials in Central Government 750/1994, Art. 8 a.; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 8.

⁸⁷ Input from Finland for the 2021 Rule of Law Report, p. 17.

are also envisaged for civil servants to limit their discretion as to the information to be included in their declaration of interests and the extent to which information must be considered relevant for assessing their capacity to perform duties independently⁸⁸.

Legislation on protection of whistleblowers is under preparation. There is no general legislation on whistleblower protection and cases of reported breaches of law have been addressed via specific legislation, such as labour law and criminal law. Finland is currently preparing new legislation on the protection of whistleblowers to implement nationally the EU directive on the protection of persons who report breaches of Union law⁸⁹. The entry into force is expected in mid-December 2021. Meanwhile, the Ministry of Finance has appointed a working group in March 2021⁹⁰ to prepare a technical reporting channel for irregularities to Government organisations, which relates to the implementation of the EU directive on the protection of persons who report breaches of Union law.

Anti-corruption legislation and other measures have been applied as usual during the COVID-19 pandemic. The National Bureau of Investigation is following and analysing the impact on corruption of the COVID-19 pandemic. Whereas, in general, corruption is not seen as a major issue in the Finnish health sector, the responsible authorities are aware of the increased risk level during the COVID-19 pandemic and a strategy is being developed under the leadership of the Ministry of Finance in cooperation with municipalities on better and more sustainable public procurement practices to reduce the risk⁹¹.

III. MEDIA PLURALISM AND MEDIA FREEDOM

In Finland, freedom of expression is protected by the Constitution, guaranteeing also access to public documents. Finland requires media service providers to make publicly accessible information concerning their ownership structure. The tasks and powers of the Finnish Transport and Communications Agency (Traficom), the media regulatory authority, are ensured by law. Legislation has been adopted to transpose the revised Audiovisual Media Services Directive⁹².

The media regulatory authority – the Finnish Transport and Communications Agency (Traficom) – functions independently and effectively, but its economic situation continues to be challenging⁹³. The latest edition of the Media Pluralism Monitor (MPM 2021) assesses the media regulator to be fair and transparent. According to the MPM, risks are only elevated due to the government's partial budgetary control over the agency and its

⁸⁸ Input from Finland for the 2021 Rule of Law Report, p. 17.

⁸⁹ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law. Input from Finland for the 2021 Rule of Law Report, p. 18.

⁹⁰ Ministry of Finance (25 March 2021), A working group established to create a channel for whistleblowers.

⁹¹ Information received in the context of the country visit to Finland from the Ministry of Finance.

⁹² Since its first report in 2002, the Reporters Without Borders' annual World Press Freedom Index has continuously placed Finland among the top five countries, currently occupying the second place globally and the first place among the EU Member States.

⁹³ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 9 and information received from Traficom in the context of the 2021 country visit to Finland. It should be noted in this context that the revised Audiovisual Media Services Directive (AVMSD) requires Member States to 'ensure that national regulatory authorities or bodies have adequate financial and human resources and enforcement powers to carry out their functions effectively and to contribute to the work of ERGA'. Article 30(4) of 2010/13/EU AVMSD, as revised by 2018/1808/EU.

insufficient budget⁹⁴. The authority has communicated potential lay-offs of up to 56 people out of close to 1,000 members of staff⁹⁵. Despite these challenges, Traficom has recently experienced a slight improvement in human resources for its media supervision tasks. In turn, the National Audiovisual Institute, another independent media body with more specialist functions⁹⁶, reports a slight improvement in their resources compared to the previous year and has been able to recruit new personnel.

New legislation has improved transparency of media ownership⁹⁷. As part of the national transposition of the revised Audiovisual Media Services Directive (AVMSD)⁹⁸, new regulations have entered into force in Finland in January 2021⁹⁹, obliging media service providers to make publicly accessible information concerning their ownership structure. Previously, there were no specific rules governing transparency of media ownership, although voluntary disclosure was common, and general publicity rules for limited liability companies were applied to media companies¹⁰⁰. The MPM notes that news media concentration in Finland continues to be very high¹⁰¹.

The Government has issued support grants in an attempt to help the media sector through the COVID-19 crisis. In October 2020, the Government issued a grant of 7.5 million euros aimed at supporting the content production media affected by the COVID-19 pandemic and increasing the supply of diverse journalistic content as well as promoting journalism at local, regional and national levels¹⁰². The grant was awarded to all the media companies that fulfilled the primarily economic criteria including evidence of a decline in advertising sales, but stakeholders point out that certain middle-sized media companies could not fulfil all the eligibility criteria¹⁰³. A working group appointed by the Ministry of Transport and Communications will examine whether a more permanent aid mechanism could be introduced to support journalism in Finland¹⁰⁴.

In response to the Government Programme, the Ministry of Justice is planning to update the Act on the Openness of Government Activities¹⁰⁵. The Government will assess, among other things, whether the Act could apply to data and information in a more general

⁹⁴ 2021 Media Pluralism Monitor, country report for Finland, p. 8.

⁹⁵ YLE (12 May 2021) Traficom irtisanoo enintään 56 henkeä; Besides media, Traficom's areas of expertise include services for motorists, transport system services, digital connections and National Cyber Security Centre Finland.

⁹⁶ Besides classifying audiovisual programmes for the purpose of the protection of minors, the National Audiovisual Institute has a statutory duty (the Act on the National Audiovisual Institute 1434/2007) to promote media education.

⁹⁷ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 9.

⁹⁸ Article 5 of the revised AVMSD.

⁹⁹ Act on Electronic Communications Services 917/2014, Art. 4a; Regional Act (2011: 95) on radio and television activities, Art. 5, as amended by Act of Åland 2020/119.

¹⁰⁰ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 9.

¹⁰¹ 2021 Media Pluralism Monitor, country report for Finland, p. 9.

¹⁰² Government Decree on State Grants for the Promotion of Journalistic Content in 2020 (679/2020) available here: <https://www.finlex.fi/fi/laki/alkup/2020/20200679>; Finnish Transport and Communications Agency Traficom (21 December 2020) (<https://www.traficom.fi/fi/ajankohtaista/journalismin-edistamiseen-myonnetaan-koronatukea-75-miljoonaa-euroa>).

¹⁰³ The Finnish Media Federation (23 December 2020) (<https://www.medialiitto.fi/uutiset/journalismin-edistamiseen-myonnettiin-tukea-236-tiedotusvalineelle/>) and information received in the context of the country visit to Finland.

¹⁰⁴ Input from Finland for the 2021 Rule of Law report, p. 21.

¹⁰⁵ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 10.

sense and whether its scope should be expanded to cover legal entities owned or controlled by the public sector¹⁰⁶. Compliance with the Act will also be strengthened¹⁰⁷. Perception of a trend in recent years towards a stricter interpretation of the rules by some authorities, including police, persists¹⁰⁸. The Ministry of Justice has appointed a working group to gradually assess and clarify until June 2023 the sufficiency of the scope and possible shortcomings of the current legislation and to provide solutions. The assessment will address structural changes as well as digitalisation. The working group will later in 2021 present a proposal on whether there is a need for any urgent changes in the legislation¹⁰⁹. This initiative is generally welcomed by non-governmental organisations. There is also a call for better balancing between the protection of privacy and accessibility of information of public interest¹¹⁰.

Several legal reforms are under preparation to address the harassment of journalists online¹¹¹. The Ministry of Justice has released a Government proposal to change the Criminal Code in order to allow public prosecutors in certain cases to bring charges on the victim's behalf for unlawful threats and targeting. The amendment seeks to address the vulnerable position of freelance journalists and people in a public function and is expected to enter into force in autumn 2021¹¹². To address hate speech directed towards female journalists, the Ministry of Justice has also started to prepare another change in the Criminal Code for gender to be added among the motives that constitute grounds for increasing the punishment for (any) crime¹¹³. These actions appear to be largely welcomed by the journalistic community, particularly when it comes to addressing online threats¹¹⁴. Additionally, the Government is reflecting on the need for strengthening restraining orders, which can protect a person's life, health, liberty or peace by denying someone else's contact with them and prevent possible crimes. The Government is examining whether the current legislative framework sufficiently tackles online hate campaigns and the possibilities to improve the effectiveness of restraining orders and reduce the number of violations¹¹⁵. The Union of Journalists together with media houses and industry associations is running a support fund to assist journalists who have been subjected to threats and other forms of harassment¹¹⁶. No new alerts have been published for

¹⁰⁶ Input from Finland for the 2021 Rule of Law report, pp. 24-25.

¹⁰⁷ Finnish Government (2019), Government manifesto Inclusive and competent Finland – a socially, economically and ecologically sustainable society.

¹⁰⁸ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 10; Information received in the context of the 2021 country visit to Finland from e.g. The Union of Journalists, Finnish Media Federation and the Council for Mass Media.

¹⁰⁹ Information about the legislative process available at <https://oikeusministerio.fi/hanke?tunnus=OM083:00/2020>

¹¹⁰ Ministry of Justice (2020), Summary of opinions on the enlarging of scope of the Act on the Openness of Government Activities, (*Julkisuuslain soveltamisan laajentaminen – lausunnotiivistelmä*), p.13; Information received in the context of the country visit.

¹¹¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 9; Input from Finland for the 2021 Rule of Law report, pp. 24-25.

¹¹² More information about the amendment is available at [HE 226/2020 vp \(eduskunta.fi\)](https://oikeusministerio.fi/hanke?tunnus=OM045:00/2019) and <https://oikeusministerio.fi/hanke?tunnus=OM045:00/2019>.

¹¹³ More information about the amendment is available at [HE 7/2021 vp \(eduskunta.fi\)](https://oikeusministerio.fi/hanke?tunnus=OM024:00/2019) and <https://oikeusministerio.fi/hanke?tunnus=OM024:00/2019>.

¹¹⁴ Responses to the public consultation of the Ministry of Justice on the initiatives (see footnotes 112 and 113) and information received in the context of the country visit to Finland.

¹¹⁵ Finnish Government (2020), Report of the Government-appointed rapporteur on hate campaigns, Systematic harassment and targeting: an assessment of the legislation. More information about the working group on restraining order is available at <https://oikeusministerio.fi/hanke?tunnus=OM015:00/2020>.

¹¹⁶ The Union of Journalists in Finland (3 December 2019), Journalists' Support Fund launched.

Finland in the Council of Europe's platform to promote the protection of journalism and safety of journalists since the 2020 Rule of Law Report¹¹⁷, but the MPM 2021 reports that journalists are increasingly harassed online, mostly in the form of threats and smear campaigns and particularly female journalists experience gender-based verbal abuse and threats of sexualised violence¹¹⁸.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Finland is a unicameral, parliamentary democracy, in which legislative proposals may emanate from Government or Parliament (although in practice most laws are based on Government proposals). In the absence of a Constitutional Court, *ex ante* constitutionality review is carried out by the Chancellor of Justice, who is attached to the Government, and the Constitutional Law Committee, a parliamentary committee¹¹⁹ that assesses the constitutionality of proposals submitted to Parliament. Moreover, all courts can carry out *ex post* constitutionality review in concrete cases¹²⁰. The Chancellor of Justice, the Human Rights Centre and the Parliamentary Ombudsman play an important role in the system of checks and balances.

A 2020 Action Plan on Better Regulation aims at improving the quality, planning and transparency of legislation. In August 2020, the Government adopted an Action Plan on Better Regulation to further improve the quality and transparency of the legislative drafting process¹²¹. The plan envisages activities to enhance the systematic planning of legislation, further development of transparency and stakeholder consultation, development of impact assessments and systematic approach to *ex post* evaluation and enhancing the benefits of technology and digitalisation in the legislative process. The Action Plan is supported by an Implementation Plan¹²².

The use of emergency powers and other measures in the context of the COVID-19 pandemic has consistently been subject to *ex ante* constitutional review¹²³. The exercise of emergency powers is allowed only under a state of emergency, which may be declared by the Government jointly with the President. The adoption of emergency measures follows several stages and it is subject to approval by the Parliament and constitutionality review by the Chancellor of Justice and the Constitutional Law Committee¹²⁴. The use of emergency powers is conditioned by several requirements, such as necessity and proportionality, and

¹¹⁷ Council of Europe's platform to promote the protection of journalism and safety of journalists.

¹¹⁸ 2021 Media Pluralism Monitor, country report for Finland, p. 15.

¹¹⁹ The committee is made up of members of Parliament and regularly hears independent experts on constitutional law.

¹²⁰ According to Section 106 of the Constitution if in a case before a court, the application of an act would be in evident conflict with the Constitution, the court of law shall give primacy to the Constitution.

¹²¹ Action Plan on Better Regulation.

¹²² Available at https://api.hankeikkuna.fi/asiakirjat/6319b68b-eb2a-4cf2-a88d-fdcf6b6773dd/4674d456-c494-48b3-b693-0b419e224882/LIITE_20200818131744.pdf.

¹²³ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 11-12.

¹²⁴ The measure shall be adopted in a two stage procedure, whereby the Government first adopts an enforcement decree which identifies the powers to be invoked and which must be issued for a limited period of time, up to 6 months. The Chancellor of Justice conducts a constitutionality review of the decree. The decree is then submitted to the Parliament for its approval or repeal, subject to scrutiny by several Parliamentary committees, including the Constitutional Law Committee, whose opinion is binding. If the decree is approved, the Government may pass an implementation decree, which specifies how the powers will be applied. The implementation decree is also reviewed by the Chancellor of Justice and submitted to the Parliament for its approval or rejection.

must be time limited. Following the application of the emergency powers between 16 March and 16 June 2020¹²⁵, a state of emergency was once again declared between 1 March 2021 and 27 April 2021¹²⁶. The majority of measures taken in the context of the COVID-19 pandemic were based on ordinary legislation¹²⁷. The Chancellor of Justice noted that in general the principles of rule of law have been well respected, although some issues were detected, such as overly broad application of ordinary legislation and insufficient reasoning of emergency measures on some occasions¹²⁸. The Constitutional Law Committee has drawn attention to the need for a thorough review of the regulation of state of emergency after the end of the current exceptional circumstances¹²⁹.

A law to clarify the division of powers between the Chancellor of Justice and the Parliamentary Ombudsperson is expected to be submitted to the Parliament¹³⁰. The Chancellor of Justice and the Parliamentary Ombudsperson are the two independent guardians of legality and fundamental rights provided for in the Finnish Constitution. They perform similar and concurrent tasks to oversee the activities of public authorities and monitor respect for the principles of legality and rule of law in the exercise of public authority by the Government, public institutions and courts¹³¹, although some specialisation exists in practice¹³². A reform was launched in 2018, with the aim of reducing overlaps in the institutions' tasks and enabling their further specialisation. The COVID-19 pandemic has delayed the adoption of the reform, which is expected to be submitted to the Parliament in autumn 2021¹³³. The reform has been actively promoted by both the Parliamentary Ombudsperson and the Chancellor of Justice also in view of an expected improved efficiency in the handling of their tasks. In the context of the COVID-19 pandemic, there has been a significant increase in workload, as it triggered a number of complaints against measures adopted by the authorities addressed to both institutions and required the Chancellor of Justice to conduct prior legality review of COVID-19 pandemic related legislation¹³⁴.

The new Advisory Board for Civil Society Policy, which plays an important role for the civil space, will be elected in autumn. The civil society space in Finland is considered to be open¹³⁵. In addition to formal consultations on new legislation, there is a long tradition of participation of civil society organisations in the preparation of government policies, although the level of their involvement varies with governmental institutions¹³⁶. One of the

¹²⁵ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 11.

¹²⁶ Governmental decisions VNK/2021/21 of 1 March 2021 and VNK/2021/48 of 27 April 2021.

¹²⁷ Information received in the context of the country visit to Finland. A number of amendments to the legislation were adopted according to the ordinary legislative procedure with certain modifications, such as shorter consultation process. They were in force for a determined period of time, typically until the end of June or December and they were extended or reissued as the COVID-19 pandemic persisted.

¹²⁸ Information received in the context of the country visit to Finland.

¹²⁹ Information received in the context of the country visit to Finland.

¹³⁰ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Finland, p. 12.

¹³¹ Both authorities can bring charges against a judge for unlawful conduct in office.

¹³² The Chancellor of Justice is appointed by the President of the Republic and has particular responsibilities overseeing the activities of the Government. The Ombudsman is elected by the Parliament and has a wide remit in following up on complaints from citizens. Additionally, the Chancellor of Justice ensures prior legality review of draft legislation to be submitted to Parliament.

¹³³ Information received in the context of the country visit.

¹³⁴ Contribution from the Chancellor of Justice for the 2021 Rule of Law Report; information received in the context of the country visit to Finland.

¹³⁵ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹³⁶ Information received in the context of the country visit to Finland.

mechanisms to involve civil society in the decision-making process is the Advisory Board for Civil Society Policy, a platform tasked to promote interaction between public authorities and civil society and improve the framework for civil society. The Board is composed of representatives of civil society organisations¹³⁷ and of several governmental authorities. The Board gives recommendations regarding civil society policy, which, in its view, are duly considered by the authorities¹³⁸. The term of office of the previous Board ended in February 2021, with a new Board set to be elected in autumn of 2021. The previous Board has focused on two main areas, namely strengthening the autonomy of civil society organisations, and the impact of globalisation on the civil society organisations.

¹³⁷ The aim is to represent as wide a range of civil society organisations as possible.

¹³⁸ Information received in the context of the country visit to Finland.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at (<https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>).

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Annex II: Country visit to Finland

The Commission services held virtual meetings in March 2021 with:

- Anti-corruption Cooperation Network
- Chair of the former Advisory Board for Civil Society Policy
- Chancellor of Justice
- Council for Mass Media in Finland
- Financial Intelligence Unit
- Finnish Association of Judges
- Finnish Bar Association
- Finnish Media Association
- Judicial Training Board
- Ministry of Economic Affairs and Employment
- Ministry of Finance
- Ministry of Justice
- Ministry of Transport and Communications
- Ministry of Social Affairs and Health
- National Audiovisual Institute
- National Bureau of Investigation
- National Courts Administration
- National Prosecution Authority
- Parliamentary Ombudsman
- Prime Minister's Office
- Supreme Court
- Traficom
- Transparency International Finland
- Union of Finnish Journalists

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe

- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU