



# Legal basis of the National Child Strategy

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# Legal basis of the National Child Strategy

Esa Iivonen, Kirsi Pollari

Ministry of Social Affairs and Health Helsinki 2022

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### Abstract

This report describes the legal basis of the forthcoming National Child Strategy.

The preparatory work for the National Child Strategy was started in summer 2018 and completed in 2019. The results of the preparatory work were published in the Government publications 2019:4 and 2019:7. The first one describes the Child's Time scenario where the aim is to achieve a child-, young person- and family-friendly Finland. The latter contains the summaries of the opinions given by researchers.

This report examines the legal basis of the Child Strategy and outlines how the objectives of the scenario are linked to fundamental and human rights obligations both at national and international levels.

The report consists of an introduction and five chapters that lay down the legal basis for the Child Strategy. The themes of the chapters are (1) the legal and social context of the Child Strategy, (2) fundamental and human rights obligations as a basis for the Strategy, (3) recommendations issued to Finland by monitoring bodies for human rights treaties, (4) links between the Strategy and the National Youth Work and Youth Policy Programme, and (5) examples of child strategies.

The gathered information will be used when working on the Child Strategy. Next the work will focus on drawing up the actual Child Strategy and preparing a related implementation plan for the present government term. The work will continue with the parliamentary committee and secretariat set up for the preparation of the Strategy and in collaboration with stakeholders and civil society.

**Keywords** Child Strategy, rights of the child, fundamental rights, human rights, Convention on the Rights of the Child, Council of Europe, UN

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## Kansallisen lapsistrategian oikeudellinen perusta

### Sosiaali- ja terveysministeriön raportteja ja muistioita 2022:18

**Julkaisija** Sosiaali- ja terveysministeriö

**Tekijä/t** Esa Iivonen, Kirsi Pollari  
**Kieli** englanti

**Sivumäärä** 131

#### Tiivistelmä

Tämä selvitys kuvaa tulevan kansallisen lapsistrategian oikeudellista perustaa.

Kansallista lapsistrategiaa pohjustava työ alkoi kesällä 2018, ja se saatiin päätökseen vuonna 2019. Pohjustavan työn tulokset julkaistiin Valtioneuvoston julkaisuissa 2019:4 ja 2019:7, joista yhteen on koottu tutkijoiden lausuntotiivistelmät ja toisessa esitellään Lapsen aika -skenaario tavoitteenaan lapsi-, nuori- ja perhemyönteinen Suomi.

Tässä selvityksessä kartoitetaan lapsistrategian oikeudellisia lähtökohtia ja hahmotellaan, miten skenaarion tavoitteet kytkeytyvät kansainvälisiin ja kansallisiin perus- ja ihmisoikeusvelvoitteisiin.

Selvitys koostuu johdannosta sekä viidestä asialuvusta, jotka rakentavat lapsistrategian oikeudellista perustaa. Lukujen aiheina ovat (1) lapsistrategian oikeudellinen ja yhteiskunnallinen konteksti, (2) perus- ja ihmisoikeusvelvoitteet strategian pohjana, (3) ihmisoikeuksien valvontaelinten suosituksia Suomelle, (4) strategian yhtymäkohdat Valtakunnalliseen nuorisotyön ja -politiikan ohjelmaan sekä (5) esimerkkejä lapsistrategioista.

Koottua tietoa hyödynnetään lapsistrategiatyössä, joka jatkuu varsinaisen lapsistrategian laatimisella sekä nykyisen hallituskauden toimeenpanosuunnitelman valmistelulla. Työ jatkuu parlamentaarisen komitean ja sihteeristön kanssa sekä yhteydessä sidosryhmiin ja kansalaisyhteiskuntaan.

**Asiasanat** lapsistrategia, lapsen oikeudet, perusoikeudet, ihmisoikeudet, lapsen oikeuksien sopimus, YK, Euroopan neuvosto

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## Den rättsliga grunden i den nationella barnstrategin

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### Social- och hälsovårdsministeriets rapporter och promemorior 2022:18

**Utgivare** Social- och hälsovårdsministeriet

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**Författare** Esa Iivonen, Kirsi Pollari

**Språk** engelska

**Sidantal**

131

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#### Referat

I utredningen beskrivs den rättsliga grunden för den nya nationella barnstrategin.

Arbetet med grunden för den nationella barnstrategin inleddes sommaren 2018, och 2019 blev den färdig. Resultaten publicerades i statsrådets publikationer 2019:4 och 2019:7, av vilka den ena innehåller forskarnas utlåtanden och den andra en presentation av scenariot Barnets tid där målet var ett barn-, ungdoms- och familjevänligt Finland.

I denna utredning kartlägger man de rättsliga utgångspunkterna för barnstrategin och beskriver hur målen för scenariot hänför sig till de internationella och nationella förpliktelserna i fråga om de grundläggande och mänskliga rättigheterna.

Utredningen innehåller en inledning och fem tematiska kapitel som beskriver den rättsliga grunden för barnstrategin. Kapitlens teman är (1) den rättsliga och samhälleliga kontexten för barnstrategin, (2) förpliktelserna i fråga om de grundläggande och mänskliga rättigheterna som grund för strategin, (3) rekommendationer för Finland från tillsynsorgan för mänskliga rättigheter, (4) strategins anknytning till det riksomfattande programmet för ungdomsarbete och ungdomspolitik och (5) exempel på barnstrategier.

Utredningens resultat kan utnyttjas i barnstrategiarbetet, som fortsätter med utarbetandet av själva strategin och beredningen av genomförandeplanen för den här regeringsperioden. Det fortsatta arbetet sker i samarbete med den parlamentariska kommittén och dess sekretariat samt med intressegrupperna och civilsamhället.

**Nyckelord** barnstrategin, barns rättigheter, grundläggande fri- och rättigheter, mänskliga rättigheter, konventionen om barnets rättigheter, FN, Europarådet

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# Contents

To the reader .....	11
<b>1 Introduction</b> .....	12
1.1 Towards a child rights-based national strategy for children .....	12
1.1.1 Background for the child rights-based National Child Strategy .....	12
1.1.2 The UN Committee on the Rights of the Child calling for a rights-based child strategy .....	13
1.1.3 Human rights and fundamental rights impose an obligation to take active measures .....	15
1.2 Contents of the publication .....	16
1.3 Status of the National Child Strategy in society .....	18
1.4 Proposals to build on the groundwork for the National Child Strategy .....	20
<b>2 Legal and social contexts of the National Child Strategy</b> .....	23
2.1 Preface .....	23
2.1.1 Basis of the National Child Strategy .....	23
2.1.2 The National Child Strategy as an instrument for implementing the rights .....	23
2.1.3 Two-tiered strategy approach .....	25
2.2 The National Child Strategy in the Government Programme .....	26
2.3 Groundwork for strategy preparation .....	28
2.3.1 The Child's Time report – towards a National Strategy for Children 2040 .....	28
2.3.2 Report of the research working group for the Child's Time report .....	29
2.4 Child policy coordination and a national strategy based on the Convention on the Rights of the Child .....	29
2.5 Ensuring fulfilment of child rights at all levels of government .....	30
2.6 Ensuring fulfilment of child rights in private sector operations .....	31
2.7 Collecting and analysing data on the realisation of children's wellbeing and rights .....	32
2.8 Child impact assessment .....	35
2.9 Child budgeting – tracking the budget from the child rights perspective .....	38
2.10 Training on children's rights .....	40
2.11 Cooperation with civil society .....	41
2.12 Conditions for restricting fundamental and human rights and fundamental and human rights under emergency conditions .....	42
2.12.1 Conditions for restricting fundamental and human rights .....	42
2.12.2 Fundamental and human rights under emergency conditions .....	43

<b>3</b>	<b>Fundamental and human rights provisions of special consideration in the National Child Strategy</b> .....	<b>45</b>
3.1	Preface .....	45
3.1.1	Convention on the Rights of the Child as the basis for the National Child Strategy.....	45
3.1.2	Fundamental and human rights.....	46
3.1.3	Contents and purpose of the chapter .....	49
3.2	Core fundamental and human rights provisions relevant to child rights .....	50
3.2.1	General measures of implementation of fundamental and human rights.....	50
3.2.2	Definition of ‘child’ .....	52
3.2.3	General principles of child rights.....	52
3.2.3.1	Non-discrimination .....	52
3.2.3.2	Primacy of the best interests of the child.....	55
3.2.3.3	The child’s right to special protection .....	55
3.2.3.4	Right to life, survival and development .....	56
3.2.3.5	The child’s right to be heard and participation in the community and society .....	56
3.2.4	Civil rights and liberties .....	57
3.2.4.1	Birth registration, name, nationality and right to know and be cared for by parents .....	57
3.2.4.2	Preservation of identity .....	58
3.2.4.3	Right to seek, receive and impart information and ideas (freedom of expression) .	58
3.2.4.4	Freedom of thought, conscience and religion .....	59
3.2.4.5	Freedom of association and assembly.....	60
3.2.4.6	Protection of privacy, honour and reputation .....	60
3.2.4.7	Right to receive information through the media and right to protection from injurious information and material.....	60
3.2.5	Family environment and alternative care .....	61
3.2.5.1	Parents’ right and duty to support their children’s evolving capacities.....	61
3.2.5.2	Separation of the child from parents.....	61
3.2.5.3	Reunification of family members residing in different states.....	61
3.2.5.4	Illicit transfer and non-return of children abroad .....	62
3.2.5.5	Parents’ common responsibilities, support for families and parents, and protection of working parents.....	62
3.2.5.6	Children deprived of their family environment .....	63
3.2.5.7	Adoption .....	63
3.2.5.8	The child’s right to review of treatment and placement.....	64
3.2.5.9	The child’s right to maintenance.....	64
3.2.6	Disability, healthcare and social security .....	64
3.2.6.1	The right of a child with disabilities to live in conditions which ensure dignity, promote self-reliance and facilitate active participation.....	64
3.2.6.2	Right to life, survival and development .....	65
3.2.6.3	The child’s right to health and health services.....	65
3.2.6.4	The child’s right to benefit from social security and childcare services.....	66
3.2.6.5	The child’s right to an adequate standard of living, including housing.....	67
3.2.6.6	Protecting children from drugs .....	67



3.2.7	Education, leisure and cultural activities .....	68
3.2.7.1	The child's right to receive education and training.....	68
3.2.7.2	Aims of the child's education .....	69
3.2.7.3	Minority or indigenous children's right to their own culture, religion and language .....	70
3.2.7.4	Right to rest, leisure, play, recreational activities and cultural life .....	71
3.2.8	Violence against children .....	72
3.2.8.1	Right to protection against all forms of violence and maltreatment .....	72
3.2.8.2	Promoting recovery and social integration of child victims.....	73
3.2.8.3	Abolishing traditional practices prejudicial to children's health .....	74
3.2.8.4	Right to protection from torture and cruel, inhuman or degrading treatment or punishment.....	74
3.2.8.5	Protecting the child from all forms of sexual exploitation and sexual abuse.....	75
3.2.9	Special protection measures.....	75
3.2.9.1	Asylum-seeking and refugee children.....	75
3.2.9.2	Minority or indigenous children's right to their own culture, religion and language .....	76
3.2.9.3	The child's right to protection from economic exploitation and child labour and protection of young workers .....	77
3.2.9.4	Protecting children from drugs .....	77
3.2.9.5	Protecting the child from all forms of sexual exploitation and sexual abuse.....	77
3.2.9.6	Preventing abduction and sale of and trafficking in children.....	77
3.2.9.7	Protecting the child against all other forms of exploitation .....	78
3.2.9.8	Right to protection from torture and cruel, inhuman or degrading treatment or punishment.....	78
3.2.9.9	Prohibition of capital punishment.....	78
3.2.9.10	Conditions for depriving a child from liberty and due process rights.....	78
3.2.9.11	Protecting children from armed conflicts.....	79
3.2.9.12	Promoting recovery and social integration of child victims.....	79
3.2.9.13	Rights of a child suspected, accused or convicted of a crime and establishing a minimum age for criminal liability.....	79
3.2.10	Other fundamental and human rights.....	80
3.2.10.1	Due process and good governance.....	80
3.2.10.2	Right to a healthy environment.....	83
3.2.10.3	Prohibition of slavery.....	83
3.2.10.4	Freedom of movement .....	83
3.2.10.5	Right to choose one's residence (for a child by the legal guardian).....	84
3.2.10.6	Prohibition of expulsion of nationals.....	84
3.2.10.7	Prohibition of collective expulsion of aliens, remedies for expulsion of aliens and grounds for expulsion of aliens or refugees .....	84
3.2.10.8	Protection of property.....	85
3.2.10.9	Children of migrant workers.....	85
3.2.10.10	Protecting child rights in business.....	85
3.2.10.11	Protection from enforced disappearance .....	86

<b>4</b>	<b>Recommendations issued to Finland by human rights treaty monitoring bodies</b>	<b>87</b>
4.1	Monitoring the implementation of human rights treaties .....	87
4.2	Recommendations for Finland and realisation of child rights .....	90
4.2.1	Child affairs coordination, child strategy, data collection and child rights training .....	90
4.2.2	Actively applying the primacy of the child's best interests and child impact assessment.....	91
4.2.3	Combating discrimination and inequality from the perspective of children and child groups..	91
4.2.4	Protecting the rights of vulnerable children.....	91
4.2.5	Promoting children's consultation, participation and opportunities for involvement .....	93
4.2.6	Supporting children's relationships with family members and peers .....	93
4.2.7	Provision of early childhood education and care, education and training to meet children's individual needs .....	93
4.2.8	Providing health and social services to meet the needs of children and families .....	94
4.2.9	Ensuring adequate standard of living and social security for families with children and reconciling work and family life.....	95
4.2.10	Protecting children against all forms of violence .....	96
4.2.11	Arranging children's leisure interests and other leisure activities .....	96
<b>5</b>	<b>The role of the National Youth Work and Youth Policy Programme for 2020–2023 in implementing children's and young people's fundamental and human rights.....</b>	<b>98</b>
5.1	Preface – Linkage between the Child Strategy and the National Youth Work and Youth Policy Programme (VANUPO).....	98
5.2	Young people will have the preconditions for smoothly running daily lives – social exclusion will be reduced .....	100
5.2.1	The Youth Guarantee will secure young people's access to education and employment .....	101
5.2.2	Young people's needs, services and benefits will be identified and taken into consideration in the overhaul of social security.....	102
5.2.3	Young people's mental health will be supported .....	103
5.2.4	After-care for young people who have been clients of child welfare services will be developed to ensure sufficient and appropriate support on their journey to adulthood .....	104
5.2.5	Multi-professional cooperation and especially youth work will be strengthened in general education and vocational education and training .....	105
5.2.6	Young people's capabilities for independent living will improve and the incidence of youth homelessness will decrease.....	106
5.2.7	Young people have an opportunity to participate in a hobby they enjoy.....	107
5.2.8	Getting a grip on finances through proactive financial guidance.....	107
5.3	Young people will have the means and skills for participation and exerting influence .....	108
5.3.1	Tools that will facilitate young people's civic participation will be developed .....	108
5.3.2	Democracy and human rights education at schools and educational institutions will be enhanced .....	109
5.3.3	Young people's voices will be heard in the climate change debate.....	109

5.4	Young people will trust in society – non-discrimination and security will be strengthened.....	110
5.4.1	Improving young people’s interpersonal and interaction skills and intervening in bullying....	110
5.4.2	Discriminatory structures will be identified, and young people’s ability to take action in situations in which they experience discrimination will be increased .....	111
5.4.3	Multi-professional cooperation aiming to improve the wellbeing of young people who engage in criminal activity as a symptom of their problems and to prevent juvenile delinquency will be strengthened .....	112
5.4.4	Coordinating ways to prevent child and youth grooming on social media .....	113
<b>6</b>	<b>International examples of child strategies</b> .....	<b>114</b>
6.1	Child strategies of the Council of Europe and the European Union .....	114
6.1.1	The five priority areas of the Council of Europe Strategy for the Rights of the Child (2016–2021).....	115
6.1.2	EU Recommendation entitled ‘Investing in children: breaking the cycle of disadvantage’.....	115
6.1.3	The European Union Child Guarantee.....	116
6.2	Examples of European countries’ child strategies collected for the Child’s Time report.....	117
6.3	Isla’s child strategy survey (Sweden, Scotland and New Zealand).....	120
6.6	Conclusion.....	123
<b>7</b>	<b>References and literature</b> .....	<b>124</b>
<b>8</b>	<b>Abbreviations</b> .....	<b>128</b>

## TO THE READER

I am writing this preface in April 2020, in the midst of the COVID-19 pandemic that has shaken society. The pandemic and the measures it has required have highlighted the need for a strategy for children and how essential it is to take the rights of children and young people into account broadly and comprehensively in legal and social decision-making processes.

The National Child Strategy is a far-reaching project with a concrete impact on the realisation of the rights of children and young people in Finland. This work needs to be built on a solid foundation of fundamental rights and international human rights obligations as well as our country's strong principle of the rule of law. This is the core of this study, which provides a carefully curated compilation of existing knowledge about child rights as a basis for the strategy.

The study was drawn up on the Ministry's commission by Esa Iivonen from the Mannerheim League for Child Welfare and Kirsi Pollari from the Central Union for Child Welfare. As part of the drafting process, they consulted with several other fundamental and human rights experts. On behalf of the authors and myself, I would like to extend our heartfelt thanks to everyone who contributed their expertise.

I have the honour and pleasure to be involved in building the strategy on this basis in cooperation with the Parliamentary Committee and its Secretariat and wide network of partners.

Helsinki, 30 April 2020

Johanna Laisaari  
Secretary General for the National Child Strategy

# 1 Introduction

## 1.1 Towards a child rights-based national strategy for children

### 1.1.1 Background for the child rights-based National Child Strategy

The National Child Strategy is an instrument for promoting children's rights and wellbeing. The UN Committee on the Rights of the Child, which oversees and promotes implementation of the Convention on the Rights of the Child, has recommended that Finland develop a comprehensive national policy and plan of action (= child strategy) to implement the Convention.<sup>1</sup>

Prime Minister Sanna Marin's Government Programme includes a commitment to preparing a national strategy for children based on the UN Convention on the Rights of the Child. To respond to a number of challenges, the Government appointed a parliamentary committee on 5 March 2020 to prepare the national strategy based on the Convention. According to the Government Programme, the National Child Strategy will strengthen child rights-based governance and decision-making. The strategy will enable the creation of a comprehensive, consistent and goal-oriented policy to protect and promote the wellbeing and rights of children and young people.

As a result of the 2018 report of the Ombudsman for Children to Parliament (K 5/2018 vp), Parliament adopted a position in keeping with a report by the Social Affairs and Health Committee, in which *Parliament calls on the government to draw up a national strategy for children* (EK 34/2018 vp). In its report on the Ombudsman's report (StVM 28/2018 vp – K 5/2018 vp), the Social Affairs and Health Committee stressed that supporting the wellbeing and growth of children and young people calls for *a broad and comprehensive vision and policy*. The Education and Culture Committee, in turn, underlined in its statement (SiVL 3/2018 vp – K 5/2018 vp) that the strategy to be drawn up would need to be based on *a national strategic intent to systematically implement the Convention on the Rights of the Child and apply the child's best interests as the primary consideration*.

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<sup>1</sup> UN Committee on the Rights of the Child concluding observations for Finland (2011). CRC/C/FIN/CO/4, paragraph 13.

In the spring of 2018, then-Prime Minister Juha Sipilä's Government launched preparations of a national strategy for children for the next Government. This groundwork for the preparatory work on the National Child Strategy<sup>2</sup> (the Child's Time 2040 report and a supplementary research working group report) is utilised in the process of drafting the strategy.

Groundwork for the actual preparatory work on the National Child Strategy started in late 2019. This publication is part of the strategy groundwork. The publication was commissioned by the Ministry of Social Affairs and Health and written by Chief Specialist Esa Iivonen from the Mannerheim League for Child Welfare and Senior Specialist Kirsi Pollari from the Central Union for Child Welfare.

### 1.1.2 The UN Committee on the Rights of the Child calling for a rights-based child strategy

The *UN Convention on the Rights of the Child* (CRC) is a human rights treaty in force in Finland as an Act of Parliament (Finnish Treaty Series 59–60/1991). Article 4 of the Convention requires States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention. The UN Committee on the Rights of the Child, which oversees implementation of the Convention, has published a general comment<sup>3</sup> – i.e. interpretative guidance – on the general measures of its implementation.

In its general comment, the Committee stresses that, in order to promote the rights of the child, a State Party *needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention*. In order to guarantee the strategy's impact, it will need to be endorsed at the highest level of government, linked to national planning and included in national budgeting.

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2 Ministry of Education and Culture & Ministry of Social Affairs and Health 2019. Finnish Government publication series 2019:4. Available in Finnish at: <http://urn.fi/URN:ISBN:978-952-287-698-0>. English summary available at: <https://minedu.fi/documents/1410845/12685437/Summary+Child%E2%80%99s+Time++Towards+a+National+Strategy+for+Children+2040>. Finnish Government publication series 2019:9. Available in English at: <http://urn.fi/URN:ISBN:978-952-287-703-1>.

3 Committee on the Rights of the Child, general comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), CRC/GC/2003/5.

In its concluding observations for Finland, the Committee on the Rights of the Child calls on Finland to establish an effective mechanism for coordinating the implementation of policies on child rights between all the relevant bodies and institutions at all levels<sup>4</sup>. The Committee advises that the mechanism is to be provided with the necessary resources to implement policies on child rights.

The Committee stresses that the strategy must not be simply a list of good intentions; it must include *a description of a sustainable process for realising the rights of children*. To effectively implement and monitor progress in the enjoyment of all rights by all children, *the child strategy should contain specific time-bound and measurable goals and targets*. Furthermore, the strategy should be *linked to sectoral, municipal and regional strategies and budgets* to ensure adequate resources required for its implementation.

The national strategy may be elaborated in sectoral national plans of action or strategies for education and health, for example. These sectoral strategies should set out specific goals, targeted measures for implementation and allocation of resources required for their implementation. The child strategy will *need to give particular attention to identifying vulnerable groups of children* and to implementing their rights.

According to the Committee on the Rights of the Child, effective implementation of the Convention on the Rights of the Child requires *effective coordination* between ministries, between regional and local levels, between central and other levels of government, and between central government and civil society. In this context, special attention should be paid to children and young people as members of civil society.

The Committee has stressed that there are many formal and informal ways of achieving effective coordination, including inter-ministerial and interdepartmental cooperation bodies for children, for example. Many states have also *developed a specific unit to coordinate* the implementation of the Convention and children's policy. In addition, such a unit can also operate so as to contribute to the overall purpose of making children more visible in government. The Committee suggests that such a unit be given responsibility for developing the comprehensive children's strategy and overseeing its implementation. The unit should furthermore coordinate the State Party's periodic reporting to the Committee on the Rights of the Child. Such a unit plays a significant role in many countries because, as recommended by the Committee, full implementation of the Convention on the Rights of the Child requires continuous review and regular updating of the strategy.

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4 UN Committee on the Rights of the Child concluding observations for Finland (2011). CRC/C/FIN/CO/4, paragraph 11.

### 1.1.3 Human rights and fundamental rights impose an obligation to take active measures

The central government and other public authorities – local authorities, joint municipal authorities, regions and other public bodies – have an *obligation to respect, protect and fulfil fundamental and human rights*. Section 22 of the Constitution of Finland (731/1999), requires the public authorities to ‘guarantee the observance of basic rights and liberties and human rights’. Its section 2, subsection 3, states as follows: ‘The exercise of public powers shall be based on an Act. In all public activity, the law shall be strictly observed.’

#### Human rights impose obligations on the central government and other public authorities

- **Respect:** The state should refrain from violating human rights or from interfering with their enjoyment.
- **Protect:** The state should provide protection against violations of human rights.
- **Ensure/fulfil/promote:** The state is required to take active measures, such as allocating resources to education or social security.

*Fundamental rights* refer to the ‘basic rights and liberties’ guaranteed for everyone in the Constitution of Finland, which are binding on all public bodies. *Human rights* refer to the fundamental rights belonging to everyone, which are enshrined in treaties entailing binding obligations under international law and brought into force within a specific state. These impose legal obligations on the central government and other public authorities. The rights included in the Charter of Fundamental Rights of the European Union are binding on the institutions, bodies, offices and agencies of the Union and on the Member States when they are implementing Union law. Collectively, fundamental and human rights form a complementary system of judicial protection.

The National Child Strategy is an instrument for implementing human rights and fundamental rights for children and families with children. The UN Convention on the Rights of the Child plays a particularly significant role in the National Child Strategy with regard to all children. It should be emphasised that other human rights treaties also guarantee rights that are important for children. These include the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN International Covenant on Civil and Political Rights (ICCPR), the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ‘European Convention on Human Rights’, ECHR), and the revised European Social Charter (ESC). The UN Convention on the Rights of Persons with Disabilities also plays an important role for children with disabilities, as it includes specific provisions concerning the rights of children with disabilities alongside universal rights. Significant human rights treaties for different groups of children



include the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Council of Europe Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (the 'European Language Charter', ECRML).

In order to ensure both durable and dynamic implementation, it is appropriate to execute the Child Strategy as a two-tiered process. The actual National Child Strategy would contain long-term objectives and measures (such as reducing poverty in families with children and general measures). The action plan for the strategy would cover objectives, measures and relevant resources for a government term or similar shorter period (such as concrete objectives and measures to address poverty in families with children and the resources allocated for this purpose). The Child Strategy is also linked to other strategies and plans.

## 1.2 Contents of the publication

This publication consists of this introduction and five complementary chapters, which can also be used separately when drafting both the National Child Strategy and other strategies, programmes and plans. The material can likewise be put to use in legislative drafting, child impact assessment and other decision-making processes and actions concerning children. Since the chapters are intended to be also available for use as independent texts, certain basic points that are essential to the Child Strategy are repeated at the beginning of each chapter. The publication's Chapters 2 to 4 provide compilations of fundamental and human rights obligations and recommendations issued by monitoring bodies for their implementation.

1. The purpose of this introductory chapter is to provide a brief description of the nature and goal of the study and bring together key observations for further work.
2. **Chapter 2 of the publication presents *the legal and social contexts of the National Child Strategy*. It is premised on the general obligations to implement the Convention on the Rights of the Child, which are explained in the chapter in keeping with the UN Committee on the Rights of the Child general comment No. 5. The chapter pays special**

- attention to general comment paragraphs 26–59. Furthermore, the chapter covers the recommendations specifically issued by the Committee to Finland on the implementation of the Convention.
3. **Chapter 3 explores the *fundamental and human rights obligations relevant to the Child Strategy and lays the foundation for a child rights-based approach.* Fundamental and human rights obligations are arranged in the chapter according to the same thematic outline used in the periodic reports on the UN Convention on the Rights of the Child. Each of its clauses relevant to the thematic area is also examined from the perspective of other fundamental rights and human rights treaty obligations related to the right being discussed.**
  4. **This approach helps in understanding that fundamental and human rights must be interpreted as a whole. It is also important to underline that child rights are extensively protected by other human rights treaties besides the Convention on the Rights of the Child. The approach is likewise intended to strengthen understanding of the fact that children’s fundamental and human rights form an indivisible whole where different rights are interconnected, interdependent and mutually reinforcing.**
  5. **Chapter 4 deals with the *recommendations issued to Finland by human rights monitoring bodies with specific relevance to realisation of child rights.* The recommendations by monitoring bodies are divided into 11 areas. The chapter continues the discussion of fundamental and human rights obligations by describing the types of shortcomings or areas for improvement that the human rights monitoring bodies have observed in Finland. Monitoring of human rights forms an integral part of the legally binding force of the treaty system. Rather than being manifestos or just pretty words, the treaties are binding on the central government and other public authorities.**
  6. **The premise of discussion in Chapter 5 is the *strong linkage between the Child Strategy and the National Youth Work and Youth Policy Programme (the ‘Youth Programme’, VANUPO).* The Youth Programme’s objectives and measures are examined from the perspective of implementing children’s and young people’s fundamental and human rights. The chapter covers the Programme’s youth policy objectives and measures. Each set of objectives and measures is examined in terms of which of children’s and young people’s fundamental and human rights it specifically aims to realise.**
  7. **The chapter aims to highlight the ways in which various strategies and programmes for children and young people could be assessed, moving forward, from the perspective of fundamental and human**

**rights obligations. In other words, the chapter provides an example of how the implementation of children’s and young people’s fundamental and human rights can be supported. Furthermore, its discussion points the way for implementing policy programmes and action plans concerning children and young people.**

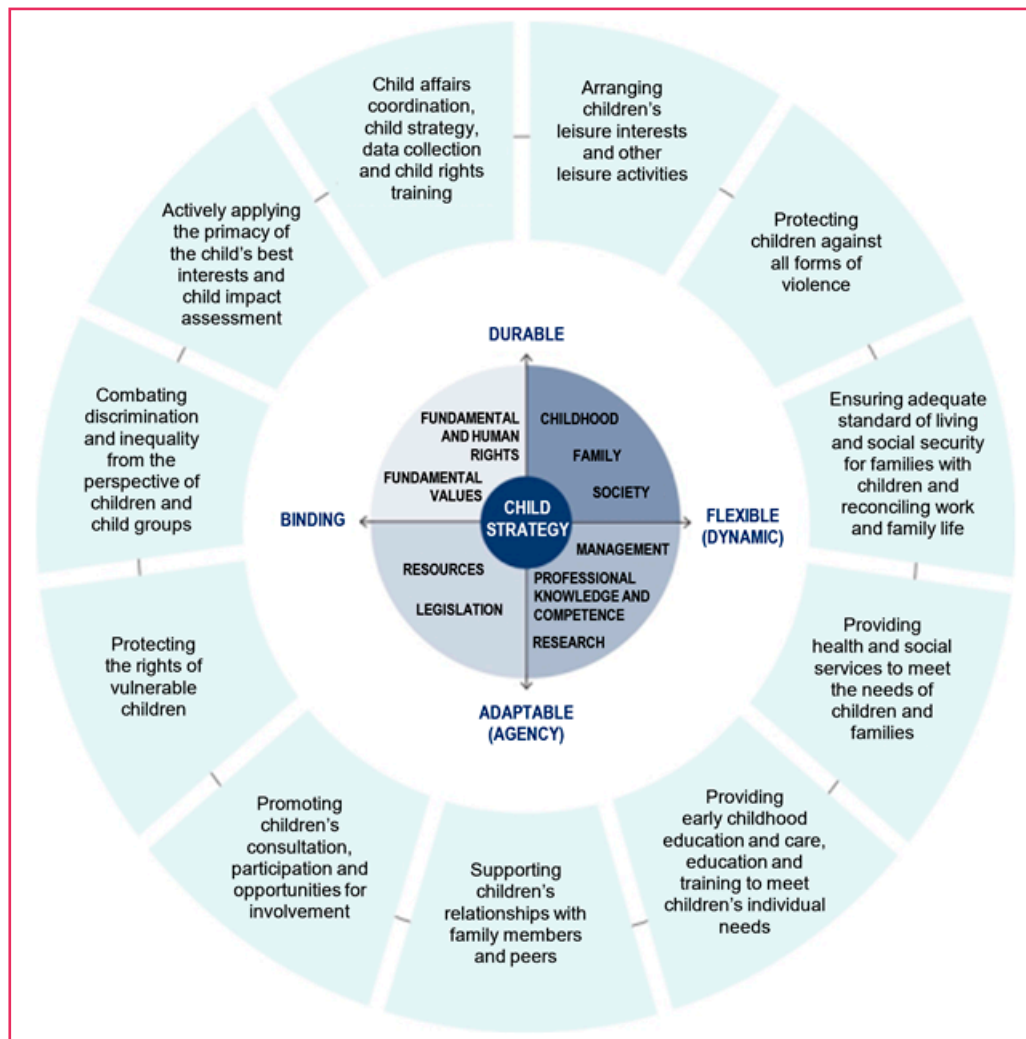
- 8. Chapter 6 is a compilation of international examples of child strategies. The compilation is based on the Child’s Time report (2019) and a survey by Itla Children’s Foundation (2019). Furthermore, the chapter examines the strategies of the Council of Europe and the European Union concerning children. Other countries’ experiences provide good pointers for creating a new kind of instrument for steering child policy.**

### **1.3 Status of the National Child Strategy in society**

A child strategy rooted in fundamental and human rights provides a sustainable and consistent basis for protecting and promoting children’s rights and wellbeing. Fundamental and human rights form a particularly binding area of law, as the central government and other public bodies have a constitutional obligation to guarantee their fulfilment. Besides their legally binding nature, fundamental and human rights also embody the fundamental values of society.

A child strategy built on a sound legal basis creates the potential for implementing child rights in a way that guarantees their full realisation in the best possible way in each specific situation.

**Figure 1.** The status of the Child Strategy as the basis for decision-making and actions concerning children, encircled by the themes to be taken into account in the strategy.



The above figure shows the Child Strategy at its core, as *the strategy will provide the framework for a sustainable, consistent and durable child policy*. 'Child policy' refers to all of the decisions and actions taken by public authorities that concern and affect children. Furthermore, the Child Strategy will influence business and civil society operations and society as a whole, including families and local communities. Creating a durable and sustainable child policy requires anchoring the policy in fundamental and human rights and their active implementation.

From the perspective of the Child Strategy, it is essential to understand that childhood and parenthood is fixed in time and place. This has a significant impact on the challenges of child policy. The digitalisation of society, for example, has changed childhood in a significant manner, which is reflected in the ways in which children forge and maintain peer relationships, learn and study, and spend their free time.

Implementing the Child Strategy calls for national legislation supportive of the strategy and allocation of resources to strategic measures. It requires up-to-date research and indicator data on children's wellbeing. Other important aspects of strategy implementation include the knowledge, competence and management of professionals working with children.

The outer circle of the figure shows the eleven thematic areas relating to child rights, which are presented in Chapter 4. These were determined on the basis of recommendations issued to Finland by human rights monitoring bodies. The thematic areas help structure and outline Finland's obligations, which require solutions for implementation to be identified as part of the work on the Child Strategy.

## 1.4 Proposals to build on the groundwork for the National Child Strategy

This publication highlights key aspects and perspectives for the preparatory work for a child strategy based on fundamental and human rights. The central government and other public authorities have a constitutional obligation to guarantee the observance of fundamental and human rights. In addition to the considerations raised in this publication, further preparatory work on the Child Strategy should also take account of the following aspects:

- The case law on individual and collective complaints of the European Court of Human Rights (ECHR), which monitors compliance by states that have acceded to the European Convention on Human Rights, and other international human rights monitoring bodies should be examined to the extent that it is relevant to the Child Strategy.
- In addition to fundamental and human rights obligations, it would also be advisable to consider the *substantive national legislation pertinent to the Child Strategy*.
- It would likewise be advisable to explore key *national case law and the line of decisions taken by the supreme law enforcement officers* to the extent that these are relevant to the Child Strategy.

- The text focusing on *fundamental and human rights obligations* (Chapter 3) should be kept *up to date*. The UN International Convention for the Protection of All Persons from Enforced Disappearance, for example, **is currently in the process of being ratified in Finland** and the progress of its implementation should be monitored. Furthermore, it is justified to highlight the need to ratify the ILO Convention No. 183 on Maternity Protection, the ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries, and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Finland has received several recommendations to ratify these treaties from human rights monitoring bodies.
- The compilation of the recommendations issued to Finland by human rights monitoring bodies (Chapter 4) should be updated regularly as *the monitoring bodies issue new recommendations*. The recommendations issued by monitoring bodies to Finland described in the chapter form an integral part of active implementation of child rights. This situational picture should be kept up to date with any new recommendations issued by monitoring bodies.
- *Other national strategies, programmes and action and operational plans concerning and affecting children* should be examined in relation to the Child Strategy. It is necessary to examine these from the child rights perspective, assessing how to fulfil the fundamental and human rights obligations in the best possible way.
- The Child Strategy should also be considered from the perspective of the *UN 2030 Agenda for Sustainable Development*. Sustainable development is often considered separately from fundamental and human rights in national processes. However, it is important to examine the 2030 Agenda goals and fundamental and human rights at the same time, as the 2030 Agenda is based on respect for human rights and human dignity. It would therefore be advisable for the further development work to consider how the Child Strategy would contribute to the achievement of the Sustainable Development Goals. Particular attention should be given to the visibility of the 'leave no one behind' (LNOB) principle in the Child Strategy.
- One of the key objectives of the Child Strategy is to mainstream child impact assessments as a regular part of all decision-making and actions concerning children. *Child impact assessment* is also important in the preparatory, implementation and monitoring processes of the Child Strategy.
- *Children's consultation* forms a significant part of the *preparatory and implementation processes of the Child Strategy*. Special attention should be paid to establishing the views of children and child groups, whose opinions often

receive less attention in decision-making. Children's opportunities to express themselves and have their voices heard are essential for their enjoyment of fundamental and human rights.

- The coronavirus pandemic has a significant impact on the fulfilment of child rights. Its effects will also persist for a long time. There is a specific risk that those children who are already in vulnerable situations will see their circumstances deteriorate even further. The effects of the coronavirus pandemic on the fulfilment of child rights should therefore be studied as one of the specific issues of the preparatory work on the Child Strategy. The earlier that problems are identified and solutions are prepared, the better the potential to operate in a way that protects child rights.
- *Monitoring the fulfilment and impact of the Child Strategy* forms a significant part of its implementation. Monitoring the strategy and assessing its performance will require indicators, and selection and development of these will constitute one of the key areas of further development work.

## 2 Legal and social contexts of the National Child Strategy

### 2.1 Preface

#### 2.1.1 Basis of the National Child Strategy

Article 4 of the UN Convention on the Rights of the Child requires States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention. A child rights-based national strategy for children is one of the general obligations of implementing the UN Convention on the Rights of the Child. This chapter discusses the general implementation obligations in keeping with the guidelines provided by the UN Committee on the Rights of the Child in its general comment No. 5<sup>5</sup>, with special focus on its paragraphs 26–59. Furthermore, the chapter takes account of the 2011 recommendations to Finland issued by the Committee on the general implementation of the Convention on the Rights of the Child.<sup>6</sup> The chapter mirrors the general measures of implementing the Convention on the Rights of the Child against Finland’s national context. It concludes with a discussion of conditions for restricting fundamental and human rights as well as fundamental and human rights under emergency conditions, which have become topical issues due to the coronavirus pandemic.

#### 2.1.2 The National Child Strategy as an instrument for implementing the rights

*Strategies guide* decision-making and actions in organisations. In the context of the Child Strategy, ‘organisation’ refers to any organisation within central, local and regional government and other parts of public administration with functions that have effects on

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5 The general comments by the UN Committee on the Rights of the Child are available in English and other official UN languages at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11).

6 The concluding observations and recommendations for Finland issued by the UN Committee on the Rights of the Child (2011) are available in English and other official UN languages at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FIN/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FIN/CO/4&Lang=En).



the status and rights of children or families with children. The Child Strategy also plays a broader role in engaging various social actors, such as NGOs, religious communities, businesses and other parties, in promoting child rights.

*Vision* is a goal-oriented view on a desired future. Its realisation should be assessable. A strategy and its vision are thinking tools geared towards eliciting views, policies, decisions and measures. In this publication, the vision is defined as *fulfilment of children's wellbeing and rights to the fullest possible extent* in Finland.

*The National Child Strategy* will promote the fulfilment of fundamental and human rights obligations. Fundamental rights are part of an individual's basic rights and liberties guaranteed in chapter 2 of the Constitution of Finland (731/1999). Human rights refer to an individual's fundamental rights enshrined in international human rights instruments. According to section 22 of the Constitution, the public authorities must 'guarantee the observance of basic rights and liberties and human rights'. The National Child Strategy is an instrument for implementing human rights and fundamental rights for children and families with children. The UN Convention on the Rights of the Child (CRC) plays a particularly significant role in the Child Strategy.

The rights guaranteed as *fundamental and human rights* are interdependent and complementary, forming an indivisible whole. By way of example, an individual's enjoyment of freedom of speech is materially compromised if they cannot read due to non-fulfilment of educational rights. Correspondingly, an individual's right to privacy is materially compromised if they do not have a home. An integral element of fundamental and human rights standards is also their interpretation and challenges involved in balancing different interests. In the child rights context, it is necessary to compare the advantages and disadvantages of decisions from the perspective of fulfilment of child rights in particular. A child's right to receive protection and decide on personal matters, for example, will often need to be weighed on a case-by-case basis.

As a general rule, children enjoy the same fundamental and human rights as adults, while they also have specific rights only applicable during childhood. Such human rights exclusively intended for children are guaranteed in various human rights treaties, particularly in the UN Convention on the Rights of the Child. These include the primacy of the child's best interests, right to development, right to special protection, respect for the child's views, and right to play. Several fundamental and human rights provisions can often become simultaneously applicable in children's everyday lives or decisions concerning them. In individual cases, different rights of a child may be conflicting, or there may be a conflict between the child's and other people's rights. Implementation of the rights will therefore often call for case-by-case assessment and consideration, and weighing of the rights relative to each other.

The purpose of the Child Strategy is to guide the policies and actions that concern and affect children, young people and families with children. *Child is used to mean* a person under the age of 18, i.e. individuals aged 0 to 17. This is in line with the definitions of 'child' provided in the UN Convention on the Rights of the Child and national legislation.

Nevertheless, it would be advisable also to take account of early adulthood in the Child Strategy, as the transition from childhood to adulthood is a particularly sensitive, porous and critical stage in life. By way of example, upper secondary education coincides with the transition between childhood and adulthood. The definition and age classification of a 'young person' or 'adolescent' is flexible in Finnish law. In the Youth Act (1285/2016), for example, the term covers everyone under the age of 29, i.e. those aged 0 to 28, whereas the Child Welfare Act (417/2007) and the Social Welfare Act (1301/2014) use it to refer to those aged 18 to 24. The definition also varies internationally, depending on the parties and institutions involved.

Article 4 of the Convention on the Rights of the Child *requires States Parties* to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention. In 2003, the UN Committee on the Rights of the Child issued its general comment No. 5 on general measures of implementation of the Convention on the Rights of the Child. The Committee's other general comments also play an important role in implementation.

### 2.1.3 Two-tiered strategy approach

With regard to effective implementation, *it is appropriate to implement the* Child Strategy *as a two-tiered process*. The two-tiered approach supports monitoring, continuous review and regular updating of strategy implementation, as required by the Committee on the Rights of the Child.

1. *The actual National Child Strategy* would contain long-term objectives and measures (such as reducing poverty in families with children and general measures).
2. *The action plan for the strategy would cover objectives, measures and relevant resources for a government term or similar shorter period (such as concrete objectives and measures to address poverty in families with children and the resources allocated for this purpose).*

*The National Child Strategy is also linked to other strategies and plans, such as the Non-Violent Childhoods – Action Plan for the Prevention of Violence against Children<sup>7</sup>, the mental health strategy<sup>8</sup> and the National Youth Work and Youth Policy Programme<sup>9</sup>.*

Building a child-friendly society is a continuous process which requires responding to permanent issues (such as providing parents with support for their parenting duties) as well as to the challenges of each specific moment (such as the topical and variable challenges involved in the coronavirus pandemic or increasingly digital growth environments).

## 2.2 The National Child Strategy in the Government Programme

In its Government Programme, Prime Minister Sanna Marin's Government – similar to that of her predecessor, Antti Rinne – undertakes to draw up a national strategy for children based on the UN Convention on the Rights of the Child. To respond to a number of challenges, the Government has appointed a parliamentary committee to prepare the national strategy based on the Convention. This work draws on the groundwork for

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7 Ministry of Social Affairs and Health 2019. Publications of the Ministry of Social Affairs and Health 2020:34. Available in English at: <http://urn.fi/URN:ISBN:978-952-00-8351-9>.

8 Ministry of Social Affairs and Health 2020. Publications of the Ministry of Social Affairs and Health 2020:15. Available in English at: <http://urn.fi/URN:ISBN:978-952-00-5401-4>.

9 Ministry of Education and Culture 2020. Publications of the Ministry of Education and Culture 2020:4. Available in English at: <http://urn.fi/URN:ISBN:978-952-263-887-8>.

the preparatory work on the National Child Strategy previously carried out by the Sipilä Government in 2018–2019 (the Child’s Time 2040 report and a supplementary research working group report)<sup>10</sup>.

Prime Minister Marin’s Government Programme points out that our society is faced with the challenges of low birth rate, population ageing, poverty among families with children and the intergenerational cycle of social exclusion. Finnish administration is divided into sectoral silos, which undermines its ability to gain control of broad societal phenomena, such as the declining birth rate, poverty among families with children or young people’s social exclusion. The purpose of the Child Strategy is to delve into these topical phenomena affecting children and families with children.

According to the Government Programme, the National Child Strategy will strengthen child rights-based governance and decision-making. The Child Strategy will enable the creation of a comprehensive, consistent and goal-oriented policy to protect and promote the wellbeing and rights of children and young people.

The Child Strategy will be premised on the systematic and goal-oriented implementation of the UN Convention on the Rights of the Child. The Convention on the Rights of the Child provides the international law foundation for promoting and protecting the rights of the child. Other human rights treaties also guarantee important rights for children. The National Child Strategy will provide an instrument for implementing the Convention on the Rights of the Child. It will also create a child-friendly and family-friendly vision of Finland extending across government terms and uniting different administrative branches. The strategy will draw on current knowledge and research. The Government Programme states that common goals will be reached through cross-sectoral measures promoting child rights-based governance and decision-making and fostering a child- and family-friendly society.

In its Programme, the Government pledges to assess the child impacts of its decisions, improve child budgeting, strengthen knowledge about children’s wellbeing and foster the inclusion of children and young people. There will be broad-based commitment to

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10 Ministry of Social Affairs and Health & Ministry of Education and Culture 2019. Finnish Government publication series 2019:4. Available in Finnish at: <http://urn.fi/URN:ISBN:978-952-287-698-0>. English summary available at: <https://minedu.fi/documents/1410845/12685437/Summary+Child%E2%80%99s+Time+-+Towards+a+National+Strategy+for+Children+2040>. Finnish Government publication series 2019:9. Available in English at: <http://urn.fi/URN:ISBN:978-952-287-703-1>.

the goals of the strategy, ranging from the central government to private and third-sector operators, the church and other public operators, such as local authorities, joint municipal authorities, higher education institutions and education providers.

## 2.3 Groundwork for strategy preparation

### 2.3.1 The Child's Time report – towards a National Strategy for Children 2040

In June 2018, then-Prime Minister Juha Sipilä's Government appointed a working group to do the groundwork for a national child strategy for the next Government. Based on the working group's efforts, a report entitled 'Child's Time' was published in March 2019, setting out a vision of a child-friendly and family-friendly society.<sup>11</sup>

The Child's Time report distils the objectives of a child- and family-friendly society into the following aspects: the close adults needed by children; inclusion in a community; shared family time; children's and young people's friendships; growth and learning pathways; reducing child poverty; and enabling people to have as many or as few children as they wish. The vision and objectives of the Child's Time report were used to develop three potential scenarios which help assess the wellbeing, learning and inclusion of children and young people. In order to realise the vision, the report also outlines guidelines for strategy development. The means of realising the vision include informed governance and decision-making based on child rights, as well as a child- and family-oriented organisational culture.

The goal of the Child's Time report is to pursue a systematic approach, extending across government terms, in making decisions relevant to children, young people and families in all sectors of society. In order to realise the Child's Time vision, the report considered it important to build trust and adopt new ways of operating across customary professional and administrative boundaries. Children and young people were also involved in preparing the report.

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11 Ministry of Social Affairs and Health & Ministry of Education and Culture 2019. Finnish Government publication series 2019:4. Available in Finnish at: <http://urn.fi/URN:ISBN:978-952-287-698-0>. English summary available at: <https://minedu.fi/documents/1410845/12685437/Summary+Child%E2%80%99s+Time++Towards+a+National+Strategy+for+Children+2040>.

### 2.3.2 Report of the research working group for the Child's Time report

A summary of findings from studies on children and young people was put together to provide context for the groundwork for the Child Strategy, entitled 'Enabling growth, learning and inclusion for all'<sup>12</sup>. This summary of research was published at the same time as the Child's Time report, in March 2019.

The summary is built on the findings highlighted by the researchers and recommendations for measures based on these. The five themes of the report are human relations, learning, safety, health and inclusion. Research findings on the birth rate are also described as a cross-cutting theme. The themes are in many ways tightly interlinked.

The report points out that the determinants of quality of life have a strong tendency to accumulate with the same children and young people. As a result, problems often feed each other, becoming complex or even impossible for children and young people to manage without help.

It is of primary importance to recognise methods proven effective through scientific evaluation, which can contribute to halting negative trends in the wellbeing of children and young people and the intergenerational transmission of problems. Most support forms scientifically proven to be effective are based on the knowledge that improving the capabilities of the adults guiding a child's life for working together with the child can lead to a positive impact on the course of the child's entire life.

## 2.4 Child policy coordination and a national strategy based on the Convention on the Rights of the Child

The UN Committee on the Rights of the Child has stressed that, in order to promote the rights of the child, a Government needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention on the Rights of the Child. In order to guarantee its impact, the strategy will need to be endorsed at the highest level of government, linked to national planning and included in national budgeting.

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12 Ministry of Social Affairs and Health & Ministry of Education and Culture 2019. Finnish Government publication series 2019:9. Available in English at: <http://urn.fi/URN:ISBN:978-952-287-703-1>.

The Committee points out that the strategy must include a description of a sustainable process for realising the rights of children. The strategy must contain specific goals and targets to ensure effectively that all children can enjoy all of their rights. The progress towards these goals must be monitored and assessed.

The National Child Strategy will need to be linked to sectoral, municipal and regional strategies and budgets, while also ensuring adequate resources required for its implementation. Achieving the goals of the Child Strategy requires effective coordination within and between different levels of government. This would be promoted by a specific unit focusing on coordination of child policy and strategy. Such a unit would be responsible for comprehensive development of the Child Strategy and monitoring and oversight of its implementation.

In its concluding observations for Finland, the Committee calls on Finland to establish an effective mechanism for coordinating the implementation of policies on child rights between all the relevant bodies and institutions at all levels (2011, paragraph 11). At the same time, the Committee urges Finland to ensure that the mechanism is provided with the necessary human, technical and financial resources to implement policies that are comprehensive, coherent and consistent at national, regional and municipal levels.

## 2.5 Ensuring fulfilment of child rights at all levels of government

Finland has a decentralised service system for children, young people and families with children. At present, responsibility for organising the services rests almost exclusively with local authorities. There are major municipal and regional differences in the quality and availability of services and, consequently, in the realisation of children's and young people's rights. The health, social services and regional government reform may potentially involve transferring responsibility for organising health and social services from the local to the regional level.

Equality and non-discrimination require that monitoring the implementation of the Convention on the Rights of the Child be strengthened at all levels of government. The UN Committee on the Rights of the Child emphasises that decentralisation of public powers, through devolution and delegation of government, does not in any way reduce the direct responsibility of a State Party's Government to fulfil its obligations to all children within its jurisdiction, regardless of its administrative structures. The state remains responsible for ensuring the full implementation of the Convention on the Rights of the Child throughout the territories under its jurisdiction.

The Committee reiterates that, in any process of devolution, it is imperative to make sure that the devolved authorities do have the necessary financial, human and other resources effectively to discharge responsibilities for the implementation of the Convention. The Governments of States Parties must retain powers to require full compliance with the Convention by devolved administrations or local authorities. They must also establish permanent monitoring mechanisms to ensure that the Convention is respected and applied for all children within their jurisdiction without discrimination. Further, it is necessary to ensure that decentralisation or devolution does not lead to discrimination in the enjoyment of rights by children in different regions.

In its 2011 concluding observations for Finland, the Committee on the Rights of the Child highlighted the extensive autonomy enjoyed by local authorities in providing and financing public services. The Committee was concerned that this might lead to insufficient allocation of resources to services for children and young people by some local authorities, resulting in regional and local disparities in resource allocation to children's services. The Committee regretted the lack of comprehensive national assessment, documentation and oversight, which might lead to a weak system of control at national level.

The Committee recommended that Finland provide municipalities with sufficient resources allocated for ensuring the implementation of rights of children, taking into account the resources available to each municipality. Finland should establish effective monitoring of budget allocations for the needs of children in each municipality separately, ensuring appropriate levels of allocation. In order to monitor budget allocations for children, it should introduce child budgeting.

The National Child Strategy will provide a basis on which it is possible to insert the necessary language into municipal and regional strategies. Measures to implement the concluding observations and recommendations issued to Finland by the UN Committee on the Rights of the Child at all levels of government may also be included as part of the Child Strategy (in its action plan).

## **2.6 Ensuring fulfilment of child rights in private sector operations**

Outsourcing, privatisation and commercialisation of services have increased the amount and share of private provision of services for children, young people and families.



The UN Committee on the Rights of the Child has emphasised that one of the States Parties' obligations is to ensure that non-state service providers operate in accordance with the provisions of the Convention on the Rights of the Child. This creates obligations on such providers. According to the Committee, enabling the private sector to provide or run services does not lessen the state's obligation to ensure for all children within its jurisdiction the full realisation of all rights in the Convention.

The best interests of the child must be a primary consideration in all actions concerning children, whether undertaken by public or private bodies. The Convention itself obliges the institutions, services and facilities responsible for the care and protection of children to conform with the standards established by competent authorities, particularly in the areas of safety and health, as well as in the number, suitability and competent supervision of their staff (CRC art. 3, para. 3). Ensuring compliance with the Convention's obligations requires effective monitoring of services. The Committee calls for a permanent monitoring mechanism aimed at ensuring that all state and non-state service providers comply with the obligations. This, in turn, requires sufficient supervision by public authorities and resources for this purpose.

The UN Committee on the Rights of the Child has recommended that Finland ensure that the business sector complies with international and domestic standards on corporate social responsibility, particularly with regard to child rights. In this context, one of the key international instruments is the UN Business and Human Rights Framework adopted by the Human Rights Council. It outlines the duty of states to protect against human rights abuses by businesses, corporate responsibilities to respect human rights and the need for more effective access to remedies when violations occur.

## **2.7 Collecting and analysing data on the realisation of children's wellbeing and rights**

The UN Committee on the Rights of the Child has pointed out that collection of sufficient and reliable data on children and their wellbeing (in the broad sense of the term including health), is an essential part of implementation of the Convention on the Rights of the Child. States should also ensure nationally applicable indicators. A sound knowledge base makes it possible to put child rights into practice. Clear indicators facilitate framing the targets in concrete terms and defining the measures precisely. Indicators are also monitoring tools.

The Committee expects States Parties to collaborate with research institutes producing information that can be used to build up a complete picture of progress towards implementation of the Convention's obligations. Periodic reporting under the Convention on the Rights of the Child requires detailed and disaggregated statistical and other data on all areas covered by the Convention. Besides establishing effective systems for data collection, it is necessary to ensure that the data collected is also evaluated and used to assess progress in implementation of the Convention's obligations, to identify problems and to inform all policy development for children. This requires the development of indicators related to all rights guaranteed by the Convention.

It would also be advisable to introduce annual publication of comprehensive reports on the state of children's rights across a State Party's jurisdiction. The Committee encourages publication and wide dissemination of and debate on such reports in different contexts, including in Parliament. The reports should also be published in versions that are comprehensible for children and young people while also taking account of the needs of different minority groups.

The Committee emphasises that, in many cases, only children themselves are in a position to indicate whether their rights are being fully realised. Consequently, information obtained from children themselves plays a significant role in finding out to what extent their rights have been realised in a State Party's jurisdiction.

In its 2011 concluding observations and recommendations for Finland, the UN Committee on the Rights of the Child urged Finland to strengthen the statistical system and analysis on the implementation of the Convention. The Committee recommended collection and analysis of data on all people under the age of 18 on all areas covered by the Convention. In particular, Finland should ensure that data is collected and used to inform policies and programmes in relation to poverty, violence, children with disabilities, minority and immigrant children and children deprived of a family.

In Finland, a project on national indicators of children's wellbeing was initially carried out within the Government's Policy Programme for the Well-being of Children, Youth and Families in 2007–2011 and was subsequently continued in a follow-up project by the Office of the Ombudsman for Children and the Ministry of Education and Culture as of 2011. Both indicator projects aimed to describe the state of children's wellbeing and the realisation of the rights enshrined in the Convention on the Rights of the Child.

The national indicators of children's wellbeing and related information were collected in the Sotkanet information service, the statistics and indicator bank of the Finnish Institute for Health and Welfare (THL). The national indicators of children's wellbeing were divided into themes and the data was collected from resources of several different data

providers, such as the THL statistics and register data and the School Health Promotion Studies. The THL statistics and indicator bank is based on the above-mentioned earlier indicator development work. The most important source of indicators is the School Health Promotion Study, which is carried out every other year by the Finnish Institute for Health and Welfare.

However, more high-quality, versatile and regularly collected monitoring data is needed on wellbeing and health among children under primary school age. The Universities of Jyväskylä and Tampere and the Finnish Institute for Health and Welfare are running a joint CHILD-CARE project, which aims to help respond to these needs. It is also necessary to develop indicators that describe the wellbeing of children, young people and families in more comprehensive terms, because the indicators currently used as a basis for decision-making primarily describe or measure client relationships. In particular, there is a need to strengthen and increase the status and use of information provided by children and young people on their experiences. The THL FinLapset survey regularly produces monitoring data on wellbeing and health among children under primary school age and their families as well as on the use and experiences of services for families with children.

The programme to address reform in child and family services (LAPE) has strengthened and developed a knowledge-based approach in decision-making. The programme aims to develop the production of data on children, young people and families with a view to obtaining comprehensive information about the realisation of child rights. A further objective is to develop tools for data utilisation to ensure that public officials operating at local, regional and national levels have access to up-to-date information in support of decision-making processes. This involves development of reporting (incl. indicators) in cooperation with data users.

Development of national indicators contributes to monitoring of the realisation of the Convention on the Rights of the Child. Based on the indicator development work, it is also possible to monitor the extent to which the targets set by the Government for development of children's wellbeing have been achieved. At the same time, it benefits and supports regional and municipal monitoring of children's wellbeing. Children's wellbeing indicators also enhance the use of international research data while helping to assess cooperation needs among statistical authorities in areas such as use of registers.<sup>13</sup>

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13 Ministry of Education and Culture 2019. Reports of the Ministry of Education and Culture 2011:3. Available in Finnish (English abstract) at: <http://urn.fi/URN:ISBN:978-952-485-994-3>.

The Child Strategy will need to take account of the fact that monitoring the realisation of the rights of children and young people requires indicator data produced throughout childhood and adolescence. In particular, this requires more indicators that describe wellbeing among children under primary school age and the realisation of their rights. It is also necessary to ensure that production of data describing wellbeing and the realisation of rights among children in vulnerable situations (through studies and surveys) will be increased in keeping with the recommendations issued by the Committee on the Rights of the Child. In addition to addressing data shortages, it is important to secure the continuity of data collection and production (such as the School Health Promotion Studies and FinLapset surveys) and adequate resources for this purpose on a permanent basis.

## 2.8 Child impact assessment

In its Article 3, paragraph 1, the Convention on the Rights of the Child requires that the best interests of the child be a primary consideration in all decision-making. Child impact assessment is a tool for assessing the best interests of a group of children (e.g. children in a specific school) or a child population (e.g. children under primary school age in a municipality or all children in basic education). Promoting child impact assessment is one of the key objectives of the Child Strategy.

Legislative drafting projects have seldom included child impact assessments, and even when an assessment has been conducted, its results may have been ignored in the decisions made by the Government (such as in the cases of restricting the right to early childhood education and care and the reform of the Alcohol Act). Child impact assessments have likewise been few and far between in municipal decision-making processes, but there is some awareness about and interest in conducting assessments as a result of training courses provided by NGOs, for example. One of the objectives of the programme to address reform in child and family services (LAPE) is to promote child impact assessment as part of municipal, regional and central government decision-making processes. According to Prime Minister Sanna Marin's Government Programme, the Government will use child impact assessment in all decision-making.

A study conducted by the University of Helsinki Institute of Criminology and Legal Policy (Krimo) indicates that impacts on children and young people are still rarely assessed in the Government's legislative proposals. In 2017, impacts on children and young people were only identified in eight per cent of Government proposals. Assessments of impacts on children and young people were included in nine per cent of Government proposals

in 2014, six per cent in 2013 and three per cent in 2012.<sup>14</sup> Overall, child impact assessment has been deficient in legislative drafting. While the number of impact assessments has slightly increased in a longer term, they do not meet the qualitative requirements specified by the Committee on the Rights of the Child.<sup>15</sup>

Child impact assessments in Finland were explored in a survey carried out by Owl Group and published by Itla Children's Foundation in June 2019<sup>16</sup>. Based on its results, interest in child impact assessments has increased in municipalities, in particular, but practical examples are still quite rare, with the exception of a few pioneering municipalities. The situation of child impact assessments is even worse in central government than in municipalities. Child impact assessments have only been conducted as part of very few Government proposals and several key proposals do not include any child impact assessments at all. Likewise, the full impacts of central government budget decisions are not assessed at all.

Another survey published by Itla Children's Foundation in October 2019<sup>17</sup> dealt with child impact assessments in Sweden, Scotland and New Zealand. In the surveyed countries, assessments are closely linked to their respective child strategies. These countries have either included child impact assessment in the child strategy action plans, or it is used as a tool to promote child rights and report on the work carried out. As a general rule, the countries have centralised the planning, dissemination and maintenance of the model in a single body. Forms and guides are available in support of implementing child impact assessments and different parties assist the assessors in developing the models.

In order to make child impact assessment a systematically utilised tool, it is necessary to increase awareness about child rights and child impact assessment among public officials. Different countries are going about this in different ways, such as developing electronic

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14 Kati Rantala, Noora Alasuutari, Inka Järvikangas & Karolina Saarenpää: Ihmisvaikutusten arviointi hallituksen esityksissä: Luokittelusta laatuun ja sen puutteisiin [*Social impact assessments in the Government's legislative proposals: from classification to quality and its deficiencies*]. Institute of Criminology and Legal Policy Research Report 5/2019, p. 198.

15 For qualitative problems in impact assessments (incl. child impact assessment), see Kemiläinen, Mika & Keinänen, Anssi: Yhteiskunnallisten vaikutusten arvioinnin laatu hallituksen esityksissä [*Quality of social impact assessments in the Government's legislative proposals*]. Edilex Article 26/2015. EDILEX Edita Publishing Oy 2015.

16 Itla 2019. Selvitys lapsivaikutusten arvioinnista [*Survey on child impact assessments*]. Available in Finnish at: <https://itla.fi/download/raportti-selvitys-lapsivaikutusten-arvioinnista/>.

17 Itla 2019. Kansainvälinen selvitys lapsistrategioista ja lapsivaikutusten arvioinnista [*International survey on child strategies and child impact assessments*]. Available in Finnish at: [https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti\\_FINAL\\_22.10.2019.pdf](https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti_FINAL_22.10.2019.pdf).

learning modules. The obligations to promote child strategies or statutory child rights are also considered to have raised public awareness of child rights as such. Holistic realisation of child rights calls for cooperation between different parties. The context and effects of a proposal or decision being addressed need to be assessed in a cross-sectoral manner and with a sufficiently comprehensive and diverse approach.

Up-to-date data is required in support of child impact assessment. Assessments should be based on the broadest knowledge base available, including any existing information from all sectors of children's lives, collection of any missing data and engagement of children and young people.

According to the UN Committee on the Rights of the Child, ensuring that the best interests of the child are a primary consideration (CRC art. 3 para. 1) and that the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment. Child impact assessment also essentially involves evaluating the actual impact of implementation.

The Committee suggests that this process needs to be built into government at all levels and as early as possible in the development of policy. Governments are obliged to engage in self-monitoring and evaluation. It is also essential that progress towards implementation is independently monitored by parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions, for example.

Finland's national legislation also requires child impact assessment. By way of example, article 11 of the Health Care Act (1326/2010) requires local authorities and hospital districts to assess and take into consideration any effects that their decisions may have on the health and social welfare of residents. The provision also covers child impact assessment when making decisions that affect children.

Section 31 of the Administrative Procedure Act (434/2003) governing public administration requires authorities to ensure that a matter is sufficiently and appropriately examined by acquiring the information and evidence necessary for a decision to be made on the matter. Child impact assessment plays an important role in such examination as part of decisions concerning children being made within central government, local governments and future regional governments. Consultation with children and young people forms an important part of child impact assessment. According to Administrative Procedure Act section 41, if the decision made on a matter could have a significant effect on the living environment, work or other conditions of individuals other than the parties,

the authority must provide such individuals with an opportunity to obtain information on the bases and objectives of the consideration of the matter and to express their opinion on the matter. The provision also applies to children and young people.

Based on the survey published by Itla Children's Foundation in June 2019, interest in child impact assessment has increased in municipalities, in particular, but practical examples are still quite rare, with the exception of a few pioneering municipalities. The situation of child impact assessments is even worse in central government than in municipalities. Child impact assessments have only been conducted as part of very few Government proposals, while several key proposals do not include any child impact assessments at all. Likewise, the full impacts of central government budget decisions are not assessed at all. Itla's survey put forward five development steps to build a systematic procedure for assessing the impact of local and central government actions on children.

In order to make child impact assessment a systematically utilised tool, it is necessary to increase awareness about child rights and child impact assessment among public officials. Comprehensive realisation of child rights calls for cooperation between different parties. The context and effects of a proposal or decision being addressed need to be assessed in a cross-sectoral manner and with a sufficiently comprehensive and diverse approach. This also covers identifying any potential effects on children in general, different groups of children and young people, and individual children. Child impact assessment guides and practices highlight the fact that assessment should be conducted at a very early stage in order to take its results genuinely into account in drafting a proposal. Up-to-date data is required in support of child impact assessment. Assessments should be based on the broadest knowledge base available, including any existing information from all sectors of children's lives, collection of any missing data and engagement of children and young people.

## **2.9 Child budgeting – tracking the budget from the child rights perspective**

The Child Strategy can contribute to introducing the monitoring of the realisation of children's and young people's rights into budget processes at central, local and regional levels of government. 'Child budgeting' refers to tracking a budget from the child rights perspective, covering both monitoring the appropriations allocated to children, i.e. child-centred budget analysis, and assessing the impact of budget decisions on children. The UN Committee on the Rights of the Child considers that States Parties should take all

children's rights into consideration throughout all stages of their budget processes and administrative systems at the national and subnational levels. Child budgeting is currently very rare in Finland.

Child budgeting makes it possible to collect monitoring data on appropriations allocated to children and helps to better outline the relationship between financial and real inputs, such as services, intended for children. Child budgeting produces information in support of decision-making processes, helping allocate appropriations to children both fairly and as efficiently as possible over a longer term. Data obtained through child budgeting can also be used in more detailed impact studies and cost-effectiveness assessments.

The UN Committee on the Rights of the Child underlines that States Parties are obliged to take measures within their budget processes to generate revenue and manage expenditures in a way that is sufficient to realise the rights of the child. The Committee recognises that there are many ways to achieve sufficient resources for realising children's rights, including taking into account the general principles of the Convention and the budget principles of effectiveness, efficiency, equity, transparency and sustainability.

Illa Children's Foundation has published guidance on municipal budgeting from the child rights perspective. The programme to address reform in child and family services (LAPE) has developed tools for child budgeting, i.e. tracking financial inputs allocated to children and assessing the impact of budget decisions on children. A child budgeting model was prepared in a project under the Government's analysis, assessment and research activities.<sup>18</sup> The project was carried out by Nordic Healthcare Group in partnership with the Central Union for Child Welfare.

Pre-budget statements and budget proposals provide powerful vehicles for states to translate their commitments to the rights of the child into concrete priorities and plans at the national and subnational levels. They also convey essential information about how a state plans to meet its child rights obligations.

States Parties should monitor and publicly report on the implementation of enacted budgets on a regular basis. The Committee points out that States Parties are obliged to establish public accountability mechanisms that allow civil society, including children, to monitor outcomes of public spending.

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18 Prime Minister's Office 2020. Lapsilähtöinen budjetointi [*Child-focused budgeting*]. Publications of the Government's analysis, assessment and research activities 2020:23. Available in Finnish (English abstract) at: <http://urn.fi/URN:ISBN:978-952-287-924-0>.



In its most recent concluding observations and recommendations for Finland, the UN Committee on the Rights of the Child noted that municipalities enjoy extensive autonomy in providing and financing public services. The Committee was concerned that this might lead to insufficient allocation of resources to services for children and young people by some municipalities, resulting in regional and local disparities in resource allocation to children's services.

The Committee recommended that Finland provide municipalities with sufficient resources allocated specifically for ensuring the implementation of children's rights. The Committee also called for establishment of effective monitoring of budget allocations for the needs of children in municipalities, while also ensuring appropriate levels of allocation. The Committee further recommended that Finland introduce child budgeting.

## 2.10 Training on children's rights

The UN Convention on the Rights of the Child requires States Parties to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike (CRC art. 42). Consequently, the Committee on the Rights of the Child has proposed that states should develop a comprehensive strategy for disseminating knowledge of the Convention, its implementation and monitoring throughout society. As part of the National Child Strategy, it would be possible to create a plan for training on the rights of the child and for ensuring its implementation to meet the Committee's requirements. Such training should be regular, systematic and ongoing. Training and its implementation should also be monitored to improve and assure its quality. General knowledge of the Convention and its obligations should also be strengthened among both children and parents.

The Committee has emphasised that child rights training should be developed and provided for all government and municipal officials, members of the judiciary and all professionals working with and for children. It would also be necessary to build the capacities of these parties to work so as to respect and strengthen the rights of the child. The Committee further expects child rights training to be integrated into the initial and in-service training of professionals working with children. The Convention on the Rights of the Child should likewise be reflected in relevant training curricula and codes of conduct. Child rights training should also be monitored and evaluated.

Training on the rights of the child has been provided on occasion for representatives of the central and local governments, the judiciary and NGOs. It has especially been provided by NGOs. The local authorities involved in the Child-Friendly Municipality Initiative of the Finnish Committee for UNICEF have committed to two-year development work to

promote child rights in municipal functions. NGOs have particularly provided child rights training for professionals from different sectors. However, provision of training on the rights of the child is not systematic and ongoing.

The committees monitoring adherence to UN human rights treaties have also expressed their concern about the shortcomings in human rights education in Finland. The UN Committee on the Rights of the Child has criticised the lack of information available for Finland on the extent to which teachers comply with obligations relating to human rights education. The Committee expressed its concern over the fact that not all pupils are necessarily provided with human rights education and that its inclusion in teaching is still dependent on the decision of an individual teacher (Human Rights Centre 2014: Human Rights Education in Finland).

Following the most recent concluding observations issued by the Committee on the Rights of the Child for Finland, more attention has been paid to human rights education. By way of example, the Human Rights Centre has published a study entitled 'Human Rights Education in Finland', which also highlights the Convention on the Rights of the Child and the significance of related education and training. Human rights education is also included in the National Core Curricula for Basic Education and General Upper Secondary Schools, which feature prominently the Convention on the Rights of the Child.

## 2.11 Cooperation with civil society

The Child Strategy should take account of cooperation between public authorities and NGOs. Organisations for children, young people and families play an important role in promoting the wellbeing and rights of children and young people in Finland. Their voluntary and peer activities and services contribute to children's and young people's wellbeing and enjoyment of their rights. They also play a significant role in disseminating awareness about the rights of children and young people. The Central Union for Child Welfare coordinates a national communications network on the rights of the child with funding from the Ministry of Education and Culture. The Central Union also coordinates the process of drafting an alternative periodic report by NGOs to the Committee on the Rights of the Child.

The UN Committee on the Rights of the Child points out that implementation is an obligation for States Parties, but needs to engage all sectors of society, including children themselves. While states are ultimately accountable for compliance with and implementation of the Convention, all members of society – including professionals, local communities and non-governmental organisations, as well as the private business

sector – have responsibilities regarding the realisation of the rights of the child. States Parties should therefore facilitate the above-mentioned parties to discharge these responsibilities.

The Committee expects the state to work closely with NGOs, while respecting their autonomy. NGOs played a crucial part in the drafting of the Convention on the Rights of the Child and their involvement in the process of implementation is vital. The Committee has welcomed the development of NGO alliances committed to promoting, protecting and monitoring children’s human rights. The Committee urges the governments of the States Parties to give NGOs support with respect for their autonomy, and to develop positive formal as well as informal relationships with them.

The Committee notes that the NGO Group for the Convention on the Rights of the Child has had a very welcome, strong and supportive impact on the reporting process and other aspects of the Committee’s work. The Committee underlines in its reporting guidelines that the process of preparing a report should encourage and facilitate popular participation, while also calling for public scrutiny of government policies and decisions.

## **2.12 Conditions for restricting fundamental and human rights and fundamental and human rights under emergency conditions**

### **2.12.1 Conditions for restricting fundamental and human rights**

Fundamental and human rights enjoy a special status in the hierarchy of norms and in society. Nevertheless, the Constitution’s provisions on ‘basic rights and liberties’, i.e. fundamental rights, are not generally unconditional to the extent that it would not be possible to restrict them on any grounds. No restrictions can be incompatible with Finland’s international human rights obligations. The fundamental rights provisions must be interpreted in keeping with human rights, such that any grounds for restricting fundamental rights provisions can only be permitted if they are compatible with human rights treaties. Some of the rights are such that they cannot be restricted or derogated from under any circumstances. By way of example, torture or slavery cannot be justified under any circumstances.

Some provisions on fundamental and human rights include specific language allowing a right to be restricted. Under section 12, subsection 1, of the Constitution, for example, provisions on restrictions relating to pictorial programmes that are necessary for the protection of children may be laid down by an Act. Under Article 14(3) of the Convention

on the Rights of the Child, freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

The need for restrictions often stems from a conflict between different fundamental rights. This means that limiting a specific fundamental right is a prerequisite for the realisation of another fundamental right. In the event of conflict between fundamental rights, it is necessary to seek a solution that would ensure the realisation of all fundamental rights relevant to the specific situation to the best possible extent. The aim is to achieve the best possible balance between the fundamental rights interests being reconciled.

In its report, the Parliamentary Constitutional Law Committee has outlined general conditions for the acceptability of restrictions on fundamental rights (PeVM 25/1994 vp). The criteria have been further specified through the interpretation practice of the Constitutional Law Committee.

The requirements set out by the Constitutional Law Committee for imposing restrictions on fundamental rights are:

- setting forth by law;
- precise and unequivocal character of the law;
- acceptability of the restriction;
- proportionality of the restriction;
- integrity of the core area of the fundamental right;
- sufficient arrangements for legal protection; and
- adherence to human rights obligations.

## 2.12.2 Fundamental and human rights under emergency conditions

Issues relating to the conditions for restricting fundamental and human rights have become topical due to the coronavirus pandemic. Section 23 of the Constitution provides for *provisional exceptions to basic rights and liberties in situations of emergency*. The section provides that provisional exceptions may be provided by law in the case of an armed attack or in the event of other situations of emergency which pose a serious threat to the nation. The *coronavirus pandemic* was considered to constitute such a situation.

Under section 23 of the Constitution, such provisional exceptions must be provided by an Act or by a Government Decree to be issued on the basis of authorisation given in an Act for a special reason and subject to a precisely circumscribed scope of application. These exceptions must be necessary and compatible with Finland's international human rights

obligations. The grounds for the provisional exceptions are laid down in the Emergency Powers Act (1552/2011) and the State of Defence Act (1083/1991). Government Decrees concerning provisional exceptions must be submitted to Parliament for consideration without delay. Parliament may decide on the validity of the Decrees. In the context of the coronavirus pandemic, the Government adopted the provisions of the Emergency Powers Act, imposing provisional exceptions to fundamental rights.

Article 15 of the European Convention on Human Rights and Article 4 of the UN International Covenant on Civil and Political Rights are clauses for derogation from the obligations of the treaties under emergency conditions. Both articles allow for additional powers under emergency conditions. The use of such additional powers has, however, been limited and the derogation clause does not allow absolutely all kinds of action to be taken, even under emergency conditions.

The practice of application of the European Convention on Human Rights sets the following four basic prerequisites for a *public emergency*:

1. It must be actual or imminent.
2. **Its effects must involve the whole nation.**
3. **The continuance of the organised life of the community must be threatened.**
4. **The crisis or danger must be exceptional in that the normal measures or restrictions permitted by the Convention for the maintenance of public safety, health and order are plainly inadequate.**

*Children's rights and special status can easily be relegated to a minor role during emergency conditions and post-emergency measures.* The restrictions and measures taken during and after emergency conditions may have a significant impact on the fulfilment of child rights. In particular, those children who are already in vulnerable situations may be at significant risk. By way of example, children's equality and right to education, adequate health and social services as well as social security may be jeopardised as a result of measures taken during and after emergency conditions (including economic decisions, such as cuts to services and income benefits).

## 3 Fundamental and human rights provisions of special consideration in the National Child Strategy

### 3.1 Preface

#### 3.1.1 Convention on the Rights of the Child as the basis for the National Child Strategy

This chapter explores the *fundamental and human rights obligations* relevant to the Child Strategy and *lays the foundation for a child rights-based approach*. This approach helps in understanding that fundamental and human rights must be interpreted as a whole. It is also important to underline that child rights are extensively protected by other human rights treaties besides the Convention on the Rights of the Child. Children's fundamental and human rights form an indivisible whole where different rights are interconnected, interdependent and mutually reinforcing.

*Under Article 4 of the UN Convention on the Rights of the Child, States Parties must undertake all appropriate measures to implement the rights recognised in the Convention. In its general comment No. 5, the UN Committee on the Rights of the Child, which oversees implementation of the Convention on the Rights of the Child, has stressed that each State Party's government needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention on the Rights of the Child. According to the Committee, the National Child Strategy should be linked to sectoral, municipal and regional strategies and budgets to ensure adequate human and financial resources required for its implementation.*

*In its concluding observations for Finland, the UN Committee on the Rights of the Child calls on Finland to establish an effective mechanism for coordinating the implementation of policies on child rights between all the relevant bodies and institutions at all levels. The Committee recommends that Finland develop a comprehensive national strategy and plan of action (= child strategy) to implement the Convention.*

*The Child Strategy is premised on the systematic and goal-oriented implementation of the UN Convention on the Rights of the Child and other fundamental and human rights safeguarding the rights of the child. Among other things, this requires legislation*

implementing fundamental and human rights, resources and administrative measures to implement the rights, data collection and analysis, as well as training and raising awareness on the rights.

### 3.1.2 Fundamental and human rights

Fundamental rights refer to the rights guaranteed for everyone in the Constitution of Finland, which are binding on all public bodies. Human rights refer to the fundamental rights belonging to everyone, which are enshrined in international treaties entailing binding obligations under international law and brought into force within a specific state. These impose legal obligations on the central government and other public authorities. The rights included in the EU Charter of Fundamental Rights are binding on the institutions, bodies, offices and agencies of the Union and on the Member States when they are implementing Union law. Collectively, fundamental and human rights form a complementary system of judicial protection. According to section 22 of the Constitution, the public authorities must 'guarantee the observance of basic rights and liberties and human rights'.

In order to protect and ensure/fulfil the rights, in particular, the state is required to take active measures. It is not enough for public authorities simply to avoid violating their human rights obligations; instead, they need to take action to promote the rights and allocate resources for this purpose.

Agreements on human rights are international treaties. The *Vienna Convention* provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith (Vienna Convention on the Law of Treaties, Finnish Treaty Series 32–33/1980, art. 26). A party to the Convention may not invoke the provisions of its internal law as justification for its failure to perform a treaty (art. 27). A treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose. The context for the purpose of the interpretation of a treaty comprises the text, including its preamble and annexes. (Art. 31.)

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948. Even though the Declaration is not a treaty, it is deemed to have become customary international law and therefore universally obligatory, unlike other declarations. The Universal Declaration of Human Rights has played a major role in the construction of the international human rights treaty regime. The Declaration has also provided the foundation for subsequent international human rights treaties.

Human rights treaties are legally binding on the states acceding to them ('hard law'). In addition to the United Nations treaties, Finland is especially bound by the human rights treaties of the Council of Europe (CoE) and the International Labour Organisation (ILO). The United Nations and the Council of Europe have also produced plenty of human rights instruments ('soft law') that do not possess the same type of direct legally binding status as treaties. Nevertheless, they do play a significant role in interpreting treaty obligations. Such instruments include various declarations as well as general comments and recommendations of treaty monitoring bodies, complete with recommendations issued to individual states as part of the periodic reporting process (many human rights treaties impose an obligation on States Parties to submit periodic reports on the implementation of these treaties). Further key interpretative instruments include decisions issued by monitoring bodies on individual and collective complaints, as well as numerous commitments of political character. The case law of the European Court of Human Rights has a particularly substantial guiding effect on interpreting human rights.

*Children have the same fundamental and human rights as adults.* There are some exceptions to this rule, such as electoral rights applicable to people who have attained the age of majority. Children's right to protection also entails some limitations, such as setting a minimum age for employment and provisions governing the protection of young workers. These provisions restrict underage people's work to safeguard their development and schooling. Legislation also protects children by means such as setting the age of consent for sexual relations and a minimum age regarding alcohol and tobacco products.

This chapter does not cover issues such as freedom to conduct a business. In practical terms, children's freedom to conduct a business is limited by the provisions on legal incompetence laid down in the Guardianship Services Act (442/1999). Section 2 of the Guardianship Services Act provides that those under 18 years of age are legally incompetent. In practical terms, 'legal incompetence' with regard to children means that, in most cases, their right to decide on their affairs is fully or partially limited (further provisions on the matter are laid down in the Child Welfare Act and the Guardianship Services Act). In order for a legally incompetent individual to have legal capacity, this must be specifically provided by law.

Although children have the rights, they may require assistance from others to exercise or invoke them. In different cases, the *right to be heard* in matters concerning a child's fundamental and human rights may either be exercised by the child or by the person who has custody of the child, or by another legal representative, in accordance with national law. The right to be heard is exercised in situations such as where a parent or some other legal guardian submits an application for a service or benefit or appeals a decision on behalf of the child.



Legislation includes special provisions on exercising the child's right to be heard. By way of example, section 14, subsection 3, of the Administrative Procedure Act provides that a minor aged fifteen years or more and the person who has custody of him or her, or his or her other legal representative, both severally have the right to be heard in a matter concerning the minor's person or personal interests or rights. In addition, special legislation includes provisions governing the child's right to be heard and consulted. Section 21 of the Child Welfare Act provides that, in addition to the child's custodian or other legal representative, a child who is twelve years of age or more is entitled to be heard in a child welfare case concerning said child. Likewise, section 24 of the Mental Health Act (1116/1990) includes provisions on the threshold of 12 years of age in exercising the child's right to be heard.

Children also have specific rights only applicable during childhood, enshrined in the UN Convention on the Rights of the Child and other human rights treaties. These include the primacy of the child's best interests, right to development, right to special protection, respect for the child's views, and right to play.

Several fundamental and human rights provisions can often become simultaneously applicable in children's everyday lives or decisions concerning them. In individual cases, different rights of a child may be conflicting, or there may be a conflict between the child's and other people's rights. Implementation of the rights will therefore often call for case-by-case assessment and consideration, and weighing of the rights relative to each other.

Restrictions on and provisional exceptions to fundamental and human rights are discussed in the first chapter of this publication. A key provision in this respect is section 23 of the Constitution, which states as follows: 'Such provisional exceptions to basic rights and liberties that are compatible with Finland's international human rights obligations and that are deemed necessary in the case of an armed attack against Finland or in the event of other situations of emergency, as provided by an Act, which pose a serious threat to the nation may be provided by an Act or by a Government Decree to be issued on the basis of authorisation given in an Act for a special reason and subject to a precisely circumscribed scope of application. The grounds for provisional exceptions shall be laid down by an Act, however.'

One of the aims of the Council of Europe is to ensure the effective implementation of existing binding universal and European standards protecting and promoting children's rights. The Council of Europe programme entitled 'Building a Europe for and with children' and the Council of Europe Strategy for the Rights of the Child are based on the UN Convention on the Rights of the Child and, in particular, on its four general principles. The programme for children aims to mainstream children's rights into the work carried out by

the Council of Europe's different sectors and to provide Member States with cross-cutting support in their holistic work towards children's rights across ministries, placing emphasis on professional and parliamentary dialogue.

The Council of Europe Strategy for the Rights of the Child 2016–2021 covers the following five priority areas: 1) equal opportunities for all children; 2) participation of all children; 3) a life free from violence for all children; 4) child-friendly justice for all children; and 5) rights of the child in the digital environment.

The recommendations issued by the Council of Europe Committee of Ministers do not constitute hard law that would be binding on states. However, they are based on core human rights treaties and other significant international instruments, such as statements and opinions of the Council of Europe Commissioner for Human Rights and many recommendations issued by the Council of Europe Parliamentary Assembly. This reinforces their significance, although they lack a formal legally binding status.

### 3.1.3 Contents and purpose of the chapter

This chapter explores the fundamental and human rights provisions that should be of special consideration in the National Child Strategy. It is structured on the basis of the *thematic outline* used in the periodic reports on the rights guaranteed by the *UN Convention on the Rights of the Child*. Each provision relevant to the thematic area is also examined from the perspective of other human rights treaty obligations and fundamental rights relevant to the right being discussed.

This approach helps in understanding that:

1. the Convention on the Rights of the Child must be interpreted as a whole;
2. **child rights are extensively protected by the Constitution as well as by other human rights treaties besides the Convention on the Rights of the Child;**
3. **children's human rights form an indivisible whole where different rights are interconnected, interdependent and mutually reinforcing.**

**NB:** It should be noted that the human rights framework applicable to child rights is very broad and the list below is not exhaustive. However, it does provide a good overview of the fundamental and human rights obligations protecting children's rights. This discussion excludes areas such as electoral rights, which are limited to people who have attained the age of maturity (those aged 18 or over) under the Constitution. Neither does it cover topics such as freedom to conduct a business. While freedom to conduct a business does

not in principle exclude children, the Guardianship Services Act (442/1999) limits the opportunities of underage individuals to enter into contracts.

Fundamental and human rights provisions are presented in the following order:

- firstly, the rights protected in the Constitution of Finland;
- secondly, the rights guaranteed by the human rights treaties of the United Nations (and its agencies ILO and UNESCO);
- thirdly, the rights enshrined in the human rights treaties of the Council of Europe; and
- fourthly, the rights protected in the EU Charter of Fundamental Rights.

The rights guaranteed by the Conventions of the Hague Conference on Private International Law (HCCH) are presented after the UN treaties. Although the Hague Conference Conventions are not counted as actual human rights treaties, the chapter will nevertheless bring up the Hague Adoption Convention and the Hague Abduction Convention due to their strong connection to children's fundamental and human rights. The Hague Conference on Private International Law (HCCH) is an inter-governmental organisation based in the Hague in the Netherlands, engaging in global judicial cooperation between states, especially in issues of private international law, with 84 states and the European Union as members.

The presentation of fundamental and human rights provisions is followed by relevant general recommendations issued by UN and Council of Europe human rights monitoring bodies and other soft law instruments related to human rights.

## 3.2 Core fundamental and human rights provisions relevant to child rights

### 3.2.1 General measures of implementation of fundamental and human rights

- *Constitution of Finland*, section 22: public authorities to guarantee the observance of basic rights and liberties and human rights; section 1(2): inviolability of human dignity and promotion of justice in society; section 2(3): exercise of public powers to be based on an Act and the law to be strictly observed in all public activity;
- *CRC*, art. 4: States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention; art. 42: States Parties to make the principles

and provisions or the Convention widely known, by appropriate and active means, to adults and children alike; art. 44(6): States Parties to make their reports on CRC implementation widely available to the public in their own countries;

- *CRC-OP-SC*, art. 9: general measures relating to the offences referred to in the Protocol and promoting awareness through information about the preventive measures and harmful effects of the offences;
- *CRC-OP-AC*, art. 6: effective implementation of the provisions of the Protocol and making the Protocol widely known;
- *ICESCR*, art. 2: commitment to implementation of the Covenant;
- *ICCPR*, art. 2(2): obligation to give effect to the rights recognised in the Covenant;
- *CEDAW*, particularly arts. 2–3: obligation to realise the rights recognised in the Convention;
- *CRPD*, art. 4: general obligations of the Convention; art. 8: awareness-raising; art. 31: statistics and data collection; art. 33: national implementation and monitoring;
- *ICERD*, particularly art. 2: obligation to give effect to the rights recognised in the Convention;
- *CAT*, art. 2: obligation to prevent acts of torture; art. 10: education and information regarding the prohibition against torture;
- *Palermo Convention Protocol II*, art. 9: prevention of trafficking in persons;
- *UNESCO Convention against Discrimination in Education (CDE)*, arts. 3–4: measures to implement the Convention;
- *ESC*, art. A: commitment to Charter obligations;
- *ECHR*, art. 1: obligation to respect human rights;
- *Lanzarote Convention*, Chapter II: preventive measures; art. 10: national measures of coordination and collaboration; art. 11: principles; Chapter V: intervention programmes and measures, art. 15: general principles;
- *Istanbul Convention*, art. 4: fundamental rights, equality and non-discrimination; art. 5: state obligations and due diligence; art. 6: gender-sensitive policies; and Chapter II: integrated policies and data collection; art. 12: general obligations concerning prevention; art. 13: awareness-raising; art. 15: training of professionals; art. 17: participation of the private sector and the media; art. 18: general obligations concerning protection and support; art. 19: information;
- *Convention on Action against Trafficking in Human Beings (ECAT)*, Chapter II: prevention, cooperation and other measures;
- *FCNM*, art. 4: prohibition of discrimination and promotion of equality;

- *ECRML*, art. 6: information; Part II, art. 7: objectives and principles on which policies, legislation and practice concerning regional or minority languages are to be based;
- *Biomedicine Convention*, art. 1: purpose and object;
- *EUCFR*, art. 1: inviolability and protection of human dignity.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 2 (2002) on the role of independent national human rights institutions;
- UN Committee on the Rights of the Child general comment No. 5 (2003) on general measures of implementation of the CRC;
- UN Committee on the Rights of the Child general comment No. 19 (2016) on public budgeting for the realisation of children's rights.

### 3.2.2 Definition of 'child'

- *CRC*, art. 1: a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

### 3.2.3 General principles of child rights

#### 3.2.3.1 Non-discrimination

- *Constitution of Finland*, section 6(1): equality before the law; section 6(2): prohibition of discrimination; section 6(3): children's equal treatment as individuals; section 6(4): promotion of gender equality;
- *CRC*, art. 2(1): non-discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status; art. 2(2): the child to be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members;
- *ICESCR*, art. 2(2): exercise of rights under the Covenant without discrimination; art. 3: non-discrimination on grounds of gender; art. 10(3): special measures of protection and assistance for children and young persons to be taken without discrimination for reasons of parentage or other conditions;

- *ICCPR*, art. 2(1): obligation to respect and ensure the rights recognised in the Covenant without distinction of any kind; art. 3: non-discrimination on grounds of gender; art. 20(2): prohibition of incitement to discrimination; 24(1): the child's right to protection without any discrimination; art. 26: right to equal protection of the law without any discrimination;
- *CEDAW*, art. 2: elimination of all forms of discrimination against women, including girls;
- *CRPD*, art. 3(b): non-discrimination; art. 3(e): equality of opportunity; art. 3(f): accessibility; art. 3(g): equality between men and women; art. 5: equality and non-discrimination; art. 6: women and girls with disabilities; art. 7(1): children with disabilities; art. 9: accessibility; art. 12: equal recognition before the law; art. 13: access to justice; art. 23(1): elimination of discrimination in all matters relating to family and parenthood; art. 23(3): equal rights of children with disabilities with respect to family life; art. 24: elimination of discrimination in education; art. 25: elimination of discrimination in healthcare; art. 27(1)(d): effective access to general technical and vocational guidance programmes and vocational and continuing training on an equal basis;
- *ICERD*, art. 5: non-discrimination;
- Convention Relating to the Status of Refugees (CRSR), art 3: non-discrimination;
- *UNESCO CDE* in its entirety;
- *ESC*, art. E: non-discrimination with regard to Charter obligations; art. 20: non-discrimination on grounds of gender;
- *ECHR*, art. 14: non-discrimination with regard to the rights and freedoms set forth in the ECHR; and *ECHR Protocol No. 12*, art. 1: general prohibition of discrimination;
- *Lanzarote Convention*, art. 2: non-discrimination principle;
- *Istanbul Convention*, art. 4: fundamental rights, equality and non-discrimination;
- *ECAT*, art. 3: non-discrimination principle; art 17: gender equality;
- *FCNM*, art 4: prohibition of discrimination;
- *Biomedicine Convention*, art. 11: prohibition of discrimination against a person on grounds of genetic heritage; art. 12: restriction of predictive genetic tests to health or scientific research purposes; art. 13: conditions for interventions seeking to modify the human genome; art. 14: non-selection of sex;
- *EUCFR*, art. 21: non-discrimination; art. 23: equality between women and men.

General recommendations of human rights bodies

- UN Committee on Economic, Social and Cultural Rights General Comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the ICESCR);
- UN Committee on Economic, Social and Cultural Rights General Comment No. 20 (2009) on non-discrimination in economic, social and cultural rights (art. 2 of the ICESCR);
- UN Human Rights Committee General Comment No. 18 (1989) on non-discrimination (art. 2 of the ICCPR);
- UN Human Rights Committee General Comment No. 28 (2000) on the equality of rights between men and women;
- UN CEDAW Committee general recommendations;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 1 (2014) on equal recognition before the law;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 2 (2014) on accessibility;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 3 (2016) on women and girls with disabilities;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 5 (2017) on living independently and being included in the community;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 6 (2018) on equality and non-discrimination;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXX (2005) on discrimination against non-citizens;
- UN Committee on the Elimination of Racial Discrimination, General recommendation XXVIII (2002) on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXVII (2000) on discrimination against Roma;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXIII (1997) on the rights of indigenous peoples;
- Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity;
- Recommendation CM/Rec(2009)4 of the Committee of Ministers to member states on the education of Roma and Travellers in Europe;
- Recommendation CM/Rec(2000)4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe;
- European Commission against Racism and Intolerance (ECRI) General Policy Recommendations.

### 3.2.3.2 Primacy of the best interests of the child

- *CRC*, art. 3(1): the child's best interests as a primary consideration in all actions concerning children; art. 18(1): parents' primary responsibility for the child's upbringing and development, with the child's best interests as their basic concern;
- *CEDAW*, art. 5(b): children's interest as the primordial consideration in their upbringing in all cases;
- *CRPD*, art. 7(2): the child's best interests to be a primary consideration in all actions concerning children with disabilities;
- *Biomedicine Convention*, art. 2: primacy of the interests and welfare of the human being;
- *EUCFR*, art. 24(2): the child's best interests as a primary consideration.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration.

### 3.2.3.3 The child's right to special protection

- *CRC*, art. 3(2): protection and care necessary for the child's wellbeing;
- *ICESCR*, art. 10(3): special measures of protection and assistance for children and young persons to be taken without discrimination for reasons of parentage or other conditions;
- *ICCPR*, art. 24(1): the child's right to protection without any discrimination;
- *CRPD*, art. 16(2): measures to prevent exploitation, violence and abuse against persons with disabilities, art. 16(4): provision of protection services; art. 16(5): obligation to put in place effective legislation and policies to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted;
- *ESC*, art. 17: right of children and young persons to social, legal and economic protection;
- *Biomedicine Convention*, art. 6: protection of persons not able to consent to an intervention in the health field;
- *EUCFR*, art. 24(1): children's right to necessary protection and care.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 21 (2017) on children in street situations;
- UN Human Rights Committee General Comment No. 17 (1989) on rights of the child (art. 24 of the ICCPR).



### 3.2.3.4 Right to life, survival and development

- *Constitution of Finland*, section 7(1): right to life, personal liberty, integrity and security;
- *CRC*, art. 6(1): right to life; art. 6(2): right to survival and development;
- *ICESCR*, art. 12(2)(a): steps to be taken to provide for the reduction of the still-birth-rate and infant mortality and for the healthy development of the child;
- *ICCPR*, art. 6(1): right to life;
- *CEDAW*, art. 3: right to full development;
- *CRPD*, art. 3(h): evolving capacities of children with disabilities and their right to preserve their identities; art. 10: right to life;
- *ECHR*, art. 2: right to life;
- *EUCFR*, art. 2(1): right to life.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 7 (2005) on implementing child rights in early childhood;
- UN Committee on the Rights of the Child general comment No. 20 (2016) on the implementation of the rights of the child during adolescence;
- UN Human Rights Committee General Comment No. 36 (2019) on the right to life.

### 3.2.3.5 The child's right to be heard and participation in the community and society

- *Constitution of Finland*, section 6(3): children's right to influence matters pertaining to themselves to a degree corresponding to their development; section 2(2): the right of the individual to participate in and influence the development of society and his or her living conditions; section 14(4): obligation of public authorities to promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her; section 20(2): everyone's possibility to influence the decisions that concern their own living environment;
- *CRC*, art. 12(1): the child's right to express his or her views and have his or her views given due weight/the child's right to be heard and taken seriously; art. 12(2): the child's opportunity to be heard in any judicial and administrative proceedings affecting the child;
- *ICCPR*, art. 25(a): right to take part in the conduct of public affairs;
- *CEDAW*, art. 7(c): women's right to participate in public and political life;
- *CRPD*, art. 7(3): children's inclusion; art. 12: equal recognition before the law – supported decision-making; art. 19: living independently and being included in the community; art. 29: participation in political and public life; art. 20: personal mobility;

- *ESC*, art. 15(3): right of persons with disabilities to participate in the life of the community;
- *Biomedicine Convention*, art. 6: e.g. consent of a minor to an intervention in the health field;
- *FCNM*, art. 15: right to participate in public affairs; art. 17(2): right to participate in the activities of non-governmental organisations;
- *EUCFR*, art. 24(1): respect for children's views.

#### General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 12 (2009) on the right of the child to be heard;
- UN Human Rights Committee General Comment No. 25 (1996) on Article 25 of the ICCPR;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 5 (2017) on living independently and being included in the community;
- Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18;
- Recommendation 128 (2003) on the revised European Charter on the participation of young people in local and regional life.

## 3.2.4 Civil rights and liberties

### 3.2.4.1 Birth registration, name, nationality and right to know and be cared for by parents

- *Constitution of Finland*, section 5: Finnish citizenship;
- *CRC*, art. 7: the child's registration after birth, right to a name and nationality and right to know and be cared for by his or her parents;
- *ICCPR*, art. 24(2): every child to be registered immediately after birth and to have a name; art. 24(3): every child's right to acquire a nationality;
- *CEDAW*, art. 9: equal rights of women and men to acquire a nationality;
- *CRPD*, art. 18: right to acquire a nationality; art. 18(2): birth registration;
- *ICERD*, art. 5(d)(iii): right to nationality;
- *ECHR*, art. 8: right to respect for private and family life;
- *FCNM*, art 11: right to use a surname and first names in a minority language;

- *CRSR*, art 34: naturalisation;
- *EUCFR*, art. 24(3): the child's right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless contrary to his or her interests.

### 3.2.4.2 Preservation of identity

- *CRC*, art. 8: the child's right to preserve his or her identity, including nationality, name and family relations;
- *ICCPR*, art. 16: right to recognition as a person before the law;
- *CRSR*, art 12: personal status; art. 27: identity papers.

### 3.2.4.3 Right to seek, receive and impart information and ideas (freedom of expression)

- *Constitution of Finland*, section 12: freedom of expression and publicity of documents and recordings in the possession of the authorities;
- *CRC*, article 13(1): the child's right to freedom of expression, incl. to seek, receive and impart information and ideas; article 13(2): conditions for restrictions on the exercise of the right;
- *ICCPR*, art. 19(1): everyone's right to hold opinions without interference; art. 19(2): everyone's right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice; art. 19(3): restrictions on the rights; art. 20(2): incitement to discrimination and violence to be prohibited by law;
- *CRPD*, art. 21: freedom of expression and opinion, and access to information;
- *ICERD*, art. 5: freedom of opinion and expression;
- *ECHR*, art. 10: freedom of expression;
- *FCNM*, art. 7: respect for the right to freedom of expression and thought; art. 9: right to freedom of expression, including freedom to hold opinions and to receive and impart information and ideas in a minority language; obligation to facilitate access to the media;
- *ECRML*, art. 11: programming in the regional or minority languages;
- *EUCFR*, art. 11: freedom of expression and information.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 34 (2011) on freedoms of opinion and expression (art. 19 of the ICCPR);
- UN Committee on the Elimination of Racial Discrimination General recommendation No. 35 (2013) on combating racist hate speech;

- ECRI General Policy Recommendation No. 6 (2000) on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.

#### 3.2.4.4 Freedom of thought, conscience and religion

- *Constitution of Finland*, section 11: freedom of religion and conscience;
- *CRC*, art. 14(1): the child’s right to freedom of thought, conscience and religion; art. 14(2): the state’s obligation to respect the rights and duties of the parents to provide direction to the child in the exercise of his or her right in a manner consistent with the child’s evolving capacities; art. 14(3): conditions for limitations on the exercise of the rights;
- *ICCPR*, art. 18(1)–(2): everyone’s right to freedom of thought, conscience and religion; art. 18(3): conditions for limitations on the exercise of the rights; art. 18(4): States Parties to have respect for the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions; art. 20(2): incitement to discrimination and violence to be prohibited by law;
- *ICESCR*, art. 13(3): liberty of parents to choose for their children schools which conform to such minimum educational standards as may be laid down or approved by the state and to ensure the religious and moral education of their children in conformity with their own convictions;
- *ICERD*, art. 5(d)(vii): right to freedom of thought, conscience and religion;
- *CRSR*, art. 4: equal freedom of refugees to practice their religion and as regards the religious education of their children;
- *ECHR*, art. 9: everyone’s right to freedom of thought, conscience and religion; and *ECHR Protocol No. 1*, art. 2: right of parents to ensure education and teaching for their children in conformity with their own religious and philosophical convictions;
- *FCNM*, art. 7: respect for the right to freedom of thought, conscience and religion; art. 8: right to manifest one’s religion or belief and to establish religious institutions, organisations and associations; art. 9: right to freedom of expression, including freedom to hold opinions and to receive and impart information and ideas in a minority language; obligation to facilitate access to the media;
- *EUCFR*, art. 10: freedom of thought, conscience and religion; art. 14(3): right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 22 (1993) on Article 18 of the ICCPR.

### 3.2.4.5 Freedom of association and assembly

- *Constitution of Finland*, section 13: freedom of assembly and association;
- *CRC*, article 15(1): the child's rights to freedom of association and to freedom of peaceful assembly; article 15(2): conditions for restrictions on the exercise of the rights;
- *ICCPR*, art. 21: right to peaceful assembly; art. 22: freedom of association;
- *CRPD*, art. 29(b): participation in the conduct of public affairs;
- *ICERD*, art. 5(d)(ix): right to freedom of peaceful assembly and association;
- *CRSR*, art 15: right of association;
- *ECHR*, section 11: freedom of assembly and association;
- *FCNM*, art. 7: respect for the right to freedom of peaceful assembly and association; art. 17(2): right to participate in the activities of non-governmental organisations;
- *EUCFR*, art. 12: freedom of assembly and of association.

### 3.2.4.6 Protection of privacy, honour and reputation

- *Constitution of Finland*, section 10: right to privacy;
- *CRC*, art. 16: the child's right to protection of privacy, family, home, correspondence, honour and reputation;
- *ICCPR*, art. 17: prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence, and unlawful attacks on honour and reputation;
- *CRPD*, art. 17: protecting the integrity of the person; art. 22: respect for privacy;
- *ECHR*, art. 8: right to respect for private and family life;
- *EUCFR*, art. 7: respect for private and family life; art. 8: protection of personal data.

### 3.2.4.7 Right to receive information through the media and right to protection from injurious information and material

- *Constitution of Finland*, section 12(1): right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone; provisions on restrictions relating to pictorial programmes that are necessary for the protection of children to be laid down by an Act;
- *CRC*, art. 17: the child's right to receive information through the media and right to protection from information and material injurious to wellbeing;
- *CRPD*, art. 21: access to information.

General recommendations of human rights bodies

- Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/156);
- Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment;
- Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism.

### 3.2.5 Family environment and alternative care

#### 3.2.5.1 Parents' right and duty to support their children's evolving capacities

- *CRC*, art. 5: the child's evolving capacities and parents' responsibilities, rights and duties to provide direction and guidance in the exercise of the rights; art. 18(1): parents' primary responsibility for the child's upbringing and development, with the child's best interests as their basic concern.

#### 3.2.5.2 Separation of the child from parents

- *Constitution of Finland*, section 10: right to privacy, including protection of family life;
- *CRC*, art. 9(1)–(2): prohibition of and conditions for separating a child from his or her parents; art. 9(3): the child's right to maintain personal relations with both parents; art. 9(4): obligation to provide information concerning the whereabouts of the absent member(s) of the child's family;
- *CRPD*, art. 23(4): prohibition of and conditions for separating a child from his or her parents; prohibition of separating a child from parents on the basis of a disability of either the child or one or both of the parents;
- *ECHR*, art. 8: right to respect for private and family life;
- *Lanzarote Convention*, art 14(3): possibility of removing the victim of sexual exploitation or sexual abuse from the family environment;
- *EUCFR*, art. 24(3): the child's right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless contrary to his or her interests.

#### 3.2.5.3 Reunification of family members residing in different states

- *CRC*, art. 10: reunification of family members residing in different states;
- *ECHR*, art. 8: right to respect for private and family life.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

#### 3.2.5.4 Illicit transfer and non-return of children abroad

- *CRC*, art. 11: combating illicit transfer and non-return of children abroad;
- Hague Abduction Convention in its entirety;
- European Custody Convention in its entirety.

#### 3.2.5.5 Parents' common responsibilities, support for families and parents, and protection of working parents

- *Constitution of Finland*, section 19(3): support for families with children; section 10: right to privacy, including protection of family life;
- *CRC*, art. 18(1): parents' common and primary responsibility for the child's upbringing and development; art. 18(2): the state's obligation to render assistance to parents; art. 18(3): right of working parents to benefit from childcare services;
- *ICESCR*, art. 10(1): the widest possible protection and assistance to be accorded to the family while it is responsible for the care and education of dependent children;
- *ICCPR*, art. 23(1): the family as the natural and fundamental group unit of society entitled to protection by society; art. 23(4): provision to be made for the necessary protection of children at the dissolution of marriage;
- *CEDAW*, art. 5(b): common responsibility of parents in the upbringing and development of their children; art. 16(d): equal rights of men and women as parents, with the interests of the children being paramount in all cases; art. 16(f): equal rights with regard to guardianship and adoption of children, with the interests of the children being paramount in all cases;
- *CRPD*, art. 23(2)–(3): persons with disabilities to be rendered appropriate assistance in the performance of their child-rearing responsibilities and families to be provided with services and support;
- ILO Convention No. 183 on Maternity Protection **not ratified by Finland**;
- *ESC*, art. 27: right of workers with family responsibilities to equal treatment;
- *ECHR*, art. 8: right to respect for private and family life; *ECHR Protocol No. 7*, art. 5: equality between spouses in legal issues involving their children;

- *EUCFR*, art. 24(3): the child's right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless contrary to his or her interests; art. 33(1): legal, economic and social protection of the family; art. 33(2): right of working parents to protection in professional life.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 19 (1990) on Article 23 of the ICCPR;
- Recommendation CM/Rec(2006)19 of the Committee of Ministers to member states on policy to support positive parenting;
- Parliamentary Assembly Recommendation 1666 (2004) on a Europe-wide ban on corporal punishment of children.

### 3.2.5.6 Children deprived of their family environment

- *Constitution of Finland*, section 19(1): right to indispensable care; section 19(3): everyone's right to adequate social, health and medical services and support for those responsible for providing for children;
- *CRC*, art. 20: right of a child deprived of his or her family environment to special protection;
- *CRPD*, art. 23(5): provision of alternative care for a child within the wider family, and failing that, within the community in a family setting;
- *ESC*, art. 17(1)(c): provision of protection and special aid for children and young persons temporarily or definitively deprived of their family's support.

### 3.2.5.7 Adoption

- *CRC*, art. 21: ensuring the child's best interests as the paramount consideration in adoption;
- *CEDAW*, art. 16(f): equal rights with regard to adoption, with the interests of the children being paramount in all cases;
- *CRPD*, art. 23(2): the child's best interests paramount in adoption;
- Hague Adoption Convention in its entirety;
- *ECHR*, art. 8: right to respect for private and family life;
- European Convention on the Adoption of Children (ECAC) in its entirety.



### 3.2.5.8 The child's right to review of treatment and placement

- *CRC*, art. 25: the child's right to a review of his or her treatment and placement; art. 3(3): the institutions, services and facilities responsible for the care and protection of children to conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### 3.2.5.9 The child's right to maintenance

- *CRC*, art. 27(4): securing the recovery of maintenance for the child.

## 3.2.6 Disability, healthcare and social security

### 3.2.6.1 The right of a child with disabilities to live in conditions which ensure dignity, promote self-reliance and facilitate active participation

- *CRC*, art. 23(1): right of a child with disabilities to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation; art. 23(2)–(3): right of a child with disabilities to special care and assistance designed to promote the child's individual development;
- *CRPD* in its entirety;
- *EUCFR*, art. 26: right of persons with disabilities to participate in the life of the community.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 9 (2006) on the rights of children with disabilities;
- UN Committee on Economic, Social and Cultural Rights General Comment 5 (1994) on the rights of persons with disabilities;
- UN Committee on the Rights of Persons with Disabilities General Comments;
- Recommendation CM/Rec(2013)2 of the Committee of Ministers to member States on ensuring full inclusion of children and young persons with disabilities into society;
- Recommendation CM/Rec(2009)9 on the education and social inclusion of children and young people with autism spectrum disorders;
- Recommendation CM/Rec(2010)2 of the Committee of Ministers to member states on deinstitutionalisation and community living of children with disabilities;
- Council of Europe Disability Strategy 2017–2023.

### 3.2.6.2 Right to life, survival and development

- The content of this section corresponds to thematic area 3.2.3, General principles of child rights, discussed above; see subsection 3.2.3.4, Right to life, survival and development.

### 3.2.6.3 The child's right to health and health services

- *Constitution of Finland*, section 19(1): right to indispensable care; section 19(3): adequate social, health and medical services; section 19(3): promotion of the health of the population;
- *CRC*, art. 24: the child's right to the highest attainable standard of health and health services; art. 3(3): the institutions, services and facilities responsible for the care and protection of children to conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision;
- *ICESCR*, art. 12(1): right to the highest attainable standard of physical and mental health; art. 12(2)(d): obligation to assure medical service and medical attention for all in the event of sickness; art. 12(2)(a): steps to be taken to provide for the reduction of the stillbirth-rate and infant mortality and for the healthy development of the child;
- *CEDAW*, art. 10(h): women's access to information and advice on family planning; art. 12(1): equal access to healthcare services; art. 12(2): appropriate services for women in connection with pregnancy and childbirth;
- *CRPD*, art. 23(1)(b): access to reproductive and family planning information and education; art. 23(1)(c): retention of fertility on an equal basis; art. 25: health; art. 26: habilitation and rehabilitation;
- *ICERD*, art. 5(e)(iv): right to public health and medical care;
- *ESC*, art. 1: right to work-related rehabilitation; art. 11: right to protection of health; art. 8: right to health services during pregnancy and protection in employment of pregnant women and foetuses;
- *Biomedicine Convention* in its entirety, incl. art. 3: equitable access to healthcare; art. 4: professional standards;
- *Istanbul Convention*, measures under Chapter IV: protection and support, incl. shelters, telephone helplines and support for victims of sexual violence;
- *EUCFR*, art. 3(2): right to the integrity of the person in the field of medicine; art. 35: right of access to preventive healthcare and medical treatment.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 3 (2003) on HIV/AIDS and the rights of the child;

- UN Committee on the Rights of the Child general comment No. 4 (2003) on adolescent health and development;
- UN Committee on the Rights of the Child general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health;
- UN Committee on Economic, Social and Cultural Rights General Comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the ICESR);
- UN Committee on Economic, Social and Cultural Rights General Comment No. 22 (2016) on the right to sexual and reproductive health.

#### 3.2.6.4 The child's right to benefit from social security and childcare services

- *Constitution of Finland*, section 19(1): right to indispensable care; section 19(2): right to basic subsistence; section 19(3): adequate social, health and medical services; section 19(3): promotion of the health of the population; section 19(3): support for families with children;
- *CRC*, art. 26: the child's right to social security; art. 18(3): right of children of working parents to benefit from childcare services; art. 3(3): the institutions, services and facilities responsible for the care and protection of children to conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision;
- *ICESCR*, art. 9: everyone's right to social security, including social insurance; art. 10(2): special protection to be accorded to mothers before and after childbirth;
- *CRPD*, art. 19(b): access to a range of in-home, residential and other community support services; art. 20: personal mobility and relevant services; art. 21(b): use of sign languages, Braille and augmentative and alternative communication; art. 23(3): information, services and support for children with disabilities and their families; art. 28(2): right to social protection;
- *ICERD*, art. 5(e)(iv): right to social security and social services;
- *CRSR*, art 24: social security;
- *ESC*, art. 12: right to social security; art. 13: right to social and medical assistance; art. 14: right to benefit from social services; art. 30: right to protection against poverty and social exclusion;
- *EUCFR*, art. 34(1)–(2): right to social security benefits and social services; art. 34(3): right to social and housing assistance.

General recommendations of human rights bodies

- UN Committee on Economic, Social and Cultural Rights General Comment No. 19 (2008) on the right to social security;
- UN Guidelines for the alternative care of children, A/RES/64/142\*;
- Recommendation CM/Rec(2011)12 of the Committee of Ministers to member states on children's rights and social services friendly to children and families;
- Guidelines on child-friendly health care (Adopted by the Committee of Ministers on 21 September 2011 at the 1121<sup>st</sup> meeting of the Ministers' Deputies);
- Council of Europe Recommendation Rec(2005)5 on the rights of children living in residential institutions.

### 3.2.6.5 The child's right to an adequate standard of living, including housing

- *Constitution of Finland*, section 19(1): right to indispensable care; section 19(2): right to basic subsistence; section 19(4): right to housing;
- *CRC*, art. 27: the child's right to an adequate standard of living;
- *ICESCR*, art. 11(1): everyone's right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions;
- *CRPD*, art. 28(1): right to an adequate standard of living;
- *ICERD*, art. 5(e)(iii): right to housing;
- *CRSR*, art. 21: equal treatment with other aliens as regards housing;
- *ESC*, art. 31: right to housing;
- *EUCFR*, art. 34(3): right to social and housing assistance.

General recommendations of human rights bodies

- UN Committee on Economic, Social and Cultural Rights General Comment No. 7 (1997) on the right to adequate housing;
- UN Committee on Economic, Social and Cultural Rights General Comment No. 12 (1999) on the right to adequate food;
- UN Committee on Economic, Social and Cultural Rights General Comment No. 15 (2002) on the right to water (arts. 11 and 12 of the ICESCR).

### 3.2.6.6 Protecting children from drugs

- *CRC*, art. 33: protection of children from the illicit use of narcotic drugs and psychotropic substances and from the use of children in the illicit production and trafficking of such substances.

## 3.2.7 Education, leisure and cultural activities

### 3.2.7.1 The child's right to receive education and training

- *Constitution of Finland*, section 16(1): right to basic education free of charge; section 16(2): right to other educational services besides basic education and to develop oneself;
- *CRC*, art. 28: the child's right to education, incl. art. 28(1)(a): compulsory and free primary education; art. 28(1)(b): development of different forms of secondary education, incl. general and vocational education, and measures to introduce free education and offer financial assistance in case of need; art. 28(1)(c): making higher education accessible to all on the basis of capacity; art. 28(1)(d): making educational and vocational information and guidance available and accessible to all children; art. 28(1)(e): measures to encourage regular attendance at schools and to reduce drop-out rates;
- *ICESCR*, art. 13(2)(a): compulsory and free primary education; art. 13(2)(b): secondary education to be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; art. 13(2)(c): higher education to be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; art. 13(2)(d): fundamental education to be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; art. 13(2)(e): active development of the school system;
- *CEDAW*, art. 10: equal rights of women and men to education, including detailed rights;
- *CRPD*, art. 24: right of persons with disabilities to education; inclusive education system; art. 27(1)(d): effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training on an equal basis;
- *ICERD*, art. 5(e)(v): right to education and training;
- *CRSR*, art. 22: equal right to elementary education and equal treatment with other aliens with respect to education other than elementary education as regards access to studies and recognition of educational attainments;
- *CDE* in its entirety;
- *ESC*, art. 1: right to receive vocational training and guidance; art. 9: right to vocational guidance; art. 10: right to vocational training; art. 15(1): education and vocational training for persons with disabilities; art. 17(1)(a): right of children and young persons to education and training services; art. 17(2): free primary education for children and young persons and encouragement to regular attendance at school;
- *ECHR Protocol No. 1*, art. 2: right to education;

- *FCNM*, art. 12(2): adequate opportunities for teacher training and access to textbooks; art. 12(3): equal opportunities for access to education at all levels for persons belonging to national minorities; art. 14(1): right to learn one's minority language; art. 14(2): teaching the minority language;
- *ECRML*, art. 8: education;
- *EUCFR*, art. 14(1): right to education and vocational training; art. 14(2): free compulsory education.

#### General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 7 (2005) on implementing child rights in early childhood;
- UN Committee on the Rights of the Child general comment No. 9 (2006) on the rights of children with disabilities;
- UN Committee on Economic, Social and Cultural Rights General Comment No. 13 (1999) on the right to education (art. 13 of the ICESCR);
- UN Committee on the Elimination of Discrimination against Women General recommendation No. 36 (2017) on the right of girls and women to education;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 4 (2016) on the right to inclusive education;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXVII (2000) on discrimination against Roma;
- UNESCO: The Salamanca Statement and Framework for Action on Special Needs Education, 1994;
- Recommendation CM/Rec(2009)4 of the Committee of Ministers to member states on the education of Roma and Travellers in Europe;
- Recommendation CM/Rec(2000)4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe;
- ECRI General Policy Recommendation No. 10 (2006) on combating racism and racial discrimination in and through school education.

### 3.2.7.2 Aims of the child's education

- *Constitution of Finland*, section 16(2): right to self-development;
- *CRC*, art. 29: aims of the child's education, incl. development of the child's personality, talents and mental and physical abilities to their fullest potential; education for human rights and equality; and development of respect for the natural environment;
- *ICESCR*, art. 13(1): aims of education, incl. development of the human personality and the sense of its dignity; education to strengthen the respect for human rights and fundamental freedoms;

- *CRPD*, art. 24(1): right of persons with disabilities to education; art. 24(1)(a): education directed to the full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; art. 24(1)(b): education directed to the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; art. 24(1)(c): education directed to enabling persons with disabilities to participate effectively in society;
- *ICERD*, art. 7: combating prejudices through teaching and education;
- *CDE*, art. 5(1)(a);
- *Lanzarote Convention*, art 6: children’s education and right to receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves;
- *Istanbul Convention*, art. 14: education on gender equality, gender-based violence against women and the right to personal integrity;
- *FCNM*, art. 12(1): knowledge of the culture, history, language and religion of national minorities to be fostered in the fields of education and research.

#### General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 1 (2001) on the aims of education;
- UN Declaration on Human Rights Education and Training;
- Recommendation CM/Rec(2010)7 of the Committee of Ministers on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education.

### 3.2.7.3 **Minority or indigenous children’s right to their own culture, religion and language**

- *Constitution of Finland*, section 11: freedom of religion and conscience; section 17: right to one’s language and culture; section 17(1): Finnish and Swedish as the national languages; section 17(3): right of the Saami, the Roma and other groups to their own language and culture; right of the Saami to use the Saami language before the authorities; rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability;
- *CRC*, art. 30: right of minority or indigenous children to enjoy their own culture, to profess and practise their own religion, or to use their own language;
- *ICCPR*, art. 27: right of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practise their own religion, or to use their own language;

- *CRPD*, art. 3(h): right of children with disabilities to preserve their identities; art. 21(b): use of sign languages, Braille and augmentative and alternative communication; art. 21(e): recognising and promoting the use of sign languages; art. 24(3)–(4): ensuring education delivered in the most appropriate languages and modes and means of communication for the individual; art. 30(4): right to specific cultural and linguistic identity;
- *CDE*, particularly art. 5(1)(c);
- ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries **not ratified by Finland**;
- *FCNM*, art. 5(1): right of persons belonging to national minorities to maintain and develop their culture, and to preserve their religion, language, traditions and cultural heritage; art. 10: right to use freely one's minority language; art. 14(1): right to learn one's minority language;
- *ECRML* in its entirety;
- *EUCFR*, art. 22: cultural, religious and linguistic diversity.

#### General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 11 (2009) on indigenous children and their rights under the Convention;
- UN Human Rights Committee General Comment No. 23 (1994) on Article 27 of the ICCPR;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXVII (2000) on discrimination against Roma;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXIII (1997) on the rights of indigenous peoples;
- UN Declaration on the Rights of Indigenous Peoples;
- Recommendation CM/Rec(2009)4 of the Committee of Ministers to member states on the education of Roma and Travellers in Europe;
- Recommendation CM/Rec(2000)4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe;
- ECRI General Policy Recommendation No. 3 (1998) on combating racism and intolerance against Roma/Gypsies.

#### 3.2.7.4 Right to rest, leisure, play, recreational activities and cultural life

- *Constitution of Finland*, section 16(2): right to self-development;
- *CRC*, art. 31: the child's right to rest, leisure, play, recreational activities, cultural life and the arts;
- *ICESCR*, art. 15.1(a): right to take part in cultural life; art. 7(d): rest and working conditions;



- *CEDAW*, art. 10(g): women's equal opportunities to participate in sports and physical education; art. 13(c): equal right to participate in recreational activities, sports and cultural life;
- *CRPD*, art. 30: right of persons with disabilities to take part on an equal basis with others in cultural life and in play, recreation and leisure and sporting activities, including those activities in the school system, particularly art. 30(5) (d);
- *ICERD*, art. 5(e)(vi): right to equal participation in cultural activities;
- *UNESCO Cultural Diversity Convention* in its entirety: promotion of cultural diversity.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts;
- UN Committee on Economic, Social and Cultural Rights General Comment No. 21 (2009) on the right of everyone to take part in cultural life;
- ECRI General Policy Recommendation No. 12 (2008) on combating racism and racial discrimination in the field of sport.

## 3.2.8 Violence against children

### 3.2.8.1 Right to protection against all forms of violence and maltreatment

- *Constitution of Finland*, section 7(2): right to personal integrity;
- *CRC*, art. 19: the child's right to protection against all forms of violence and maltreatment;
- *CRC-OP-SC* in its entirety, incl. art. 9(5): prohibiting the production and dissemination of material advertising offences;
- *CRC-OP-AC* in its entirety;
- *ICCPR*, art. 9(1): right to liberty and security of person;
- *CRPD*, art. 14(1)(a): right to security of person; art. 16: freedom from exploitation, violence and abuse; art. 17: protecting the integrity of the person;
- *ESC*, art. 17(1)(b): protection of children against negligence, violence or exploitation;
- *ECHR*, art. 5: right to liberty and security of person;
- *Lanzarote Convention* in its entirety; see e.g. Chapter VI: substantive criminal law;
- *Istanbul Convention* in its entirety; see e.g. Chapter V: substantive law;
- *FCNM*, art. 6(2): measures to protect persons against threats or acts of discrimination, hostility or violence;

- *EUCFR*, art. 3(1): right to physical and mental integrity; art. 6: right to liberty and security.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 13 (2011) on the right of the child to freedom from all forms of violence;
- UN Committee on the Rights of the Child general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment;
- UN Human Rights Committee General Comment No. 35 (2014) on Article 9 of the ICCPR;
- UN Committee on the Elimination of Discrimination against Women General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19;
- UN Committee on the Elimination of Discrimination against Women General recommendation No. 14 (1990) on female circumcision;
- UN Committee on the Elimination of Racial Discrimination General recommendation No. 35 (2013) on combating racist hate speech;
- Recommendation CM/Rec(2009)10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence;
- Recommendation CM/Rec(2006)19 of the Committee of Ministers to member states on policy to support positive parenting;
- Parliamentary Assembly Recommendation 1666 (2004) on a Europe-wide ban on corporal punishment of children.
- Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment;
- Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism.

### 3.2.8.2 Promoting recovery and social integration of child victims

- *CRC*, art. 39: promotion of physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts;
- *CRC-OP-SC*, art. 9(3): social reintegration and physical and psychological recovery of victims;
- *CRC-OP-AC*, arts. 6–7: physical and psychological recovery and social integration of victims;

- *CRPD*, art. 16(2); art. 16(4): provision of protection services;
- *CAT*, art. 14: right to redress and compensation, including the means for rehabilitation;
- *Palermo Convention Protocol II*, art. 6: assistance to and protection of victims of trafficking in persons;
- *Lanzarote Convention*, art. 14: assistance to victims; Chapter VII: investigation, prosecution and procedural law, incl. arts. 31, 34 and 35 in particular;
- *Istanbul Convention*, measures under Chapter IV: protection and support, incl. shelters, telephone helplines and support for victims of sexual violence;
- *ECAT*, art. 12: assistance to victims.

General recommendations of human rights bodies

- UN Committee against Torture general comment No. 3 (2012) on implementation of article 14 by States parties.

### 3.2.8.3 Abolishing traditional practices prejudicial to children's health

- *CRC*, art. 24(3): abolishing traditional practises prejudicial to the health of children;
- *CRPD*, art. 16: freedom from exploitation, violence and abuse;
- *Istanbul Convention*, art. 32: possibility to void, annul or dissolve marriages concluded under force without undue financial or administrative burden placed on the victim; art. 37: legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised; art. 38: female genital mutilation; art. 42: crimes committed in the name of so-called 'honour'.

General recommendations of human rights bodies

- Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014).

### 3.2.8.4 Right to protection from torture and cruel, inhuman or degrading treatment or punishment

- *Constitution of Finland*, section 7(2): prohibition of torture;
- *CRC*, art. 37(a): right to protection from torture and cruel, inhuman or degrading treatment or punishment; art. 28(2): school discipline to be administered in a manner consistent with the child's human dignity and in conformity with the provisions and principles of the *CRC*;

- *ICCPR*, art. 7: prohibition of torture or cruel, inhuman or degrading treatment or punishment and of medical or scientific experimentation without free consent;
- *CRPD*, art. 15: freedom from torture and cruel, inhuman or degrading treatment or punishment;
- CAT and its Optional Protocol in their entirety;
- *ECHR*, art. 3: prohibition of torture or inhuman or degrading treatment or punishment;
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) in its entirety;
- *Biomedicine Convention*, particularly arts. 6, 17 and 20: protection of persons not able to consent to a health intervention, research or organ removal;
- *EUCFR*, art. 4: prohibition of torture and inhuman or degrading treatment or punishment.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 7 (1982) on Article 7 of the *ICCPR*;
- UN Committee on the Rights of the Child general comment No. 1 (2001) on the aims of education (art. 29, para. 1).

### 3.2.8.5 Protecting the child from all forms of sexual exploitation and sexual abuse

- *CRC*, art. 19: the child's right to protection from all forms of violence; art. 34: protection of the child from all forms of sexual exploitation and sexual abuse;
- *CRC-OP-SC* in its entirety;
- *CRPD*, art. 16: freedom from exploitation, violence and abuse;
- Lanzarote Convention in its entirety;
- Istanbul Convention in its entirety;
- *ECAT* in its entirety.

General recommendations of human rights bodies

- Recommendation No. R (2000) 11 of the Committee of Ministers on action against trafficking in human beings for the purpose of sexual exploitation.

## 3.2.9 Special protection measures

### 3.2.9.1 Asylum-seeking and refugee children

- *CRC*, art. 22: right of a refugee child to receive appropriate protection and humanitarian assistance;

- *CAT*, art. 3: prohibition of expulsion, return or extradition to another state where a person would be in danger of being subjected to torture;
- *CRSR* in its entirety;
- *Istanbul Convention*, Chapter VII: migration and asylum;
- *EUCFR*, art. 18: right to asylum in accordance with relevant treaties.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;
- Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration;
- Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return;
- UN Committee on the Elimination of Discrimination against Women General recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women;
- UN Committee on the Elimination of Racial Discrimination, General recommendation XXII (1996) on article 5 of the Convention on refugees and displaced persons;
- Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on effective guardianship for unaccompanied and separated children in the context of migration.

### 3.2.9.2 **Minority or indigenous children’s right to their own culture, religion and language**

- The content of this section corresponds to thematic area 3.2.7, Education, leisure and cultural activities, discussed above; see subsection 3.2.7.3, Minority or indigenous children’s right to their own culture, religion and language.

### 3.2.9.3 The child's right to protection from economic exploitation and child labour and protection of young workers

- *CRC*, art. 32: the child's right to protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or development;
- *ICESCR*, art. 10(3): protection of children and young persons from economic and social exploitation; criminalisation of the use of child labour; obligation to set age limits below which the paid employment of child labour should be prohibited and punishable by law;
- *CRPD*, art. 27(2): prohibition of slavery, servitude and forced or compulsory labour;
- ILO Convention No. 138 concerning Minimum Age for Admission to Employment in its entirety;
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in its entirety;
- *ESC*, art. 7: right of children and young persons to protection in and minimum age of admission to employment; art. 1(4): right to vocational rehabilitation; art. 9: right to vocational guidance; art. 15(1): education and vocational training for persons with disabilities; art. 15(2): promotion of access to employment of persons with disabilities and adjustment of the working conditions to their needs;
- *EUCFR*, art. 32: prohibition of child labour and protection of young people at work.

### 3.2.9.4 Protecting children from drugs

- The content of this section corresponds to thematic area 3.2.6, Disability, healthcare and social security; see subsection 3.2.6.6, Protecting children from drugs.

### 3.2.9.5 Protecting the child from all forms of sexual exploitation and sexual abuse

- The content of this section corresponds to thematic area 3.2.8, Violence against children; see subsection 3.2.8.5, Protecting the child from all forms of sexual exploitation and sexual abuse.

### 3.2.9.6 Preventing abduction and sale of and trafficking in children

- *CRC*, art. 35: preventing the abduction of, the sale of or traffic in children;
- *CRC-OP-SC* in its entirety;
- Palermo Convention Protocol II in its entirety;

- *CEDAW*, art. 6: suppression of all forms of traffic in women and exploitation of prostitution of women;
- Lanzarote Convention, arts. 18–23;
- *ECAT* in its entirety;
- *EUCFR*, art. 5(3): prohibition of trafficking in human beings.

General recommendations of human rights bodies

- Recommendation No. R (2000) 11 of the Committee of Ministers on action against trafficking in human beings for the purpose of sexual exploitation.

### 3.2.9.7 Protecting the child against all other forms of exploitation

- *CRC*, art. 36: protection of the child against all other forms of exploitation;
- *ICESCR*, art 10(3): social exploitation.

### 3.2.9.8 Right to protection from torture and cruel, inhuman or degrading treatment or punishment

- The content of this section corresponds to thematic area 3.2.8, Violence against children; see subsection 3.2.8.4, Right to protection from torture and cruel, inhuman or degrading treatment or punishment.

### 3.2.9.9 Prohibition of capital punishment

- *Constitution of Finland*, section 7(2): prohibition of the death penalty;
- *CRC*, art. 37(a): prohibition of capital punishment or life imprisonment without possibility of release for offences committed by persons below 18 years of age;
- *ICCPR Second Optional Protocol*, prohibition of the death penalty;
- *ECHR Protocol No. 6*, art. 1: abolition of the death penalty; and *ECHR Protocol No. 13*, art. 1: abolition of the death penalty in all circumstances;
- *EUCFR*, art. 2(2): prohibition of the death penalty.

### 3.2.9.10 Conditions for depriving a child from liberty and due process rights

- *Constitution of Finland*, section 7(3): prohibition of violation of personal integrity and deprivation of liberty arbitrarily or without a reason prescribed by an Act;

- *CRC*, art. 37(b)–(d): prohibition of unlawful or arbitrary deprivation of any child’s liberty; arrest, detention or imprisonment of a child to be in conformity with the law and to be used only as a measure of last resort and for the shortest appropriate period of time; the child’s right to legal and other assistance;
- *ICCPR*, art. 10: treatment of persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person;
- *CRPD*, art. 14: liberty and security of person;
- *ECHR*, art. 5: right to liberty and security;
- *EUCFR*, art. 6: right to liberty and security.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 21 (1992) on Article 10 of the *ICCPR*;
- UN Committee on the Rights of the Child general comment No. 24 (2019) on children’s rights in the justice system.

### 3.2.9.11 Protecting children from armed conflicts

- *CRC*, art. 38: protecting children affected by armed conflicts;
- *CRC-OP-AC* in its entirety;
- *CRPD*, art. 11: obligation to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

### 3.2.9.12 Promoting recovery and social integration of child victims

- The content of this section corresponds to thematic area 3.2.8, Violence against children; see subsection 3.2.8.2, Promoting recovery and social integration of child victims.

### 3.2.9.13 Rights of a child suspected, accused or convicted of a crime and establishing a minimum age for criminal liability

- *CRC*, art. 40: status and rights of a child suspected, accused or convicted of a crime and establishing a minimum age for criminal liability;
- *ICCPR*, art. 9: right to liberty and security of person and grounds for deprivation of liberty; art. 10: treatment of persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person; art. 14: equality before the courts and tribunals; right to a fair and public hearing by a competent, independent and impartial tribunal established



by law; right of everyone charged with a criminal offence to be presumed innocent until proved guilty according to law; minimum guarantees in the determination of any criminal charge; art. 15: principle of no punishment without law;

- *ECHR*, art. 7: no punishment without law; and *ECHR Protocol No. 7*, art. 2: right of appeal in criminal matters; art. 3: compensation for wrongful conviction; art. 4: right not to be tried or punished twice.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 24 (2019) on children's rights in the justice system;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXXI (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

### 3.2.10 Other fundamental and human rights

#### 3.2.10.1 Due process and good governance

- *Constitution of Finland*, section 21: protection under the law, fair trial and good governance; section 22: obligation of the public authorities to guarantee the observance of basic rights and liberties and human rights; section 1(2): inviolability of human dignity and promotion of justice in society; section 2(3): exercise of public powers to be based on an Act and the law to be strictly observed in all public activity); section 7(3): lawfulness of deprivation of liberty to be submitted for review by a court of law and the rights of individuals deprived of their liberty to be guaranteed by an Act; section 8: principle of legality in criminal cases; section 106: primacy of the Constitution; section 108: the Chancellor of Justice as a monitor of the implementation of basic rights and liberties and human rights; section 109: the Parliamentary Ombudsman as a monitor of the implementation of basic rights and liberties and human rights; section 124: delegation of administrative tasks to others than the authorities;
- *CRC*, art. 3(1): the child's best interests as a primary consideration in all actions concerning children; art. 3(2): protection and care necessary for the child's wellbeing; art. 3(3): the institutions, services and facilities responsible for the care and protection of children to conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision; art. 12(1): the child's right to express his or her views and have his or her views given

due weight/the child's right to be heard and taken seriously; art. 12(2): the child's opportunity to be heard in any judicial and administrative proceedings affecting the child;

- *CRC-OP-IC* in its entirety (procedure for communications to the Committee);
- *CRC-OP-SC* extensively, including legal protection of victims;
- ICESCR Optional Protocol on a communications procedure (procedure for communications to the Committee);
- *ICCPR*, art. 2(3): effective remedies; art. 9: right to liberty and security of person and grounds for deprivation of liberty; art. 14: equality before the courts and tribunals; right to a fair and public hearing by a competent, independent and impartial tribunal established by law; right of everyone charged with a criminal offence to be presumed innocent until proved guilty according to law; minimum guarantees in the determination of any criminal charge; art. 15: principle of no punishment without law; art. 16: right to recognition as a person before the law; art. 26; right to equal protection of the law without any discrimination;
- *ICCPR* Optional Protocol on a communications procedure (procedure for communications to the Committee);
- *CEDAW*, art. 2(c): effective remedies against any act of discrimination; art. 15: equality between women and men before the law;
- *CEDAW* Optional Protocol on a communications procedure (procedure for communications to the Committee);
- *CRPD*, art. 3(a): respect for inherent dignity, individual autonomy and independence of persons; art. 4: the state's obligation to take action; art. 12: equal recognition before the law; art. 13: access to justice;
- *CRPD* Optional Protocol on a communications procedure (procedure for communications to the Committee);
- *ICERD*, art. 5: equality before the law; art. 6: effective protection and remedies against any acts of racial discrimination; art. 14: procedure for communications to the Committee;
- *CAT*, art. 13: right of any individual who alleges he has been subjected to torture to complain to, and to have his case promptly and impartially examined by, the competent authorities; art. 14: right of a victim of an act of torture to redress and rehabilitation; art. 22: procedure for communications to the Committee;
- *CRSR*, art. 16: access to courts; art. 25: administrative assistance;
- *Palermo Convention Protocol II*, art. 5: criminalisation; art. 8: repatriation of victims of trafficking in persons; art. 10: information exchange and training;
- *ECHR*, art. 6: right to a fair trial; art. 13: right to an effective remedy;
- *FCNM*, art. 4(1): equality before the law;

- *ECRML*, art. 9: right to use one's regional or minority language before judicial authorities; art. 10: right to use one's regional or minority language before administrative authorities and in public services;
- *Lanzarote Convention*, art. 12: reporting suspicion of sexual exploitation or sexual abuse notwithstanding confidentiality rules; Chapter VI: substantive criminal law; Chapter VII: investigation, prosecution and procedural law; art. 38: international cooperation;
- *Istanbul Convention*, art. 21: assistance in individual or collective complaints; art. 26: protection and support for child witnesses; art. 28: reporting by professionals notwithstanding confidentiality rules; Chapter V: substantive law; Chapter VI: investigation, prosecution, procedural law and protective measures; Chapter VII: migration and asylum;
- *ECAT*, art. 14: residence permit; art. 15: compensation and legal redress; art. 16: repatriation and return of victims; Chapter IV: substantive criminal law; criminalisation of offences relating to trafficking in human beings; Chapter V: investigation, prosecution and procedural law; Chapter VI: international cooperation;
- *European Convention on the Exercise of Children's Rights (ECECR)*, art. 3: the child's right to be informed and to express his or her views in proceedings; art. 4: the child's right to apply for the appointment of a special representative; art. 9: appointment of a representative for a child (NB: Convention applied in Finland to judicial proceedings relating to establishing paternity, adoption and taking into custody);
- *EUCFR*, art. 20: equality before the law; art. 41: right to good administration in EU institutions; Title VI: justice (applicable to EU law).

#### General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 32 (2007) on Article 14 of the ICCPR;
- UN Committee on the Rights of the Child general comment No. 2 (2002) on the role of independent national human rights institutions;
- UN Committee on the Rights of the Child general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child;
- UN Committee on the Rights of Persons with Disabilities General Comment No. 1 (2014) on equal recognition before the law;
- UN Committee on the Elimination of Discrimination against Women General recommendation No. 33 (2015) on women's access to justice;
- UN Committee on the Elimination of Racial Discrimination General recommendation XXXI (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

- UN Guidelines for the alternative care of children, A/RES/64/142\*;
- Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098<sup>th</sup> meeting of the Ministers' Deputies);
- Council of Europe Recommendation Rec(2005)5 on the rights of children living in residential institutions.

### 3.2.10.2 Right to a healthy environment

- *Constitution of Finland*, section 20: responsibility for the environment;
- *CRC*, art. 29(1)(e): education directed to the development of respect for the natural environment;
- *EUCFR*, art. 37: environmental protection.

General recommendations of human rights bodies

- UN Committee on the Elimination of Discrimination against Women General recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change.

### 3.2.10.3 Prohibition of slavery

- *ICCPR*, art. 8: prohibition of slavery, slave-trade, servitude and forced or compulsory labour;
- *CRPD*, art. 27(2): prohibition of holding persons with disabilities in slavery or in servitude and their protection, on an equal basis with others, from forced or compulsory labour;
- *ECHR*, art. 4: prohibition of slavery and forced labour;
- *EUCFR*, art. 5(1): prohibition of slavery or servitude; art. 5(2): prohibition of forced or compulsory labour.

### 3.2.10.4 Freedom of movement

- *Constitution of Finland*, section 9: freedom of movement;
- *ICCPR*, art. 12(1): right of everyone lawfully within the territory of a state to liberty of movement within that territory;
- *CEDAW*, art. 15(4): equal rights of women and men relating to movement;
- *CRPD*, arts. 18 and 20: personal mobility;
- *ICERD*, art. 5(d)(i): right to freedom of movement; art. 5(f): right of access to transport and any place of service intended for use by the general public;
- *CRSR*, art 26: freedom of movement; art. 28: travel documents;
- *ECHR Protocol No. 4*, art. 2: freedom of movement;

- *EUCFR*, art. 45(1): every EU citizen's right to move and reside freely within the territory of the Member States; art. 45(2): freedom of movement and residence may be granted to nationals of third countries legally resident in the territory of a Member State.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 27 (1999) on Article 12 of the ICCPR.

### 3.2.10.5 Right to choose one's residence (for a child by the legal guardian)

- *Constitution of Finland*, section 9(1): right to choose one's place of residence;
- *ICCPR*, art. 12(1): freedom of everyone lawfully within the territory of a state to choose his residence within that territory;
- *CEDAW*, art. 15(4): equal rights of women and men relating to the freedom to choose their residence and domicile;
- *CRPD*, art. 18: right of persons with disabilities to freedom to choose their residence on an equal basis with others; art. 19(a): opportunity of persons with disabilities to choose their place of residence and where and with whom they live on an equal basis with others; no obligation to live in a particular living arrangement;
- *ICERD*, art. 5(d)(i): right to freedom of residence.

### 3.2.10.6 Prohibition of expulsion of nationals

- *Constitution of Finland*, section 9: prohibition of deportation of Finnish citizens and other rights relating to international movement;
- *ECHR Protocol No. 4*, art. 3: prohibition of expulsion of nationals.

### 3.2.10.7 Prohibition of collective expulsion of aliens, remedies for expulsion of aliens and grounds for expulsion of aliens or refugees

- *Constitution of Finland*, section 9(4): provisions governing deportation of foreigners;
- *ICCPR*, art. 12: right of everyone lawfully within the territory of a state to liberty of movement; art. 13: grounds for restricting expulsion of aliens;
- *CRSR*, art 32: expulsion; art. 33: prohibition of expulsion or return ('refoulement');
- *ECHR Protocol No. 4*, art. 4: prohibition of collective expulsion of aliens;
- *ECHR Protocol No. 7*, art. 1: procedural safeguards relating to expulsion of aliens;

- *Istanbul Convention*, Chapter VII: migration and asylum, e.g. art. 61: non-refoulement;
- *EUCFR*, art. 19(1): prohibition of collective expulsions; art. 19(2): prohibition of removal, expulsion or extradition to a state where there is a serious risk of death penalty, torture or other inhuman or degrading treatment or punishment.

General recommendations of human rights bodies

- UN Human Rights Committee General Comment No. 15 (1986) on Article 12 of the ICCPR.

### 3.2.10.8 Protection of property

- *Constitution of Finland*, section 15: protection of property;
- *CRSR*, art. 13: protection of property;
- *CRPD*, art. 12(5): right to own or inherit property, to control one's own financial affairs; protection of property;
- *ICERD*, art. 5(d)(v): right to own property; art. 5(d)(vi): right to inherit;
- *ECHR Protocol No. 1*, art. 1: protection of property;
- *EUCFR*, art. 17: protection of right to property.

### 3.2.10.9 Children of migrant workers

- *ESC*, art. 19: right of migrant workers and their families to protection and assistance;
- *ICMW* in its entirety. **Finland has failed to ratify the Convention** despite repeated calls by several UN human rights monitoring bodies (incl. the UN Committee on the Rights of the Child).

General recommendations of human rights bodies

- Joint general comments No. 22 (2017) and No. 23 (2017) of the Committee on the Rights of the Child (with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families).

### 3.2.10.10 Protecting child rights in business

- *CRC*, art. 32: the child's right to protection from economic exploitation; art. 36: protection against all other forms of exploitation prejudicial to any aspects of the child's welfare.

General recommendations of human rights bodies

- UN Committee on the Rights of the Child general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights.

### 3.2.10.11 Protection from enforced disappearance

- *ICED* in its entirety. The International Convention for the Protection of All Persons from Enforced Disappearance (ICED) **is currently in the process of being ratified in Finland**. The Government was due to submit its proposal to Parliament during 2020.

## 4 Recommendations issued to Finland by human rights treaty monitoring bodies

### 4.1 Monitoring the implementation of human rights treaties

This chapter discusses the implementation of human rights treaties relevant to child rights in Finland. It provides a compilation of concluding observations, recommendations and comments issued to Finland by international monitoring bodies.

Human rights refer to the fundamental rights belonging to everyone, which are enshrined in international treaties entailing binding obligations under international law and brought into force within a specific state. These impose legal obligations on the central government and other public authorities. Fundamental rights refer to the rights guaranteed for everyone in the Constitution of Finland, which oblige all public bodies. Collectively, fundamental and human rights form a complementary system of judicial protection. According to section 22 of the Constitution, the public authorities must 'guarantee the observance of basic rights and liberties and human rights'.

Human rights treaties impose obligations on the central government and other public authorities to: **1) respect the rights guaranteed under the treaties** (state and other public authorities should refrain from violating human rights or from interfering with their enjoyment); **2) protect the realisation of human rights** (state and other public authorities should provide active protection against violations of human rights); and **3) ensure and fulfil human rights** (state and other public authorities are required to take active measures to fulfil human rights, such as allocating resources to education or social security).

Most human rights treaties include an obligation to report to the international body monitoring the treaty in question. In their periodic reports, States Parties are required to provide an account of implementation of the rights and progress made in advancing the rights. The reporting process is an integral part of the implementation of human rights treaties and the monitoring and oversight of realisation of the rights. Following a periodic report, the monitoring bodies issue concluding observations and recommendations, which are of 'soft law' nature. In other words, these are not binding in the same way as treaty provisions, but they do have legal significance and the State Party should take them into account in its actions and decision-making.



This chapter covers recommendations issued to Finland by the following UN monitoring bodies:

- Committee on the Rights of the Child (CRC Committee);
- Committee on Economic, Social and Cultural Rights (CESCR Committee);
- Human Rights Committee (CCPR Committee) monitoring the ICCPR;
- Committee against Torture (CAT Committee);
- Committee on the Elimination of Discrimination against Women (CEDAW Committee); and
- Committee on the Elimination of Racial Discrimination (CERD Committee).

Since Finland only ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2016, the UN Committee on the Rights of Persons with Disabilities is yet to issue country-specific recommendations for Finland. Finland's report was submitted in October 2019 and it has not yet been considered by the CRPD Committee. The chapter also covers recommendations issued to Finland as part of the Universal Periodic Review of human rights (UPR process).

Finland is yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW): the former is currently in the process of being ratified and the Government was due to submit its proposal in 2020, whereas the latter was most recently assessed for ratification in 2011. Consequently, the UN Committees monitoring implementation of these Conventions have not issued any recommendations for Finland.

With regard to the Council of Europe, the chapter covers recommendations issued to Finland by the following bodies:

- European Committee of Social Rights (ECSR) monitoring the revised European Social Charter (ESC);
- Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) monitoring the FCNM;
- Committee of Experts of the European Charter for Regional or Minority Languages (ECRML Committee of Experts);
- European Commission against Racism and Intolerance (ECRI);
- Group of Experts on Action against Trafficking in Human Beings (GRETA) monitoring the Council of Europe Convention on Action against Trafficking in Human Beings;
- Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) monitoring the Istanbul Convention; and

- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Committee).

There are often minor differences between different treaty monitoring mechanisms and their internal procedures. The expert bodies monitoring the Council of Europe human rights treaties, such as GRETA and ACFC, first issue their country reports and these are then used by the Council of Europe Committee of Ministers as a basis for recommendations issued to the Member State, which are discussed in this chapter.

The Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) is yet to issue its country-specific recommendations for Finland.

The list set out in this chapter is not an exhaustive account of recommendations issued to Finland by international human rights bodies, but it includes those that are most relevant to children's rights.

The decisions of the European Court of Human Rights or decisions on individual complaints submitted to human rights monitoring bodies are not discussed in this context.<sup>19</sup> These will be covered at a later stage of the preparatory work on the Child Strategy. Nor will it examine the opinions issued by the supreme law enforcement officers – the Parliamentary Ombudsman and the governmental Chancellor of Justice – nor national case law on fundamental and human rights. These will also be covered at a later stage of the preparatory process.

The list does not cover the recommendations of the international monitoring bodies that have already been implemented by Finland. These include rescinding the restriction of the right to early childhood education and care; creating a national strategy to prevent violence against children; abolishing the index freeze on benefits linked to the national pension index; and the national action plan for the Istanbul Convention.

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<sup>19</sup> It should be noted that the reporting and communications procedures are used in parallel in the monitoring of several treaties, such as the revised European Social Charter and the UN Convention on the Rights of the Child. This chapter only examines recommendations issued as part of the reporting procedure.

## 4.2 Recommendations for Finland and realisation of child rights

The chapter provides a compilation of the recommendations issued to Finland by human rights monitoring bodies with specific relevance to realisation of child rights. The compilation covers the most recent recommendations issued by monitoring bodies (as of late April 2020). Finland receives new concluding observations and recommendations from monitoring bodies on a regular basis in keeping with their reporting cycles.

### 4.2.1 Child affairs coordination, child strategy, data collection and child rights training

- Coordination of child affairs: develop effective mechanism for coordinating policies on child rights and provide it with the necessary human, technical and financial resources to implement the policies at national, regional and municipal levels (CRC);
- Develop a comprehensive policy and plan of action (= child strategy) to implement the Convention on the Rights of the Child and link the plan to sectoral, national and municipal strategies and budgets (CRC);
- Ensure full implementation of the recommendations issued by the Committee on the Rights of the Child (CRC);
- Ensure the necessary resources for the Ombudsman for Children and the Parliamentary Ombudsman to guarantee child rights (CRC);
- Improve collection of data on children's wellbeing and enjoyment of rights, ensuring in particular that children with disabilities, minority and immigrant children, those living with violence or in poverty and those deprived of a family are taken into account in data collection (CRC, as well as GREVIO, and also CERD on various ethnic groups); Collect data on children of all ages (CRC);
- Raise awareness about child rights and provide systematic training on child rights (CRC & UPR); information and training on the rights guaranteed in a specific human rights treaty are also included in several other recommendations issued to Finland (e.g. GREVIO and UPR);
- Make Finland's periodic report and the Committee's recommendations widely available in the languages of the country (CRC and several other monitoring bodies as regards their respective treaties, e.g. CEDAW);
- Collect data in the healthcare and criminal justice sector related to violence, disaggregated by sex, age and relationship of the perpetrator to the victim, type of violence and geographical location (GREVIO);
- Support research relating to child witnesses of domestic violence (GREVIO).

#### 4.2.2 **Actively applying the primacy of the child's best interests and child impact assessment**

- Ensure that the principle of the best interests of the child is integrated and consistently applied in all legislative, administrative and judicial proceedings as well as all policies, programmes and projects relevant to and with an impact on children (CRC);
- Provide municipalities with sufficient resources allocated for ensuring the implementation of child rights; establish effective monitoring of budget allocations for the needs of children, ensuring appropriate levels of allocation; and introduce child budgeting, i.e. budget tracking from a child rights perspective (CRC);
- Make gender impact assessments common practice when drafting laws, policy programmes and action plans (CEDAW).

#### 4.2.3 **Combating discrimination and inequality from the perspective of children and child groups<sup>20</sup>**

- Strengthen efforts to combat all forms of discrimination, including discrimination against children with disabilities, immigrant and refugee children and children from ethnic minorities; enhance the measures undertaken to combat ethnic discrimination and social exclusion of the Roma; and ensure an adequate standard of living for all Roma children (CRC & CDESCR & CCPR & UPR & CEDAW on immigrant women, Roma women and women with disabilities);
- Ensure geographical equality of services (CRC);
- Increase efforts to combat discrimination on grounds of sexual orientation and gender identity (CCPR & ECRI & UPR & CEDAW).

#### 4.2.4 **Protecting the rights of vulnerable children<sup>21</sup>**

- Take the rights of children with disabilities into account when developing a national action programme under the Convention on the Rights of Persons with Disabilities (a legal and policy framework for equal treatment of children with disabilities) (CRC);

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20 See also the following subsection.

21 Vulnerable children may include children with disabilities, refugee and asylum-seeking children, those belonging to ethnic, cultural, religious or linguistic minorities or indigenous peoples, and those in out-of-home placements, etc.

- Integrate Roma and Saami children's rights into national plans and programmes and ensure their right to culturally sensitive education and healthcare services (CRC & CERD);
- Foster equal opportunities for access to education for the Roma (CCPR & ACFC & ECRI) and increase the training of Romani teachers, the production of teaching materials in Romani and the provision of teaching of Romani (ECRML);
- Educate Roma girls about their rights to equality and non-discrimination (CEDAW);
- Continue to make efforts to revitalise the Saami languages and ensure implementation (CESCR & CERD);
- Increase awareness of the Saami people in school education (ECRI);
- Support effective access to education in the Saami languages, e.g. development of language nest activities, e-learning and teacher training (CCPR & ECRML & ACFC);
- Ensure that local curricula reflect ethnic diversity and minorities (ACFC & CERD);
- Ensure access to health and social services in the Swedish and Saami languages (ACFC & ECRML & CERD & CEDAW on Saami people);
- Intensify efforts to implement the Strategy for the National Languages of Finland, incl. ensuring the knowledge of the Swedish language (ACFC);
- Implement the ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries (CRC & CESCR & CERD & ACFC & UPR);
- Ensure the provision of complaints mechanisms for children placed outside the home (CRC);
- Take into account the UN Guidelines for the Alternative Care of Children (CRC & CESCR);
- Ensure the rights of asylum-seeking children, incl. provision of sufficient mental health services (CRC & CAT), and fair treatment in asylum procedures, incl. a system of representatives in the asylum process (CCPR & UPR & CAT & CERD);
- Prohibit the detention of unaccompanied and separated children seeking asylum in the country and develop alternatives (CRC & CCPR & CPT & UPR & CAT & CERD on maintaining sufficient capacity in reception facilities providing adequate shelter, basic services and humanitarian assistance);
- Enhance efforts to prevent child trafficking, paying special attention to unaccompanied and separated children arriving in the country and providing a protective environment for them through: effective care arrangements, incl. safe and appropriate accommodation; training on trafficking issues provided for frontline professionals working at reception centres and with asylum seekers and representatives of unaccompanied or separated children; and

systematic pre-trial investigations into disappearances of unaccompanied and separated children, strengthening follow-up and alert systems on reports of missing children (GRETA);

- Ensure that fear of deportation from Finland, with or without their children, may not prevent migrant women from leaving abusive spouses or partners (GREVIO);
- Segregate juvenile offenders from adults in prisons (CCPR & CAT & UPR).

#### **4.2.5 Promoting children’s consultation, participation and opportunities for involvement**

- Ensure respect for children’s views, e.g. at school (CRC);
- Ensure that children are duly heard in judicial and administrative proceedings affecting them, in accordance with their maturity and in a child-friendly manner (CRC, with specific reference to hearing children with disabilities).

#### **4.2.6 Supporting children’s relationships with family members and peers**

- Promote reunification of children in alternative care with their biological families (CRC & UPR);
- Facilitate family reunification for children granted refugee status or subsidiary protection, incl. reviewing the income requirement (ECRI & UPR);
- Enhance the measures to combat bullying in schools (CRC & CESCRC).

#### **4.2.7 Provision of early childhood education and care, education and training to meet children’s individual needs<sup>22</sup>**

- Encourage enrolment in early childhood education programmes (CRC);
- Improve the quality of early childhood education programmes by means such as ensuring sufficient staffing levels, limiting group sizes and securing continuity of care relationships (CRC);
- Enhance the measures to combat bullying in schools (CRC & CESCRC);
- Provide sufficient pupil and student welfare services, such as psychologists (CRC);

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<sup>22</sup> See also Subsection 4.2.4.

- Ensure that children in institutions are integrated into mainstream education (CRC);
- Ensure access to education for children of immigrant background and Roma children (CESCR & CERD on inclusion of Roma children in education);
- Conduct research on the cause of children's dissatisfaction at schools and pay attention to children's wellbeing in schools (CRC);
- Enhance teachers' knowledge of different cultures and include the rights of minorities in teachers' training and school curricula (CRC & CERD);
- Improve the capacity of teachers to teach children with disabilities and special needs (CRC);
- Increase the capacities of teachers and other people working with children to identify violence, especially against vulnerable groups of children (GREVIO);
- Prevent school drop-out (CRC & CESCR);
- Eliminate gender stereotypes in the field of education (CEDAW);
- Promote children's healthy lifestyles and consumption patterns (CRC);
- Ensure equal access to inclusive education for all children (CESCR).

#### **4.2.8 Providing health and social services to meet the needs of children and families**

- Provide sufficient resources for family services, such as health clinics (parent education) and family counselling (CRC & UPR);
- Strengthen preventive services and early support (CRC);
- Provide sufficient pupil and student welfare services, such as psychologists (CRC);
- Strengthen mental health services for children and guarantee access to treatment (CRC);
- Intensify measures to prevent children's and young people's suicides (CRC);
- Address girls' mental health issues, suicides and abuse of alcohol and drugs (CEDAW);
- Enhance family mediation services for parents contemplating divorce (CRC);
- Prioritise family placements in alternative care and increase resources for foster care (CRC & CESCR);
- Ensure adequate supervision and monitoring of alternative care (CRC);
- Guarantee the provision of effective, well-publicised, independent and impartial complaints mechanisms for children without parental care (CRC);
- Provide training to all professionals working with children in alternative care settings, including foster parents and supervisors (CRC);
- Ensure access to mental health services for children in alternative care (CRC);

- Support reunification of children in alternative care with their biological families (CRC & UPR);
- Secure services needed by children with disabilities, including personal assistance, interpretation and transportation services, and support for their families (CRC & UPR);
- Guarantee sufficient, good-quality healthcare services for children with disabilities (CRC);
- Reduce young people's use of alcohol, tobacco and other substances (CRC & CESC);
- Ensure access to treatment and services for pregnant women with substance abuse problems (CRC);
- Promote breastfeeding (CRC);
- Promote children's healthy lifestyles and consumption patterns (CRC);
- Develop counselling for girls suffering from eating disorders (CEDAW);
- Ensure that safeguards for the rights of girls with disabilities are adequately protected, including their right to sexual and reproductive health services (CESC);
- Provide asylum seekers and irregular migrants with access to all necessary healthcare services (CESC);
- Provide child witnesses of violence with age-appropriate psychosocial support and services equivalent to those available for adult victims of violence (GREVIO);
- Ensure sufficient housing services for women victims of violence and their children after a stay at a women's shelter (GREVIO).

#### **4.2.9 Ensuring adequate standard of living and social security for families with children and reconciling work and family life**

- Reinforce support to economically disadvantaged families (CRC & CESC), increase the minimum amounts of parental, sickness and unemployment allowances (ECSR);
- Ensure an adequate standard of living for all children (CRC);
- Collect and analyse data on child poverty comprehensively (CRC);
- Facilitate reconciliation of family and professional responsibilities, promote the equal sharing of domestic and family tasks between women and men, and prohibit discrimination against women on the grounds of pregnancy or childbirth and failure to renew fixed-term employment contracts based on family leave (CESC & CCPR & CEDAW & UPR).



#### 4.2.10 Protecting children against all forms of violence

- Prevent corporal punishment and promote positive child-rearing practices (CRC & UPR);
- Enhance the measures to combat bullying in schools (CRC & CESCR & CERD on children perceived to have foreign backgrounds);
- Ensure a sufficient number of shelters across the country (GREVIO & CRC & CEDAW & CAT & UPR);
- Improve the status of victims of domestic violence, including services, support and assistance (GREVIO's detailed and extensive recommendations & CESCR & CCPR & CEDAW & CAT & UPR);
- Prevent 'honour-related' violence and forced marriage and provide assistance for victims (GREVIO); Take measures to prevent female genital mutilation, incl. raising awareness among girls (CEDAW);
- Conduct a study of and research on the prevalence of child abuse (CRC);
- Develop a national action plan for the Lanzarote Convention and allocate adequate resources for its implementation (CRC);
- Enhance measures to combat sexual abuse and harassment in the digital media (CRC);
- Strengthen action against human trafficking and improve the status of trafficking victims (CCPR & CEDAW & CAT & GRETA & UPR);
- Step up efforts to combat intolerance, racism, xenophobia and hate speech (ACFC & CERD & ECRI & UPR & CEDAW on hate speech against girls in the media);
- Take domestic violence more effectively into consideration in child custody decisions (GREVIO & CEDAW).

#### 4.2.11 Arranging children's leisure interests and other leisure activities

Although children's leisure interests and recreational activities are included in human rights treaties (e.g. CRC art. 31) and they are important for children's wellbeing and development, they are barely discussed explicitly in the recommendations issued to Finland. Their significance is underlined by the fact that the UN Committee on the Rights

of the Child has issued a specific general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts<sup>23</sup>. The Child's Time research group report<sup>24</sup> also raised important findings about the subject.

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23 CRC/C/GC/17. The general comment is available in English and other official UN languages at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11).

24 Ministry of Education and Culture & Ministry of Social Affairs and Health 2019. Finnish Government publication series 2019:9. Available in English at: <http://urn.fi/URN:ISBN:978-952-287-703-1>. The research group found that the dialogue between school and free-time activities should be intensified. NGOs and the third sector should have a larger role in work carried out among children and young people at schools and daycare centres. Free-time activities should be made equally accessible for all. Many pupils who, for different reasons, do not 'shine' at school may find in free-time activities an outlet for the positive expression of their special skills and thus receive positive feedback on themselves. However, after school and the internet, sports activities are the third most common place where children and young people experience bullying and discrimination. An effort should be made to increase the involvement of children and young people in the planning and implementation of sports club activities, which could make their hobby more inspiring and fun and increase the likelihood of children and young people remaining involved in it for longer. Recreational physical activity should also be possible for low-income families.

## 5 The role of the National Youth Work and Youth Policy Programme for 2020–2023 in implementing children’s and young people’s fundamental and human rights

### 5.1 Preface – Linkage between the Child Strategy and the National Youth Work and Youth Policy Programme (VANUPO)

The transition between childhood and adulthood is a particularly important stage for human development. Although the age of 18 is a distinct legal boundary between childhood and adulthood, the line is not as clear-cut in developmental terms. Childhood and adolescence are strongly intertwined, which means that it is necessary to extend many measures to support growth into early adulthood following the age of maturity.

The role of adolescence in the Child Strategy has also emerged during the strategy drafting process. At its meeting on 24 January 2020, the Ministerial Working Group on Child and Youth Policy discussed questions involved in delimiting the scope of the strategy. One of these concerned extending the Child Strategy to cover young people aged 18 and over, while another question raised in this context was the strategy’s links to other strategies, programmes and plans.

This chapter explores the links between the Child Strategy and the National Youth Work and Youth Policy Programme (VANUPO, hereinafter referred to as the ‘Youth Programme’). The Youth Programme’s objectives and measures are examined from the perspective of implementing the human rights and fundamental rights of children and young people. It provides an example of how strongly fundamental and human rights are linked to programmes concerning children and young people. The analysis of the Youth Programme also aims to show that programmes for young adults are built on a foundation of fundamental and human rights that is very similar to the basis of those for minors.

In the context of this chapter, *child rights* refers to the rights enshrined in human rights treaties and the Finnish Constitution applicable to individuals aged 0 to 17, while *youth rights* is used to mean the rights guaranteed in the above-mentioned instruments

concerning young people aged 18 or over. Under domestic and international law, 'children' refers to individuals aged between 0 and 17. The Finnish Youth Act defines 'young people' as individuals aged under 29.

The central government and other public authorities have an *obligation to respect, protect and fulfil fundamental and human rights*. Section 22 of the Constitution of Finland requires the public authorities to 'guarantee the observance of basic rights and liberties and human rights'. Its section 2, subsection 3, states as follows: 'The exercise of public powers shall be based on an Act. In all public activity, the law shall be strictly observed.'

The National Child Strategy is an instrument for implementing human rights and fundamental rights for children. The UN Committee on the Rights of the Child, which oversees implementation of the Convention on the Rights of the Child, has stressed that, in order to promote the rights of the child, a Government *needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention on the Rights of the Child*. In order to guarantee its impact, the strategy will need to be endorsed at the highest level of government, linked to national planning and included in national budgeting.

The purpose of the Child Strategy is to guide the policies and actions that concern and affect children (aged 0–17) and families with children. Nevertheless, it would be advisable also to take account of early adulthood in the Child Strategy, as the transition from childhood to adulthood is a particularly sensitive and porous stage in life. By way of example, upper secondary education coincides with the transition between childhood and adulthood. This transitional phase is also a critical period for preventing young people's social alienation and exclusion.

In addition to the rights protected under the UN Convention on the Rights of the Child (CRC), the Child Strategy will also be premised on other human rights treaties and on the constitutional basic rights and liberties, which guarantee important rights for both children and young people. Human rights refer to the rights enshrined in international human rights treaties in force in Finland and fundamental rights refer to the 'basic rights and liberties' guaranteed in the Finnish Constitution. Core human rights treaties include the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN International Covenant on Civil and Political Rights (ICCPR), the European Convention for the Protection of Human Rights and Fundamental Freedoms (the 'European Convention on Human Rights', ECHR), and the revised European Social Charter (ESC). The UN Convention on the Rights of Persons with Disabilities (CRPD) also plays an important role for children and young people with disabilities. In addition, the analysis covers the rights protected under the Charter of Fundamental Rights of the European Union (EUCFR).

The chapter covers the Programme's youth policy objectives and measures. It provides an illustrative analysis of how to approach the measures and objectives of different strategies, programmes and plans through the lens of fundamental and human rights. Each of the Youth Programme's package of objectives and measures is examined in terms of which of children's and young people's human rights and fundamental rights it specifically aims to realise. Instead of offering an exhaustive analysis, the chapter aims to highlight the fact that different strategies, programmes and plans are linked to fundamental and human rights and this linkage should be raised more prominently to the fore. This could help step up the implementation of fundamental and human rights. As the primacy of the best interests of the child enshrined in Article 3, paragraph 1, of the UN Convention on the Rights of the Child is linked to all of the Youth Programme's objectives and measures for those aged under 18, the principle is not specifically mentioned.

In line with the Government Programme, the key themes of the Youth Programme are preventing social exclusion and strengthening inclusion among young people. The most effective means for preventing social exclusion is ensuring the preconditions for a meaningful life for all young people. The programme aims to achieve these goals through three key objectives:

- Young people will have the preconditions for smoothly running daily lives – social exclusion will be reduced;
- Young people will have the means and skills for participation and exerting influence;
- Young people will trust in society – non-discrimination and security will be strengthened.

## **5.2 Young people will have the preconditions for smoothly running daily lives – social exclusion will be reduced**

The smooth running of young people's daily lives will be improved by guaranteeing access to education and employment for them, by ensuring that they have financial security and the skills to manage their finances, and by supporting their mental health. The most effective means for preventing social exclusion is ensuring the preconditions for a meaningful life for all young people.

## 5.2.1 The Youth Guarantee will secure young people's access to education and employment

- Child rights:
  - right to education and training (Constitution of Finland section 16; CRC art. 28; ICESCR art. 13; CRPD art. 24; ICERD art. 5(e)(v); CRSR art. 22; ESC arts. 17(1)(a) and 17(2); ECHR Protocol No. 1 art. 2; FCNM art. 12(3); ECRML art. 8; EUCFR art. 14);
  - right to vocational guidance (ICESCR arts. 6 and 9; CRPD art. 27(1)(d); ESC art. 1);
  - right to vocational training (CRPD arts. 24 and 27(1)(d); ICESCR art. 6; ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14);
  - right to habilitation and rehabilitation (CRC arts. 23 and 24; CRPD art. 26; EUCFR art. 35);
  - right to protection against poverty and social exclusion (ESC art. 30; EUCFR art. 34);
  - right of children and young persons to protection at work (CRC art. 32: right of the child to protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or development; EUCFR art. 32; ICESCR art. 10; ESC art. 7);
  - right to equal opportunities and treatment in education and employment without any discrimination based on gender or disability (CEDAW art. 10; CRPD arts. 6, 24 and 27; ESC art. 20);
  - fair and just working conditions (ICESCR art. 7; CRPD art. 27; EUCFR art. 31).
  
- Youth rights:
  - right to education and training (Constitution of Finland section 16; ICESCR art. 13; CRPD art. 24; ICERD art. 5(e)(v); CRSR art. 22; ESC arts. 17(1)(a) and 17(2); ECHR Protocol No. 1 art. 2; FCNM art. 12(3); ECRML art. 8; EUCFR art. 14);
  - right to vocational guidance (ICESCR art. 6; CRPD art. 27(1)(d); ESC arts. 1 and 9);
  - right to vocational training (ICESCR art. 6; CRPD arts. 24 and 27(1)(d); ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14);
  - right to work (ICESCR art. 6, and art. 7: right to just and favourable conditions of work which ensure a decent living in keeping with the provisions of the ICESCR; CRPD art. 27; ESC art. 1; EUCFR art. 15);
  - right to habilitation and rehabilitation (CRPD art. 26; EUCFR art. 35);
  - right of access to placement services (EUCFR art. 29);

- right to protection against poverty and social exclusion (ESC art. 30; EUCFR art. 34);
- right of children and young persons to protection at work (ICESCR art. 10; ESC art. 7; EUCFR art. 32);
- right to equal opportunities and treatment in education and employment without any discrimination based on gender (CEDAW art. 10; CRPD art. 6; ESC art. 20);
- fair and just working conditions (ICESCR art. 7; CRPD art. 27; EUCFR art. 31).

## 5.2.2 Young people’s needs, services and benefits will be identified and taken into consideration in the overhaul of social security

- Child rights:
  - right to social security (Constitution of Finland section 19; CRC art. 26; ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC art. 12; EUCFR art. 34);
  - right to social assistance (ESC art. 13; EUCFR art. 34);
  - right to social services (CRPD art. 28; ESC art. 14; Constitution of Finland section 19(3); EUCFR art. 34);
  - right to an adequate standard of living (CRC 27; ICESCR art. 11; CRPD art. 28);
  - right to indispensable care (Constitution of Finland section 19(1); EUCFR art. 24);
  - right to basic subsistence (Constitution of Finland section 19(2); EUCFR art. 34);
  - right of the family to social, legal and economic protection (ESC art. 16; EUCFR art. 33);
  - right of children and young persons to social, legal and economic protection (ESC art. 17);
  - right to protection against poverty and social exclusion (ESC art. 30; EUCFR art. 34).
- Youth rights:
  - right to social security (Constitution of Finland section 19; ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC arts. 12–13; EUCFR art. 34);
  - right to social assistance (ESC art. 13; EUCFR art. 34);
  - right to social services (ESC art. 14; Constitution of Finland section 19(3); EUCFR art. 34);

- right to an adequate standard of living (ICESCR art. 11; CRPD art. 28);
- right to indispensable care (Constitution of Finland section 19(1));
- right to basic subsistence (Constitution of Finland section 19(2); EUCFR art. 34);
- right of the family to social, legal and economic protection (ESC art. 16; EUCFR art. 33);
- right of children and young persons to social, legal and economic protection (ESC art. 17);
- right to protection against poverty and social exclusion (ESC art. 30; EUCFR art. 34).

### 5.2.3 Young people's mental health will be supported

- Child rights:
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); CRC arts. 23 and 24; ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 12–13; EUCFR art. 35);
  - right to development (CRC art. 6; CRPD art. 3);
  - right to special protection (CRC art. 3(2); ICESCR art. 10; ICCPR art. 24; EUCFR art. 24);
  - right to education (CRC arts. 28 and 23(3); ICESCR art. 13; CRPD art. 24; ECHR Protocol No. 1 art. 2; EUCFR art. 14);
  - right of the family and parents to support (Constitution of Finland section 19(3); CRC 18(2); ICESCR art. 10);
  - right of the family to social, legal and economic protection (ESC art. 16; EUCFR art. 33);
  - right of children and young persons to social, legal and economic protection (ESC art. 17);
  - right to vocational guidance (ICESCR art. 6; CRPD art. 27(1)(d); ESC arts. 1 and 9);
  - right to vocational training (ICESCR art. 6; CRPD arts. 24 and 27(1)(d); ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14);
  - right of children and young persons to protection at work (ESC art. 7; EUCFR art. 32).



- Youth rights:
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 12–13; EUCFR art. 35);
  - right to education (ICESCR art. 13; CRPD art. 24; ECHR Protocol No. 1 art. 2; EUCFR art. 14);
  - right to vocational guidance (ICESCR art. 6; CRPD art. 27(1)(d); ESC arts. 1 and 9);
  - right to vocational training (ICESCR art. 6; CRPD arts. 24 and 27(1)(d); ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14);
  - right of children and young persons to protection at work (ESC art. 7; EUCFR art. 32).

#### **5.2.4 After-care for young people who have been clients of child welfare services will be developed to ensure sufficient and appropriate support on their journey to adulthood**

- Child rights:
  - right to social security (Constitution of Finland section 19; CRC art. 26; ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC art. 12; EUCFR art. 34);
  - right to social assistance (ESC art. 13; EUCFR art. 34);
  - right to social services (Constitution of Finland section 19(3); CRPD art. 28; ESC art. 14; EUCFR art. 34);
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); CRC arts. 23 and 24; ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 11–13; EUCFR art. 35);
  - right to special protection (CRC art. 3(2); ICESCR art. 10; ICCPR art. 24; EUCFR art. 24);
  - right to development (CRC art. 6; CRPD art. 3);
  - right of the family/parents to support/protection (Constitution of Finland section 19(3); CRC 18(2); ICESCR art. 10, ICCPR art. 23(1); ESC art. 16);
  - right of the family to social, legal and economic protection (ESC art. 16; EUCFR art. 33);
  - right of children and young persons to social, legal and economic protection (ESC art. 17).

- Youth rights:
  - right to social security (ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC arts. 12–13; Constitution of Finland section 19; EUCFR art. 34);
  - right to social assistance (ESC art. 13; EUCFR art. 34);
  - right to social services (Constitution of Finland section 19(3); ESC art. 14; EUCFR art. 34);
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 11–13; EUCFR art. 35);
  - right of children and young persons to social, legal and economic protection (ESC art. 17).

### 5.2.5 Multi-professional cooperation and especially youth work will be strengthened in general education and vocational education and training

- Child rights:
  - right to social security (Constitution of Finland section 19; CRC art. 26; ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC art. 12; EUCFR art. 34);
  - right to social services (Constitution of Finland section 19(3); CRPD art. 28; ESC art. 14; EUCFR art. 34);
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); CRC arts. 23 and 24; ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 12–13; EUCFR art. 35);
  - right to education and training (Constitution of Finland section 16; CRC art. 28; ICESCR art. 13; CRPD art. 24; ICERD art. 5(e)(v); CRSR art. 22; ESC arts. 17(1)(a) and 17(2); ECHR Protocol No. 1 art. 2; FCNM art. 12(3); ECRML art. 8; EUCFR art. 14);
  - right to vocational guidance (ICESCR art. 6; CRPD art. 27(1)(d); ESC arts. 1 and 9);
  - right to vocational training (ICESCR art. 6; CRPD arts. 24 and 27(1)(d); ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14);
  - right to development (CRC art. 6; CRPD art. 3);
  - right to special protection (CRC art. 3(2); ICESCR art. 10; ICCPR art. 24; EUCFR art. 24);

- right to protection against all forms of violence and maltreatment (Constitution of Finland section 7(2); CRC art. 19; ICCPR art. 9(1); CRPD arts. 14(1) and 16–17; ECHR art. 5; ESC art. (17)(1)(b); FCNM art. 6(2); EUCFR arts. 3(1) and 6).
- Youth rights:
  - right to social security (Constitution of Finland section 19; ICESCR art. 9; CRPD art. 28; ICERD art. 5(e)(iv); CRSR art. 24; ESC art. 12; EUCFR art. 34);
  - right to social services (Constitution of Finland section 19(3); CRPD art. 28; ESC art. 14; EUCFR art. 34);
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 12–13; EUCFR art. 35);
  - right to education and training (Constitution of Finland section 16; ICESCR art. 13; CRPD art. 24; ICERD art. 5(e)(v); CRSR art. 22; ESC arts. 17(1)(a) and 17(2); ECHR Protocol No. 1 art. 2; FCNM art. 12(3); ECRML art. 8; EUCFR art. 14);
  - right to vocational guidance (ICESCR art. 6; CRPD art. 27(1)(d); ESC arts. 1 and 9);
  - right to vocational training (ESC arts. 1, 10, and 15(1) for people with disabilities; EUCFR art. 14; CRPD arts. 24 and 27(1)(d); ICESCR art. 6);
  - right to protection against all forms of violence and maltreatment (Constitution of Finland section 7(2); ECHR art. 5; ICCPR art. 9(1); CRPD arts. 14(1) and 16–17; ESC art. 17(1)(b); FCNM art. 6(2); EUCFR arts. 3(1) and 6).

## 5.2.6 Young people’s capabilities for independent living will improve and the incidence of youth homelessness will decrease

- Child rights:
  - This theme is limited in the Youth Programme to young people who have attained the age of maturity.
- Youth rights:
  - right to housing and housing assistance (Constitution of Finland section 19(4); ICESCR art. 11; ICERD art. 5(e)(iii); CRSR art. 21; ESC art. 31, and art. 15 for young people with disabilities); EUCFR art. 34);
  - right to protection against poverty and social exclusion (ESC art. 30; EUCFR art. 34).

## 5.2.7 Young people have an opportunity to participate in a hobby they enjoy

- Child rights:
  - right to development (CRC art. 6; CRPD art. 3);
  - right to play and rest (CRC art. 31);
  - right to take part in cultural life, recreation and leisure (CRC art. 31; ICESCR art. 15; CRPD art. 30 for children with disabilities; ESC art. 15);
  - right to equal participation in cultural activities (ICERD art. 5(e)(vi));
  - right to develop oneself without being prevented by economic hardship (Constitution of Finland section 16(2));
  - women’s equal opportunities to participate in sports and physical education, recreational activities, sports and cultural life (CEDAW arts. 10(g) and 13(c)).
- Youth rights:
  - right to take part in cultural life, recreation and leisure (ICESCR art. 15; CRPD art. 30 for children with disabilities; ESC art. 15);
  - right to equal participation in cultural activities (ICERD art. 5(e)(vi));
  - right to develop oneself without being prevented by economic hardship (Constitution of Finland section 16(2));
  - women’s equal opportunities to participate in sports and physical education, recreational activities, sports and cultural life (CEDAW arts. 10(g) and 13(c)).

## 5.2.8 Getting a grip on finances through proactive financial guidance

- Child rights:
  - aims of education (CRC art. 29(1)(d): preparation of the child for responsible life);
  - right to advice and personal help to prevent want (ESC art. 13).
- Youth rights:
  - right to advice and personal help to prevent want (ESC art. 13).

## 5.3 Young people will have the means and skills for participation and exerting influence

The knowledge capital of young people will be improved through democracy and human rights education in schools and educational institutions while aiming for more broad-based participation in other opportunities to exert influence. A precondition for ensuring that every young person has the opportunity to participate and exert influence is that young people's inputs are recognised and acknowledged as part of decision-making.

### 5.3.1 Tools that will facilitate young people's civic participation will be developed

- Child rights:
  - right to be heard and right to influence matters pertaining to oneself (Constitution of Finland section 6(3); CRC art. 12);
  - promoting the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her (Constitution of Finland section 14(4); ICCPR art. 25; CEDAW art. 7(c); CRPD arts. 3, 7, 9, 19 and 29, as well as ESC art. 15 for children with disabilities; FCNM art. 15; EUCFR arts. 24(1) and 26);
  - right to influence the development of society and one's living environment (Constitution of Finland sections 2(2) and 20(2));
  - right to hold opinions and to freedom of expression (Constitution of Finland section 12; CRC art. 13; ICCPR art. 19; ECHR art. 10; CRPD art. 21);
  - non-discrimination, prohibition of discrimination and equality (Constitution of Finland section 6; CRC art. 2; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3–5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21);
  - right to receive information through the media (CRC art. 17);
  - project piloting the Council of Europe's Child Participation Assessment Tool coordinated by the Ministry of Justice.
  
- Youth rights:
  - promoting the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her (Constitution of Finland section 14(4); EUCFR arts. 24(1) and 26; ICCPR art. 25; CEDAW art. 7(c); CRPD arts. 3, 9, 19 and 29; FCNM art. 15);
  - right to influence the development of society and one's living environment (Constitution of Finland sections 2(2) and 20(2));

- right to hold opinions and to freedom of expression (ICCPR art. 19; ECHR art. 10; Constitution of Finland section 12; CRPD art. 21);
- non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21).

### 5.3.2 Democracy and human rights education at schools and educational institutions will be enhanced

- Child rights:
  - aims of education (CRC art. 29; ICESCR art. 13; CRPD art. 8);
  - Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (Recommendation of the Council of Europe Committee of Ministers);
  - UN Declaration on Human Rights Education and Training (soft law);
  - right to be heard and right to influence matters pertaining to oneself (CRC art. 12; Constitution of Finland section 6(3); CRPD art. 7).
- Youth rights:
  - aims of education (ICESCR art. 13; CRPD art. 8);
  - Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (Recommendation of the Council of Europe Committee of Ministers);
  - UN Declaration on Human Rights Education and Training (soft law).

### 5.3.3 Young people's voices will be heard in the climate change debate

- Child rights:
  - right to hold opinions and to freedom of expression (Constitution of Finland section 12; CRC art. 13; ICCPR art. 19; CRPD art. 21; ECHR art. 10);
  - responsibility for the environment (Constitution of Finland section 20(1));
  - right to influence the decisions that concern one's living environment (Constitution of Finland sections 2(2) and 20(2));
  - promoting the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her (Constitution of Finland sections 2(2) and 14(4); ICCPR art. 25; CRPD arts. 3, 7, 19 and 29, as well as ESC art. 15 for children with disabilities);

- right to enjoy the benefits of scientific progress and its applications (ICESCR art. 15);
  - right to receive information through the media (CRC art. 17);
  - UN 2030 Agenda for Sustainable Development (soft law).
- Youth rights:
    - right to hold opinions and to freedom of expression (Constitution of Finland section 12; ICCPR art. 19; CRPD art. 21; ECHR art. 10);
    - responsibility for the environment (Constitution of Finland section 20(1));
    - right to influence the decisions that concern one’s living environment (Constitution of Finland sections 2(2) and 20(2));
    - promoting the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her (Constitution of Finland sections 2(2) and 14(4); ICCPR art. 25; CRPD arts. 3, 9, 19 and 29, as well as ESC art. 15 for young people with disabilities);
    - right to enjoy the benefits of scientific progress and its applications (ICESCR art. 15);
    - UN 2030 Agenda for Sustainable Development (soft law).

## 5.4 Young people will trust in society – non-discrimination and security will be strengthened

A precondition for a meaningful life is that young people have trust in society and their own future. Security will be improved by such means as promoting the equality of young people, strengthening young people’s social competence, sense of community and inclusion as well as improving young people’s capabilities for taking action in situations that involve discrimination. By intervening in bullying, we can provide every young person with the opportunity to grow up in peace. Young people’s trust and sense of security can be built by developing children’s and young people’s interaction and emotional skills, through structures that support non-discrimination and equality, and through cooperation between different actors.

### 5.4.1 Improving young people’s interpersonal and interaction skills and intervening in bullying

- Child rights:
  - right to development (CRC art. 6; CRPD art. 3);
  - aims of education (CRC art. 29; ICESCR art. 13; CRPD art. 8);

- right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); CRC arts. 23 and 24; ICESCR art. 12; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv); ESC arts. 12–13; EUCFR art. 35);
  - right to be heard and right to influence matters pertaining to oneself (Constitution of Finland section 6(3); CRC art. 12; CRPD art. 7);
  - right to special protection (CRC art. 3(2); ICESCR art. 10; ICCPR art. 24; CRPD art. 16; EUCFR art. 24);
  - right to protection against all forms of violence and maltreatment (Constitution of Finland section 7(2); CRC art. 19; ICCPR art. 9(1); ECHR art. 5; CRPD arts. 14(1) and 16–17; ESC art. 17(1)(b); Lanzarote Convention; Istanbul Convention arts. 4 and 18; FCNM art. 6(2); EUCFR arts. 3(1) and 6);
  - right of children and young persons to social, legal and economic protection (ESC art. 17);
  - non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; CRC art. 2; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21).
- Youth rights:
    - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); ICESCR art. 12; ESC arts. 12–13; EUCFR art. 35; CRPD art. 25; CEDAW art. 12(1); ICERD art. 5(e)(iv));
    - right of young persons to social, legal and economic protection (ESC art. 17);
    - right to protection against violence (Constitution of Finland section 7(2); ICCPR art. 9(1); CRPD arts. 14(1) and 16–17; ECHR art. 5; ESC art. 17(1)(b); Istanbul Convention arts. 4 and 18; FCNM art. 6(2); EUCFR arts. 3(1) and 6);
    - non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21).

#### 5.4.2 Discriminatory structures will be identified, and young people's ability to take action in situations in which they experience discrimination will be increased

- Child rights:
  - promoting justice in society (Constitution of Finland section 1(2));



- non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; CRC art. 2; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21);
  - combating ethnic discrimination (CERD), combating gender-based discrimination (CEDAW);
  - aims of education (CRC art. 29; ICESCR art. 13; CRPD art. 8).
- Youth rights:
    - promoting justice in society (Constitution of Finland section 1(2));
    - non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21).

### **5.4.3 Multi-professional cooperation aiming to improve the wellbeing of young people who engage in criminal activity as a symptom of their problems and to prevent juvenile delinquency will be strengthened**

- Child rights:
  - prioritising measures for dealing with children who have committed offences without resorting to judicial proceedings whenever appropriate (CRC art. 40(3)–(4));
  - treatment of children deprived of liberty with humanity and in a manner which takes into account the needs of persons of their age (CRC art. 37);
  - prohibition against torture and other cruel, inhuman or degrading treatment or punishment (Constitution of Finland section 7(2); CRC art. 37; CAT in its entirety; ICCPR art. 7; ECHR art. 3; CRPD art. 15; ECPT in its entirety; EUCFR art. 4);
  - rights of an individual suspected, accused or convicted of a crime and grounds for deprivation of liberty (CRC arts. 37 and 40; ICCPR arts. 9, 10 and 14; CRPD arts. 13–14; ECHR arts. 5 and 6);
  - right to the highest attainable standard of health and health services and right to protection of health (Constitution of Finland section 19(3); CRC art. 24; ICESCR art. 12; CRPD arts. 25–26; ESC arts. 12–13; EUCFR art. 35);
  - right to development (CRC art. 6; ICESCR art. 12(2)(a); CEDAW art. 3; CRPD art. 3(h));
  - right to be heard (Constitution of Finland sections 6(3) and 21(2); CRC art. 12; CRPD art. 7; EUCFR art. 24);

- right of the child to special protection (CRC art. 3(2); ICESCR art. 10; ICCPR art. 24);
  - right to education (Constitution of Finland section 16; CRC arts. 28 and 23(3); ICESCR art. 13);
  - right of the family/parents to support/protection (Constitution of Finland section 19(3); CRC 18(2); ICESCR art. 10, ICCPR art. 23(1); ESC art. 16);
  - right of children and young persons to social, legal and economic protection (ESC art. 17);
  - non-discrimination, prohibition of discrimination, and equality (Constitution of Finland section 6; CRC art. 2; ICCPR art. 2; ICESCR art. 2; CEDAW art. 2; CRPD arts. 3, 4, 5 and 7; ICERD art. 5; CRSR art. 3; ECHR art. 14; ECHR Protocol No. 12 art. 1; EUCFR art. 21).
- Youth rights:
    - This Youth Programme’s package of measures only applies to those aged under 18.

#### 5.4.4 Coordinating ways to prevent child and youth grooming on social media

- Child rights:
  - right to receive information through the media and right to protection from injurious material (CRC art. 17; Istanbul Convention art. 17);
  - right to protection against all forms of violence and maltreatment (Constitution of Finland section 7(2); CRC art. 19; ICCPR art. 9(1); CRPD arts. 14(1) and 16–17; ECHR art. 5; Lanzarote Convention; Istanbul Convention arts. 4 and 18; ESC art. 17(1)(b); FCNM art. 6(2); EUCFR arts. 3(1) and 6);
  - right to protection against sexual exploitation and abuse (CRC art. 34; Lanzarote Convention; Istanbul Convention; ECAT; ECHR art. 5; ICCPR art. 9; CRPD art. 16; and prohibition of the sale of children, child prostitution and child pornography under CRC-OP-SC);
  - aims of education (Istanbul Convention art. 14).
  - The theme is also covered in an extensive soft law literature under the Council of Europe children’s rights programme.
- Youth rights:
  - This Youth Programme’s package of measures only applies to those aged 13 to 16.

## 6 International examples of child strategies

This chapter showcases some international examples of child strategies. Exploring international experiences helps understand the role of a strategy for children. A further benefit is the opportunity to learn from experiences gained in other countries to inform the drafting of Finland's National Child Strategy. The chapter is based on the compilations included in the Child's Time report<sup>25</sup> (2019) and a report<sup>26</sup> by Itla Children's Foundation (2019). Furthermore, the chapter examines the strategies of the Council of Europe and the European Union concerning children.

### 6.1 Child strategies of the Council of Europe and the European Union

The Council of Europe and the European Union have developed their own strategies or programmes for children and young people. At the same time, they have issued recommendations for their Member States for implementing themes relevant to children, young people and families. The Council of Europe, for example, has prepared a 'Strategy for the Rights of the Child', also known as the 'Children's strategy', providing child rights-based guidance for different branches of government. The Commission of the European Union has produced a recommendation entitled 'Investing in children: breaking the cycle of disadvantage'. In continuation of the recommendation on investing in children, the European Union is currently preparing a child guarantee to protect the rights of children at risk of poverty and social exclusion. Finland has carried out a project piloting the Council of Europe Child Participation Assessment Tool, which included an assessment of the realisation of children's participation rights<sup>27</sup>.

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25 Ministry of Education and Culture & Ministry of Social Affairs and Health 2019. Finnish Government publication series 2019:4. Available in Finnish at: <http://urn.fi/URN:ISBN:978-952-287-698-0>. English summary available at: <https://minedu.fi/documents/1410845/12685437/Summary+Child%E2%80%99s+Time+-+Towards+a+National+Strategy+for+Children+2040>.

26 Itla 2019. Kansainvälinen selvitys lapsistrategioista ja lapsivaikutusten arvioinnista [*International survey on child strategies and child impact assessments*]. Available in Finnish at: [https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti\\_FINAL\\_22.10.2019.pdf](https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti_FINAL_22.10.2019.pdf).

27 Ministry of Justice 2020. Publications of the Ministry of Justice, Reports and guidelines 2020:10. Available in Finnish (English abstract) at: <http://urn.fi/URN:ISBN:978-952-259-802-8>.

The OECD has likewise collected data on children's wellbeing and policy choices in support of different countries. The OECD points out that policy interventions in different countries overarch the traditional fields of social, health and education policies. Development of early childhood education and care has been one of the key OECD priorities.

### 6.1.1 The five priority areas of the Council of Europe Strategy for the Rights of the Child (2016–2021)

The Council of Europe Strategy for the Rights of the Child is based on the UN Convention on the Rights of the Child and on the Council of Europe's human rights treaties. The strategy aims to support the fulfilment of human rights treaty obligations for children. The priority areas of the 2016–2021 strategy are:

- equal opportunities for all children;
- participation of all children;
- a life free from violence for all children;
- child-friendly justice for all children;
- rights of the child in the digital environment.

### 6.1.2 EU Recommendation entitled 'Investing in children: breaking the cycle of disadvantage'

The European Commission's recommendation on investing in children aims to provide EU countries with guidance on how to tackle child poverty and promote children's wellbeing, as well as to find common ways of tackling these challenges. The recommendation calls for a children's rights approach and for integrated strategies based on the following three key pillars: adequate resources; quality services; and children's right to participate.

1. **Access to adequate resources to reduce income poverty and material deprivation by:**
  - supporting parents' participation in the labour market and making sure that their work 'pays';
  - providing for adequate living standards through a combination of child and family benefits, which should be redistributed across income groups but avoid inactivity traps and stigmatisation.

**2. Access to affordable quality services to increase children’s life chances and improve their development by:**

- improving access to affordable early childhood education and care services to reduce inequality at a young age;
- improving education systems’ impact on equal opportunities by ensuring all children receive inclusive high-quality education;
- improving the responsiveness of health systems to address the needs of disadvantaged children;
- providing children with a safe, adequate housing and living environment;
- enhancing family support and the quality of alternative care settings.

**3. Children’s right to participate by:**

- supporting the participation of all children in play, recreation, sport and cultural activities — informal learning opportunities outside the school context;
- putting in place mechanisms that promote children’s participation in decision-making that affects their lives.

In addition, the Commission calls for developing governance, implementation and monitoring arrangements by:

- strengthening synergies across sectors;
- enhancing the use of evidence-based policy development and social policy innovation.

### 6.1.3 The European Union Child Guarantee

One of the key principles of the European Pillar of Social Rights adopted by the European Parliament, the Council and the Commission is to promote and support children’s wellbeing. Combating poverty among families with children through the European Social Fund is considered a key priority. In 2015, the European Parliament called for a child guarantee that would help ensure that every child at risk of poverty or social exclusion has access to free primary healthcare, education and early childhood education and care, decent housing and adequate nutrition. In 2017, the European Parliament requested the Commission to implement a preparatory action on establishing a possible child guarantee scheme.

The child guarantee is currently being prepared within the European Union, with a view to including it in the EU budget for 2021–2027. The objective of the child guarantee is to help EU Member States to implement the Commission Recommendation entitled ‘Investing in

children: breaking the cycle of disadvantage'. The recommendation provides the Member States with guidelines for comprehensive strategies to tackle child poverty and promote children's wellbeing.

## 6.2 Examples of European countries' child strategies collected for the Child's Time report

In European countries, governmental child strategies and programmes generally focus on children and families. In many cases, the field of youth policy is separated from child and family policies. Child strategies aim to eradicate poverty and inequality among families with children. Families are supported through various programmes concerning aspects such as cash benefits, tax deductions, services for children and families, and parental leave. In many European countries, specific target groups for family policy include large families and those with vulnerable children. Child and family policies are increasingly evolving towards comprehensive and cross-sectoral approaches.

A project carried out as part of the government's analysis, assessment and research activities in 2018–2019 explored the types of cross-sectoral strategy work and service coordination that have been carried out in a total of 11 different countries with regard to the wellbeing of children, young people and their families, in particular in cooperation between the fields of social welfare, health and education. England and Ireland were selected for more detailed analysis. In both countries, national strategy work has progressed in a goal-oriented and systematic manner.

Specific examples of this include the work carried out in England on the strategies entitled 'Every Child Matters'<sup>28</sup> and 'The Children's Plan'<sup>29</sup>. Both of these strategies are connected to the Convention on the Rights of the Child. In Ireland, actions for the best of children and young people in different branches of government are guided by means of a

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28 Every child matters. Green Paper, Cm 5860. HM Treasury. TSO, London 2003. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/272064/5860.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272064/5860.pdf).

29 The Children's Plan. Building brighter futures. Cm 7280. Department for Children, Schools and Families. TSO, London 2007. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/325111/2007-childrens-plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325111/2007-childrens-plan.pdf).

whole-of-government policy framework<sup>30</sup> for 2014–2020, entitled ‘Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People’, which covers those aged 0 to 24.

England and Ireland established a high-level political consensus on the effectiveness of their systems of child and youth services. Likewise, they also produced national strategy documents defining the direction and goals of progress. Their strategy action plans assigned responsibilities, cooperation duties and support roles to different parties and defined monitoring of actions. Progress towards the goals is monitored systematically, while monitoring responsibilities have been assigned to specific parties. Securing strategy continuity across government terms has presented a challenge.

Different Nordic countries have carried out numerous plans, programmes and strategies for children and young people. Their child policies largely focus on early childhood education and care and school education for children, as well as on the wellbeing of children and families. In recent years, Nordic countries have especially invested in consultation with and inclusion of children and young people. Every Nordic country has an ombudsman for children or an equivalent body to promote the fulfilment of children’s rights. All of these countries also support child and youth organisations through governmental funding schemes.

In 2010, the Swedish Parliament adopted a strategy to strengthen the rights of the child<sup>31</sup>, which is based on the obligations set out in the UN Convention on the Rights of the Child. Sweden’s Ombudsman for Children has been entrusted with the specific role of promoting the deployment of the strategy by municipal and regional governments and collecting up-to-date statistical data on the living conditions of children and young people.

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30 Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014–2020. Department of Children and Youth Affairs. Stationery Office, Dublin 2014. Available at: <https://assets.gov.ie/23796/961bbf5d975f4c88adc01a6fc5b4a7c4.pdf>.

31 Strategy to strengthen the rights of the child in Sweden. Government Offices of Sweden. Reference No.: S2010.026. Available in English at: <https://www.government.se/information-material/2011/10/strategy-to-strengthen-the-rights-of-the-child-in-sweden/>.

***Key lessons from international experiences highlighted in the Child's Time report:***

- The child strategy's objectives, target groups, process and monitoring mechanisms should be carefully defined early on during its drafting process, complete with its links to other strategies, programmes and plans.
- Strategy work should be a cross-sectoral process covering a considerably longer period than a single government term and it should be possible to divide it into different parts or stages as required.
- It would be advisable to engage as many stakeholders as possible in working on the strategy. It would be particularly important to consult with and involve children and young people themselves, the Ombudsman for Children and child and youth organisations.
- A good strategy also establishes procedures for monitoring and impact assessment.
- Sufficient resources should be secured for preparing, implementing and monitoring the strategy.
- Evidence-based information on experiences provides a good foundation for action. Finland could make more use of the School Health Promotion Studies, for example.
- Young people should be provided with their own programme package to highlight measures specifically targeting them.
- As children's wellbeing is dependent on that of their parents, parenting support should also be included as part of the Child Strategy.
- Commitment to a common strategy can be promoted by vigorous action and support from the highest political and administrative leadership. It is likewise important to secure the commitment of different ministries to the strategy and its implementation.
- The strategy should be implemented at all levels from client work to top leadership through a management system. Management systems need to be reformed at all levels of government by clarifying responsibilities and obliging different parties to engage in cooperation.
- A wide systemic change requires time with all public, private and voluntary parties working with children and young people as well as with parents, legal guardians and families.



## 6.3 Itla's child strategy survey (Sweden, Scotland and New Zealand)

In October 2019, Itla Children's Foundation published a survey<sup>32</sup> carried out by Owl Group on child strategies and child impact assessments in three countries (Sweden, Scotland and New Zealand). The child strategy is a key instrument for promoting and reporting on child rights in all of the countries included in this comparison.

The child strategies of the surveyed countries have strong links to the UN Convention on the Rights of the Child. The strategies are premised on the obligations set out in the Convention and the general comments and recommendations of the UN Committee on the Rights of the Child.

In New Zealand and Scotland, the obligation to promote children's wellbeing and rights is inscribed in law. Sweden transposed the obligations of the Convention on the Rights of the Child in full into its domestic law as of the beginning of 2020, while Scotland is aiming to follow suit a year later.

As a point of comparison, it should be noted that Finland implements international human rights treaties by so-called blanket acts stating that the treaty provisions are in force as agreed upon in each specific treaty. This was also the procedure for implementing the UN Convention on the Rights of the Child. This means that there is no need to draft a specific substantive law to implement the Convention; the Convention is in force in Finland as an Act of Parliament and forms part of its legal regime.

Child strategies are updated on a relatively regular basis. In New Zealand and Scotland, an obligation to update the strategy every three years is included in law. This is to ensure that the strategies are timely and responsive to the needs of each specific moment as well as the future. In Sweden, equivalent requirements are included in the strategy itself and measures have been realigned every few years.

The countries have engaged a wide range of parties in drafting their child strategies, including children, parents and experts. Wide engagement was considered important to ensure that the strategies would reflect the views of different parties and secure a strong public mandate. Involvement of children and young people in drafting the strategy is laid down in law in Scotland and New Zealand.

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32 Itla 2019. Kansainvälinen selvitys lapsistrategioista ja lapsivaikutusten arvioinnista [*International survey on child strategies and child impact assessments*]. Available in Finnish at: [https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti\\_FINAL\\_22.10.2019.pdf](https://itla.fi/wp-content/uploads/sites/2/2019/10/Raportti_FINAL_22.10.2019.pdf).

The countries have defined clear responsibilities for implementing the child strategies. In Sweden, the Ombudsman for Children has wide responsibility for supporting and monitoring the implementation of the Convention on the Rights of the Child. New Zealand has a specific unit operating under the Prime Minister's Cabinet, whereas Scotland has separately assigned responsibility to all ministers by law. Implementation of the child strategies is monitored systematically. The different countries have built up information resources to enable effective strategy implementation and verification of its impact. Among other things, national statistics compilation has been developed and supplemented with other data collection methods, such as surveys drawing on the views of children and young people and studies relevant to the theme.

***Itla's survey lists the following key lessons for the Child Strategy drawn from international experiences:***

1. **Linking the child strategy and child impact assessment.** Child impact assessment is closely linked to the child strategy in all of the countries covered in the survey. These countries have either included child impact assessment in the child strategy action plans, or it is used as a tool to promote child rights and report on the work carried out. Consequently, child impact assessment functions as a key tool for both strategy implementation and monitoring.
2. **A broad knowledge base and wide engagement.** All of the surveyed countries engaged a wide range of parties in drafting their child strategies, including children, parents and experts. Ensuring wide engagement has been important, not only in substantive terms, but also from the perspective of a strong public mandate. Furthermore, the strategies were drawn up on the basis of a systematic review of existing scientific and other knowledge on children's wellbeing and enjoyment of their rights.
3. **A constantly updating strategy.** Child strategies are updated fairly frequently in the surveyed countries. New Zealand and Scotland have included the obligation to update their strategies every three years in law, in order to ensure that the strategies are timely and responsive to the needs of each specific moment as well as the future. In Sweden, equivalent requirements are included in the strategy itself and measures have been realigned every few years.

4. **Clearly defined responsibilities for implementation and progress monitoring.** In Sweden, the Ombudsman for Children has wide responsibility for supporting and monitoring the implementation of the Convention on the Rights of the Child. New Zealand has assigned responsibility for drafting and implementing the strategy to the Prime Minister's Cabinet. For this purpose, the Cabinet established a Child Wellbeing and Poverty Reduction Group working under the leadership of the Prime Minister, who also functions as Minister for Child Poverty Reduction, together with the Minister for Children. Scotland, in turn, has separately assigned responsibility by law to all ministers, each of whom report to Parliament on strategy implementation for their own part.
5. **Two time spans.** Strategic objectives are set over a long time span, stretching across government terms, while the strategy is simultaneously implemented and monitored using shorter-term metrics, indicators and practical action plans.
6. **Obliging the responsible minister(s) to report to Parliament on strategy progress.** Fulfilling the best interests of the child under Article 3 of the Convention on the Rights of the Child requires continuous analysis of the implications of decisions as well as child impact assessments and evaluations. This applies both to decisions concerning children and to other measures from an individual child's perspective and from that of children in general. Monitoring makes it possible to identify the legislative and other measures required to strengthen the rights of the child. In New Zealand, the Minister for Children prepares an annual report describing the child strategy's outcomes. The Minister also reports to Parliament on strategy progress. In Scotland, law requires ministers to report to Parliament every three years on the measures that they have taken to promote or ensure the implementation of the obligations set out in the Convention on the Rights of the Child in Scotland and how they have raised public awareness and understanding of child rights.

## 6.4

## 6.5

## 6.6 Conclusion

The international examples of child strategies highlight their connection to the rights of the child. Different countries' child strategies emphasise a time span that cuts across government terms. At the same time, however, it is necessary to ensure that the strategy is updated and capable of responding to topical challenges of children's wellbeing and rights. Research plays an essential role in preparing, implementing and monitoring the strategy. The strategy and its implementation should be monitored and its impact should be assessed. In order for the strategy to be an efficient tool to implement child rights, sufficient resources should be allocated to its measures and it should be assigned a permanent role in guiding child policy. Systematic child impact assessment forms an integral part of implementing child rights.

Children's right to participate is one of the core fundamental and human rights applicable to children. In addition to the Constitution, it is also based on other domestic laws and several recommendations and programmes. Promoting children's involvement and removing its barriers form one of the key value premises and objectives of the Child Strategy. Many studies have expressed concerns about the fact that the opportunity to exert influence is not realised equally between different child groups, as some children need to fight for their participation rights more than others. Indeed, equal participation opportunities form a major issue in enjoyment of inclusion rights: How can children's inclusion be supported, from early childhood onwards, to ensure that children have the opportunity to influence decision-making concerning them, in keeping with their evolving capacities? The National Child Strategy will promote the fulfilment of equal participation opportunities.

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## 8 Abbreviations

In case of treaties, the reference number is followed by an indication in brackets of whether the treaty was drawn up within the United Nations (UN), Council of Europe (CoE), International Labour Organisation (ILO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), or Hague Conference on Private International Law (HCCH).

- **ACFC:** Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities
- **Biomedicine Convention:** Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (European Treaty Series No. 164; CoE)
- **CAT:** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/RES/39/46; UN)
- **CCPR [Chapter 4]:** Human Rights Committee (monitoring the ICCPR)
- **CDE:** Convention against Discrimination in Education (UNESCO)
- **CEDAW:** Convention on the Elimination of All Forms of Discrimination against Women (A/RES/34/180; UN)
- **CoE:** Council of Europe
- **CPT:** European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (monitoring the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment)
- **CRC [Chapter 4]:** United Nations Committee on the Rights of the Child (monitoring the Convention on the Rights of the Child)
- **CRC:** Convention on the Rights of the Child (A/RES/44/25; UN)
- **CRC-OP-AC:** Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (A/RES/54/263; UN)
- **CRC-OP-IC:** Optional Protocol to the Convention on the Rights of the Child on a communications procedure (A/RES/66/138; UN)
- **CRC-OP-SC:** Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (A/RES/54/263; UN)
- **CRPD Optional Protocol:** Optional Protocol to the Convention on the Rights of Persons with Disabilities (A/RES/61/106; UN)
- **CRPD:** Convention on the Rights of Persons with Disabilities (A/RES/61/106; UN)
- **CRSR:** Convention Relating to the Status of Refugees (A/RES/2198(XXI); UN)
- **Cultural Diversity Convention (CDCE):** Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO)

- **ECAC:** European Convention on the Adoption of Children (Revised) (Council of Europe Treaty Series No. 202; CoE)
- **ECAT:** Council of Europe Convention on Action against Trafficking in Human Beings (Council of Europe Treaty Series No 197; CoE)
- **ECECR:** European Convention on the Exercise of Children’s Rights (European Treaty Series No. 169; CoE)
- **ECHR Protocol No. 1:** Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Treaty Series No. 9; CoE)
- **ECHR Protocol No. 12:** Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Treaty Series No. 177; CoE)
- **ECHR Protocol No. 13:** Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (European Treaty Series No. 187; CoE)
- **ECHR Protocol No. 4:** Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (European Treaty Series No. 46; CoE)
- **ECHR Protocol No. 6:** Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty (European Treaty Series No. 114; CoE)
- **ECHR Protocol No. 7:** Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Treaty Series No. 117; CoE)
- **ECHR:** European Convention for the Protection of Human Rights and Fundamental Freedoms (the ‘Euroopan Convention on Human Rights’, Euroopan Treaty Series No. 5 as amended by Protocols No. 11 and No. 14; CoE)
- **ECPT:** European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Treaty Series No. 126; CoE)
- **ECRI:** European Commission against Racism and Intolerance (one of the human rights bodies of the Council of Europe)
- **ECRML:** European Charter for Regional or Minority Languages (European Treaty Series No. 148; CoE)
- **ECSR:** European Committee of Social Rights
- **ESC:** European Social Charter (Revised) (European Treaty Series No. 163; CoE)
- **EUCFR:** Charter of Fundamental Rights of the European Union
- **European Convention for the Prevention of Torture:** European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Treaty Series No. 126; CoE)

- **European Custody Convention:** European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (European Treaty Series No. 105)
- **FCNM:** Framework Convention for the Protection of National Minorities (European Treaty Series No. 157; CoE)
- **GRETA:** Council of Europe Group of Experts on Action against Trafficking in Human Beings
- **GREVIO:** Group of Experts on Action against Violence against Women and Domestic Violence
- **Hague Abduction Convention:** Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention No. 28; HCCH)
- **Hague Adoption Convention:** Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention No. 33; HCCH)
- **ICCPR:** International Covenant on Civil and Political Rights (A/RES/21/2200; UN)
- **ICED:** International Convention for the Protection of All Persons from Enforced Disappearance (A/RES/61/177; UN; currently in the process of being ratified in Finland, with Government Proposal expected this year)
- **ICERD:** International Convention on the Elimination of All Forms of Racial Discrimination (A/RES/2106 A (XX); UN)
- **ICESCR:** International Covenant on Economic, Social and Cultural Rights (A/RES/21/2200(XXI); UN)
- **ICMW:** International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/RES/45/158; UN; not ratified by Finland)
- **ILO Convention No. 138:** ILO Convention No. 138 concerning Minimum Age for Admission to Employment
- **ILO Convention No. 169:** ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries (not ratified by Finland)
- **ILO Convention No. 182:** ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
- **ILO Convention No. 183:** ILO Convention No. 183 on Maternity Protection (not ratified by Finland)
- **ILO:** International Labour Organisation
- **Istanbul Convention:** Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Council of Europe Treaty Series No. 210; CoE)
- **Lanzarote Convention:** Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse (Council of Europe Treaty Series No. 201; CoE)

- **Palermo Convention Protocol II:** Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/25; UN)
- **UN:** United Nations
- **UNESCO:** United Nations Educational, Scientific and Cultural Organisation
- **UPR:** Universal Periodic Review of human rights



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