

The Activity, Progressiveness and
Consistency of the Human Rights Policy
of Finland: Economic, Social and Cultural Rights



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Preface

Finland, together with many other countries, has included the universal promotion and protection of human rights and fundamental freedoms as one of its central foreign policy goals. Accordingly, human rights are, allegedly, taken into account not only in the Finnish foreign human rights policy but in all sectors of the foreign policy. The aim of the Government of Finland is an active, competent, consistent and progressive human rights policy. According to the main priorities of its human rights policy, the Government of Finland has committed itself to promote and protect the rights of indigenous peoples, various minorities, including sexual and gender minorities, women, children and other vulnerable groups, actively and consistently.

The capacity and credibility of a government's action to promote the respect for human rights at the international level is inseparably related with the promotion and protection of human and fundamental rights at the national level. In the Government report to Parliament on the human rights policy of Finland of 2004, it is noted that Finland has the capacity and credibility needed to promote the respect for human rights at international fora. In line with its officially adopted position, Finland has worked actively for the development of structures and mechanisms for enhancing the international promotion and protection of human rights. The Finnish initiatives to create a European Roma and Travellers Forum and an office of a Commissioner for Human Rights, both within the framework of the Council of Europe, represent perhaps the most concrete examples of the activity of Finland in building international human rights structures.

Despite a relatively active international role when promoting respect for human rights, there are signs that indicate that the standard of the protection of human and fundamental rights at the national level does not always correspond to the standard promoted by Finland at international fora. Consequently, and despite the occasional statements commending its human rights record, human rights treaty monitoring bodies of the United Nations and the Council of Europe, including the European Court of Human Rights, have repeatedly reminded Finland of certain international treaty obligations that are inadequately taken care of.

It illustrates certain inconsistency or indeed ignorance towards recommendations issued by international human rights monitoring bodies that while receiving criticism Finland has simultaneously promoted actively all these questions at various international fora. However marginal, such inconsistency or ignorance does not go unnoticed and may eventually lead to a loss of a government's credibility.

In addition to the international monitoring bodies, also national courts and other national bodies constantly remind the Government of certain inconsistencies and failures in meeting its human rights obligations. In their decisions, the Parliamentary Ombudsman and the Ombudsman for Minorities, for example, both draw regularly the Government's attention to shortcomings in laws and regulations.

Despite the numerous bodies monitoring its human rights record, the Government of Finland has, occasionally, been, for a variety of reasons, relatively slow or sometimes even reluctant to take corrective measures. This is the case despite the fact that the Government has repeatedly emphasized the importance of human rights treaties and of the work carried out by the expert bodies monitoring the compliance of a state party with these treaties.

The present research report on economic, social and cultural rights results from the author's ongoing study on the activity, progressiveness and consistency of the human rights policy of Finland. The Finnish Ministry for Foreign Affairs has granted the present author an extraordinary permit of access to any documentation produced by the Ministry for Foreign Affairs that may be of relevance for the carrying out of the research which will later result in a monograph. The author presents his gratitude to the trust placed on him. The author is also indebted to Kone Foundation for having awarded funding to carry out the study.

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M.L.

1 Strengthening the international protection mechanisms

The Government of Finland supports all efforts to enhance the legal and political weight given to economic, social and cultural rights.¹ When Finland codified its human rights policy in 1998, the promotion of economic, social and cultural rights was included alongside civil and political rights among the Government's human rights policy objectives in order to give economic, social and cultural rights an equal standing with civil and political rights.² Partly perhaps due to the indivisibility of rights, the promotion and protection of economic, social and cultural rights has not, however, become part of the areas of priority of the Government's human rights policy alongside the promotion and protection of the rights of women, children, minorities, indigenous peoples, and persons with disabilities.

As the Constitutional Act of 1919 paid little attention to economic, social and cultural rights, economic, social and cultural rights were included in the Constitution of Finland at the Constitutional reform of 1995 in order to ensure that the Government's international human rights obligations were ensured in the national legislation.

The emphasis on the importance to promote and protect economic and social rights together with the indivisibility of rights is, nonetheless, of a much earlier origin. For decades, Finland has consistently emphasized the importance of the awareness that it is not possible to promote and protect civil and political rights without also promoting and protecting economic and social rights. At the twenty-fifth session of the Commission on Human Rights in 1969 – the year when Finland was for the very first time member of the Commission on Human Rights – the representative of Finland noted, among other things, that "[W]hat we need is a balanced approach and awareness that it is not possible in the long run adequately to secure and protect one type of human rights without the other".³ The following year, at the twenty-sixth session of the Commission on Human Rights, the representative of Finland continued underlining the importance of an effective monitoring mechanism for economic and social rights by giving his delegation's support to the reporting procedure established under the International Covenant on Economic, Social and Cultural Rights.⁴

Finland has, in other words, considered all human rights equally important and that all human rights need to be guaranteed as "integral parts of a whole". Accordingly, civil and political

¹ Statement by the Minister for Foreign Affairs, Tarja Halonen, at the fifty-fourth session of the Commission on Human Rights, 17 March 1998. Ministry for Foreign Affairs, GENC003-24, 17.3.1998, annex.

² Human rights and Finland's foreign policy, 1998, p. 51-52. See also Human Rights and Finland's Foreign Policy, 2000, p. 118-123.

³ Statement by the representative of Finland, Mr. Klaus Törnudd, during the twenty-fifth session of the Commission on Human Rights, 10 March 1969. Statement found as annex 3 to the report of the Finnish delegation to the twenty-fifth session of the Commission on Human Rights.

⁴ UN doc. E/CN.4/SR.1084. When the articles on measures of implementation of the draft covenant on economic, social and cultural rights were negotiated at the Third Committee of the General Assembly in 1966, the representative of Finland did not consider it necessary for a more effective monitoring mechanism beside the reporting procedure. In general, after having joined the United Nations in December 1955, Finland was rather passive during the drafting of the two Covenants and participated in the process mainly by taking part in the voting. UN doc. General Assembly, Third Committee, 1399th meeting, 19 October 1966. Heikki Karapuu and Allan Rosas, 1990, p. 200; Jaana Matikainen, 1988, p. 23-24.

rights and economic, social and cultural rights “should be developed equally”.⁵ This principle was not perhaps all that apparently followed when addressing the need of the Commission on Human Rights to establish special procedure mandates on economic, social and cultural rights. Nonetheless, the Government of Finland has held the view that since there is the option of individual complaints under the International Covenant on Civil and Political Rights, there is no reason why a similar complaints procedure ought not to be established under the International Covenant on Economic, Social and Cultural Rights.⁶

The support by the Government of Finland of the establishment of an individual complaints procedure for the International Covenant on Economic, Social and Cultural Rights has been strong and consistent and it has a wide support among different authorities.⁷ Finland is, however, among the very few countries – also among the members of the European Union – that have strongly and consistently advocated the establishment of a complaints mechanism under the Covenant on Economic, Social and Cultural Rights. It comes, therefore, not as a surprise that the common EU statements on economic, social and cultural rights, and in particular as regards the need for a complaints mechanism, which have been delivered, for instance, at the annual sessions of the Commission on Human Rights since 1999 have not represent the strong position that the delegation of Finland would had desired.⁸

1.1 Special procedures: who tackled the imbalance?

The thematic special procedure mandates established by the Commission on Human Rights between 1980 and 1997 were exclusively on civil and political rights. As the present author has noted on a previous occasion, economic and social rights were, in this respect, neglected.⁹

⁵ The representative of Finland at the thirty-ninth session of the Commission on Human Rights, 14 February 1983. UN doc. E/CN.4/1983/SR.19, paragraph 9.

⁶ Ministry for Foreign Affairs, GENT003-95, 22.8.2001. Individual members of the Committee on Economic, Social and Cultural Rights noted during the consideration of the fifth periodic report of Finland that Finland has taken a leading role on the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. UN doc. E/C.12/2007/SR.11.

⁷ See, e.g., Ministry of Labour (Dnro 2336/059/2001 TM, 5.11.2001); Parliamentary Ombudsman (Dnro 2611/5/01, 12.11.2001) as well as written statement of 21.10.1997; Ministry of Education (Dnro 54/340/2001, 12.11.2001); Ministry for Social Affairs and Health (Dnro 216/04/2001, 13.11.2001); Ministry of Justice (Dnro 3496/45/2001 OM, 5.12.2001); Ministry of Environment (HELD036-37, 31.10.1997); Association of Finnish Local and Regional Authorities (Suomen kuntaliitto) (HELD036-37, 31.10.1997). This was also the case during the drafting of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. Ministry of Justice, 372/45/92 OM, 17.2.1992 and 3014/45/95, 11.10.1995; Ministry of Social Affairs and Health, 29/333/95, 5.10.1995 and 31/333/95, 21.12.1995; Ministry of Labour, 7061/059/95TM, 11.10.1995; Ministry of the Interior, 24/053/95, 13.10.1995.

⁸ For the Finnish view during the drafting of the first common EU statement on economic, social and cultural rights to be held at the session of the Commission on Human Rights, see Ministry for Foreign Affairs, COREU HEL/0082/99, 11 March 1999. For the Finnish position of 2001 on how to proceed with drafting an optional protocol to the International Covenant on Economic, Social and Cultural Rights, see Ministry for Foreign Affairs, COREU CFSP/HEL/0080/01, 20.3.2001. Of the 25 member states of the European Union, only 11 have ratified, as at 22 February 2008, the Additional Protocol to the European Social Charter providing for a system of collective complaints.

⁹ Between 1980 and 1997, the Commission on Human Rights had established 16 thematic special procedure mandates which all focused, in other words, on civil and political rights. For a detailed account on this issue, see,

It was the Committee on Economic, Social and Cultural Rights that was one of the initial actors that contributed in convincing governments of the need for the Commission to tackle this imbalance by giving consideration to the appointment of special procedure mandates also on economic, social and cultural rights. In this regard, the Committee adopted a decision at its fifteenth session in 1996 proposing that the Commission on Human Rights contribute to this endeavour by giving consideration to the appointment of a special rapporteur on economic, social and cultural rights. The Committee noted that while there was a large number of thematic special procedure mandates dealing with different aspects of civil and political rights, there was none dealing solely with economic and social rights, despite the recognized interdependence, indivisibility and interrelatedness of all human rights.¹⁰ According to the then Chairperson of the Committee, Philip Alston, the Committee's task would be considerably facilitated if economic and social rights were given greater attention in the Commission's work.¹¹

It was at the fifty-fourth session of the Commission on Human Rights in 1998 that this imbalance was for the first time tackled. By the establishment of no less than five new mandates on specific economic and social rights or issues closely related to these rights, the Commission ended the neglect that these rights had been subject to for so long. The mandates were on the right to education in advancing economic and social rights,¹² the effects of foreign debt on the enjoyment of economic and social rights,¹³ the current state of the right to development,¹⁴ human rights and extreme poverty,¹⁵ and basic principles and guidelines on the right to restitution, compensation and rehabilitation for victims of grave human rights violations.¹⁶ The Commission continued with tackling the still prevailing imbalance two years later at its fifty-sixth session in 2000 by establishing the mandates of the special rapporteurs on the right to food¹⁷ and on adequate housing as a component of the right to an adequate standard of living¹⁸ and at the fifty-eighth session in 2002 when the mandate of the special

e.g., Miko Lempinen, 2005, p. 238-242 and annex 1 (b) as well as 2001, p. 241-244. See also Allan Rosas and Martin Scheinin, 2001, p. 448-449.

¹⁰ UN docs. E/C.12/1996/6; E/1997/22, paragraph 390 and E/CN.4/1997/106.

¹¹ UN doc. E/C.12/1996/SR.54/Add.1, paragraph 26.

¹² Commission on Human Rights resolution 1998/33. See also UN docs. E/CN.4/1998/L.35 and E/CN.4/1998/SR.51, paragraphs 28-39.

¹³ Commission on Human Rights resolution 1998/24. See also UN docs. E/CN.4/1998/L.17 and E/CN.4/1998/SR.51, paragraphs 6-16. In 2000, the mandate was merged with the mandate on structural adjustment policies.

¹⁴ Commission on Human Rights resolution 1998/72. See also UN docs. E/CN.4/1998/L.19 and E/CN.4/1998/SR.58, paragraphs 1-11.

¹⁵ Commission on Human Rights resolution 1998/25. See also UN docs. E/CN.4/1998/L.29 and E/CN.4/1998/SR.51, paragraphs 17-27.

¹⁶ Commission on Human Rights resolution 1998/43. See also UN docs. E/CN.4/1998/L.76 and E/CN.4/1998/SR.52, paragraphs 1-4.

¹⁷ Commission on Human Rights resolution 2000/10. See also UN docs. E/CN.4/2000/L.19 and E/CN.4/2000/SR.52, paragraphs 44-57.

¹⁸ Commission on Human Rights resolution 2000/9. See also UN docs. E/CN.4/2000/L.17 and E/CN.4/2000/SR.52, paragraphs 30-43.

rapporteur on the right to the enjoyment of the highest attainable standard of physical and mental health was established.¹⁹

In accordance with its human rights policy, Finland saw this development as positive. As the first special procedures of the Commission on Human Rights on economic, social and cultural rights had started to fulfil their mandates, the Minister for Foreign Affairs stated, in her address to the fifty-fifth session of the Commission on Human Rights in 1999, that "Finland notes with satisfaction that the area of economic, social and cultural rights is now better covered." In the Government's report on human rights and Finland's foreign policy of 2000, it is also noted that the Government welcomes the decision by the Commission on Human Rights to establish special procedure mandates on adequate housing and on the right to food as this will strengthen the Commission's ability to monitor the implementation of economic, social and cultural rights.²⁰ Nothing, however, was said about the other mandates on economic and social rights that had been established or about the, still at the time, prevailing imbalance between the number of special procedure mandates on civil and political rights, on the one hand, and on economic, social and cultural rights, on the other. Four years later, in the Government's report to Parliament on the human rights policy of Finland of 2004, it is also noted that economic and social rights are getting increasing attention also by the Commission on Human Rights and that the reports prepared by the special procedure mandate holders on economic, social and cultural rights contribute to the codification of the contents of these rights in different situations. Finland remained, in other words, surprisingly silent with regard to the need to tackle this imbalance and with regard to the establishment of the first special procedures on economic, social and cultural rights.

Although the initiatives were always taken by someone else, Finland adopted itself a role in this process in ensuring that the newly created special procedure mandates would cover certain issues important for Finland. In this regard, the Minister for Foreign Affairs noted, in her address at the Commission's fifty-fifth session in 1999, that one Special Rapporteur on the rights of women²¹ "is not enough". Therefore, as the Minister continued, "Finland will continue to insist that a gender perspective is included in the mandates of all relevant human rights mechanisms", including those on economic, social and cultural rights.²² For instance, when the mandate of the independent expert on extreme poverty had been established the previous year, a reference to a gender perspective had been included, as a Finnish initiative, in the mandate. Consequently, the independent expert on the question of extreme poverty and human rights was requested to take into account, in particular, "the obstacles encountered and progress made by women living in extreme poverty as regards the enjoyment of their fundamental rights" and the reports prepared by the independent expert should be made available also to the Commission on the Status of Women.²³

¹⁹ Commission on Human Rights resolution 2002/31. See also UN docs. E/CN.4/2002/L.47 and E/CN.4/2002/SR.49, paragraphs 122-125.

²⁰ Human Rights and Finland's Foreign Policy, 2000, p. 119.

²¹ The mandate of the Special Rapporteur on violence against women had been established at the Commission's fiftieth session in 1994. Commission on Human Rights resolution 1994/45.

²² Statement by the Minister for Foreign Affairs of Finland, Tarja Halonen, at the fifty-fifth session of the Commission on Human Rights, 26 March 1999. Ministry for Foreign Affairs, GENC003-59, 20.5.1999, annex.

²³ Commission on Human Rights resolution 1998/25, paragraphs 6 (b) and (d). Ministry for Foreign Affairs, GENC003-55, 5.5.1998. Already at its fiftieth session, in 1994, the Commission on Human Rights had requested

Besides the rights of women and a gender perspective, Finland has, according to its areas of priority, consistently insisted on references to the rights of indigenous peoples and minorities to be included in the resolutions on the thematic special procedures.²⁴ As a Finnish initiative, a reference to the need for states to ensure non-discriminatory access to adequate housing for indigenous people and persons belonging to minorities.²⁵

1.2 Equally justiciable rights: the need for a complaints mechanism

One of the main objectives of the Finnish human rights policy is to elevate economic, social and cultural rights to the same level with civil and political rights. It has, on repeated occasions, been underlined that Finland emphasises the indivisible nature of human rights and that attempts to draw a line between civil and political rights, on one hand, and economic, social and cultural rights, on the other, is artificial and impossible.²⁶ In this regard, Finland has promoted all efforts to enhance the legal and political weight given to economic and social rights. The drafting of an optional protocol establishing a complaints mechanism that would contribute to placing economic, social and cultural rights on an equal footing with civil and political rights has, therefore, been considered important.²⁷ In her address at the fifty-fourth session of the Commission on Human Rights in 1998, the Finnish Minister for Foreign Affairs, Tarja Halonen, noted, on this issue, that “[T]he implementation of economic, social and cultural rights differs to some extent from that of civil and political rights. But even if

all special procedure mandate holders to include, in their reports, information on human rights violations against women. Commission on Human Rights resolution 1994/45, paragraph 18. The thematic special procedures have also repeatedly been requested since the forty-ninth session of the Commission on Human Rights to include "gender-disaggregated data" in their reports and to address the characteristics and practice of human rights violations that are specifically or primarily directed against women, or to which women are particularly vulnerable. See, *e.g.*, Commission on Human Rights resolutions 1993/47, 1994/53, 1996/46; 1997/37; 1998/74; 2000/86. Due to insufficient knowledge on how to integrate a gender perspective into the work of the special procedures, participants of the sixth meeting of special rapporteurs suggested, in 1999, that a brief manual on the issue is prepared for the mandate holders. UN doc. E/CN.4/2000/5, paragraph 16. See also Miko Lempinen, 2001, p. 244-247.

²⁴ In his statement at the forty-ninth session of the Commission on Human Rights in 1993, the representative of Finland noted, on behalf of the Nordic countries, that "[A]lready existing human rights mechanisms could play a more central role in the implementation of human rights of persons belonging to minorities by taking into account the rights of minorities in the discharge of their mandates". Ministry for Foreign Affairs, report of the Finnish delegation of the forty-ninth session of the Commission on Human Rights in 1993, annex 11. A similar statement was made the following year at the Commission's fiftieth session.

²⁵ Commission on Human Rights resolution 2001/28, paragraph 10 (e) (i). In paragraph 10 (e) (i), the Commission on Human Rights calls upon states to counter social exclusion and marginalization of people who suffer from discrimination on multiple grounds, in particular by ensuring non-discriminatory access to adequate housing for indigenous people and persons belonging to minorities. Ministry for Foreign Affairs, GENT003-52, 21.4.2001.

²⁶ See, for instance, the statement by the Under-Secretary of State of Finland, Jaakko Laajava, made before the fifty-ninth session of the Commission on Human Rights, 19 March 2003. Ministry for Foreign Affairs, GEN0018-83, 27.5.2003, annex.

²⁷ Human Rights and Finland's Foreign Policy, 2000, p. 119; Government Report to Parliament on Human Rights, 2004, p. 136. The observer for Finland noted at the fifty-fourth session of the Commission on Human Rights in 1998 that "Finland attaches great importance to the drafting of an optional protocol to the Covenant on Economic, Social and Cultural Rights. This position is a reflection of our belief that these rights in their essence can be justiciable". Statement by the observer for Finland at the fifty-fourth session of the Commission on Human Rights. Ministry for Foreign Affairs, GENC011-40, 26.3.1998, annex.

they are to be implemented progressively, it does not make this task less urgent. Finland supports all efforts to enhance the legal and political weight given to this group of rights. The project of drafting an optional protocol to the Covenant on Economic, Social and Cultural Rights is very important”.²⁸

As with the establishment of the first special procedure mandates on economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights proved that it has a unique role in the promotion and protection of economic, social and cultural rights when it played a key role in getting the process of an optional protocol to the Covenant started. The Committee began working on the issue of an individual complaint mechanism at its fifth session in 1990.²⁹ Two years later, at its seventh session, the Committee adopted an analytical paper "Towards an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights" which was also submitted to the Preparatory Committee for the Vienna World Conference on Human Rights.³⁰ Encouraged by the request of the Vienna Declaration and Programme of Action to continue the examination of an optional protocol to the Covenant,³¹ the Committee prepared a draft optional protocol that was submitted to the Commission on Human Rights in 1997.³²

In its reply to the Secretary-General's letter of 27 August 1997 concerning the request of the Commission on Human Rights to transmit the text of the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights to governments for their comments, the Government of Finland gave its full support to the elaboration of an optional protocol that would authorize the Committee on Economic, Social and Cultural Rights to receive and examine communications from any individual or group of individuals claiming to be a victim of a violation by the state party of a right recognized in the Covenant.³³ In the government's reply, it was considered that an individual complaints procedure “enhances the

²⁸ Statement by Tarja Halonen, Minister for Foreign Affairs of Finland, at the fifty-fourth session of the Commission on Human Rights, 17 March 1998. Ministry for Foreign Affairs, GENC003-24, 17.3.1998. See also UN doc. E/CN.4/1998/SR.2, paragraphs 40-45. See also the statement under the agenda item on economic, social and cultural rights by the observer for Finland at the same session (Ministry for Foreign Affairs, GENC011-40, 26.3.1998, annex; UN doc. E/CN.4/1998/SR.16, paragraph 55) as well as the statement of the Minister for Foreign Affairs of Finland, Erkki Tuomioja, at the sixty-first session of the Commission on Human Rights, 15 March 2005. UN doc. E/CN.4/2005/SR.4, paragraphs 1-15.

²⁹ UN doc. E/1991/23; E/C.12/1990/8, paragraph 285. See also Allan Rosas and Martin Scheinin, 2001, pp. 439.

³⁰ UN docs. E/1993/22; E/C.12/1992/2, annex IV and A/CONF.157/PC/62/Add.5, annex II.

³¹ Vienna Declaration and Programme of Action, Part II, paragraph 75. UN doc. A/CONF.157/23, paragraph 75.

³² UN doc. E/CN.4/1997/105; Matthew Craven, 2001, p. 468-469.

³³ Martin Scheinin has argued that by entrusting the Human Rights Committee instead of the Committee on Economic, Social and Cultural Rights with the task of dealing with the complaints under the International Covenant on Economic, Social and Cultural Rights a "stronger consolidation between the two Covenants and their monitoring" could be achieved as practically all substantive human rights would be monitored by one and the same body contributing to a "true consolidation of human rights treaty monitoring". Martin Scheinin, 2006, p. 134. The independent expert appointed by the Commission on Human Rights to examine the question of an optional protocol to the Covenant on Economic, Social and Cultural Rights took a somewhat different approach when he noted that "[I]t is a hard assignment for one body, first to engage a State party in constructive, fruitful dialogue, during the consideration of periodic reports, on the steps it has taken and the machinery it has established to give full effect to the rights set forth in some international convention – essentially a non-confrontational, consultative exercise – and then to behave as a quasi-judicial investigative and settlement body. It should opt for one or the other". UN doc. E/CN.4/2002/57, paragraph 39.

legal protection of the rights of individuals” and that such a procedure would “be a step forward to strengthen the implementation of economic, social and cultural rights”.³⁴ In its comments given the following year pursuant to Commission on Human Rights resolution 1998/33 of 17 April 1998, the Government of Finland continued emphasizing the importance of strengthening the protection of economic and social rights by noting that there is a “need to strengthen the global implementation of economic, social and cultural rights” and that a procedure allowing for individual complaints “would be a means to ensure the recognition and implementation of the rights guaranteed in the Covenant”.³⁵

The idea of a complaints procedure for economic, social and cultural rights is "in no way new or especially innovative" as noted by the Committee on Economic, Social and Cultural Rights in 1992. Besides regional arrangements,³⁶ such procedures are found under the International Labour Organization concerning alleged violations of trade union rights, under the United Nations Educational, Scientific and Cultural Organization for alleged violations of rights related to education, science and culture, as well as under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 which, as specifically affirmed by the Commission on Human Rights, applies also to the full range of economic and social rights.³⁷

At its fifty-eighth session in 2002, the Commission on Human Rights decided that it would establish at its fifty-ninth session an open-ended working group with the task to consider options regarding the elaboration of an optional protocol to the Covenant on Economic, Social

³⁴ Ministry for Foreign Affairs, HELD036-47, 20.11.1997. See also Ministry for Foreign Affairs, HELD036-35, 30.9.1997; HELD036-37, 31.10.1997; HELD036-39, 3.11.1997. UN doc. E/CN.4/1998/84.

³⁵ Ministry for Foreign Affairs, HELD036-44, 13.10.1998. UN doc. E/CN.4/1999/112.

³⁶ See, in particular, article 19, paragraph 6, of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights and the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. As at February 2008, the European Committee of Social Rights has considered two collective complaints that have been issued against Finland under the Additional Protocol to the European Social Charter. In its decision of 17 October 2001, the European Committee of Social Rights concluded that the situation in respect of special annual leave of hospital personnel exposed to radiation was not in conformity with Article 2, paragraph 4, of the European Social Charter (European Committee of Social Rights, Complaint No. 10/2000, STTK ry and Tehy ry against Finland). The Council of Europe Committee of Ministers did not, however, require that the Government of Finland restore the repealed provisions on radiation-related additional annual leave (Committee of Ministers, resolution ResChS(2002)2 of 21 February 2002 on Collective complaint No. 10/2000, STTK ry and Tehy ry against Finland). For the Government's response, see Ministry for Foreign Affairs, HELD1237-120, 20.11.2000; HELD1237-136, 11.12.2000; HELD1221-4, 26.2.2001; HELD1221-35, 21.6.2001; HELQ003-14, 23.1.2002; HELQ003-16, 25.1.2002; HELQ003-24, 19.2.2002; ENE0004-16, 30.1.2002; Ministry of Labour 2758/059/2000TM, 30.11.2000; 2758/059/2000TM, 9.3.2001; 2758/059/2000TM, 16.11.2001; Ministry of Social Affairs and Health 235/04/2000, 5.12.2000; 49/04/2001, 19.3.2001; and the observations of the Ministry of Social Affairs and Health issued on 20 June 2001. In the second collective complaint against Finland, the Committee concluded, in a decision of 16 October 2007, that the right to organise, as provided in Article 5 of the Revised Social Charter, had not been violated (European Committee of Social Rights, Complaint No. 35/2006, Federation of Finnish Enterprises v. Finland). In a resolution of 16 January 2008, the Committee of Ministers took note of the report of the Committee of Social Rights. Council of Europe Committee of Ministers, Resolution CM/ResChS(2008)2. For the Government's response, see Ministry for Foreign Affairs, HEL5047-112, 12.7.2006; HEL5047-155, 28.9.2006; HEL5047-185, 18.12.2006; HEL5047-11, 16.2.2007; Ministry of Labour 1489/059/2006TM, 1.9.2006; 1489/059/2006TM, 16.1.2007; Ministry of Justice 13/84/2006, 6.9.2006.

³⁷ UN doc. E/1993/22; E/C.12/1992/2, paragraph 9.

and Cultural Rights.³⁸ The Working Group was not, in other words, yet mandated to begin the drafting of an optional protocol, something that Finland had for years spoken in favour of. It was only at the first session of the Human Rights Council, in June 2006, that the Working Group's mandate was extended by an explicit request to begin negotiating a draft text on an optional protocol.³⁹

At the sessions of the open-ended Working Group held so far,⁴⁰ the delegation of Finland has actively presented arguments in favour of a complaints procedure to be established under the Covenant on Economic, Social and Cultural Rights that would allow for both individual and collective complaints to be submitted for the consideration of the Committee on Economic, Social and Cultural Rights.⁴¹ The delegation of Finland has made the argument that it is precisely through a complaints mechanism that human rights – also economic, social and cultural rights – are given more concrete meaning. The delegation of Finland has argued, and rightly so, that "international norms that may otherwise seem general and abstract are given practical effect" through concrete individual cases.⁴² But, and as pointed out by the delegation of Finland, for example, during the second session of the Working Group in 2005, economic, social and cultural rights are already "precise enough to be invoked in a court of law" and, as the delegate of Finland continued, most rights protected by the Covenant have been subject to judgments of the highest courts in Finland.⁴³

Although the courts in Finland do not necessarily directly make reference to the Covenant on Economic, Social and Cultural Rights or to other international human rights treaties but to the corresponding provision found in the national legislation, it does not, as noted by the delegation of Finland, give reason to conclude that court decisions would not be in conformity with Finland's international human rights obligations. As noted by the delegation of Finland on the question of justiciability of economic, social and cultural rights, "it may be presumed that the reason for not referring to the Covenant [or any other international human rights treaty] is rather that there is no international case law that would provide guidance for national courts".⁴⁴

³⁸ Commission on Human Rights resolution 2002/24, paragraph 9 (f). See also Commission on Human Rights resolutions 2003/18; 2004/29; 2005/22. At its fifty-seventh session in 2001, the Commission on Human Rights had appointed an independent expert to examine the question of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. Commission on Human Rights resolution 2001/30. For the reports by the independent expert, see UN docs. E/CN.4/2002/57 and E/CN.4/2003/53 and Corr. 1 and 2.

³⁹ Human Rights Council resolution 1/3 of 29 June 2006.

⁴⁰ As at February 2008, the Working Group has held four sessions and the first part of its fifth session.

⁴¹ Ministry for Foreign Affairs, GEN0038-1, 17.1.2005. The revised draft prepared by the Chairman-Rapporteur after the first part of the fifth session of the open-ended Working Group does no longer include the possibility for collective complaints. UN doc. A/HRC/8/WG.4/2/Rev.1.

⁴² Statements by the delegation of Finland at the Working Group's first and second sessions in 2004 and 2005. Ministry for Foreign Affairs, HEL1027-13, 9.3.2004, annex and HEL1030-1, 22.3.2005, annex.

⁴³ Statement made by the delegation of Finland during the second session of the Working Group, 13 January 2005. Ministry for Foreign Affairs, HEL1030-1, 22.3.2005, annex.

⁴⁴ Statement of 27 February 2004. Ministry for Foreign Affairs, HEL1027-13, 9.3.2004, annex. On the justiciability of economic and social rights, see also Philip Alston, 1991, pp. 87; Martin Scheinin, 2001; Heikki Karapuu and Allan Rosas, 1990, p. 204; Robin Churchill and Urfan Khaliq, 2007, pp. 196.

Because states prefer to avoid international scrutiny of individual cases, the delegation of Finland has also presented the assumption that the institution of an international complaints mechanism would encourage states parties to ensure more effective local remedies. A complaints mechanism would, in other words, strengthen the accountability of states parties to the Covenant and, in this way, contribute to the placing of economic, social and cultural rights on an equal footing with civil and political rights.⁴⁵ As stated by the observer for Finland at the fifty-fourth session of the Commission on Human Rights in 1998, “[T]he experience of Finland from the last years implies that also economic, social and cultural rights can be given adequate legal formulation in the internal legislation. The practical realisation of these rights for each individual – especially remembering the need of women and vulnerable groups – can thus be enhanced. We hope that our experience, together with the similar experiences of a number of other countries, will take forward the discussion on the justiciability of economic, social and cultural rights”.⁴⁶

Furthermore, and as noted by the Under-Secretary of State of Finland in his address at the fifty-ninth session of the Commission on Human Rights in 2003, economic, social and cultural rights “are built along the same lines as other human rights, as essential treaty-based rights of the individual. The element of justiciability is often debated in the context of economic, social and cultural rights. Finland sees no valid grounds to exclude their justiciability. Finland believes that this notion will gradually gain ground as the understanding of the nature of this set of rights develops”.⁴⁷ As also noted by the delegation of Finland at the first session of the Working Group in 2004, there are no judicial obstacles to an optional protocol. Rather, as the delegation of Finland continued, “[T]he elaboration of an optional protocol is only a question of political will”.⁴⁸

⁴⁵ It has also been noted that the Covenant is not meeting the expectations of individuals if they have no remedy against violations of the rights provided for in the Covenant. Ministry for Foreign Affairs, HEL1027-13, 9.3.2004, annex.

⁴⁶ Statement by the observer for Finland at the fifty-fourth session of the Commission on Human Rights. Ministry for Foreign Affairs, GENC011-40, 26.3.1998, annex. In 2001, the Supreme Administrative Court stated that the local and state authorities must allocate sufficient resources to health care (KHO 2001/50, 19.10.2001, dnro 3492/1/99); In 2001, the Supreme Administrative Court also stated that parents have a right to get full day care for the child without specifying the reasons for it (KHO 2001:842, 11.4.2001, dnro 2491/3/00); In one of the many judgements concerning the rights of persons with disabilities, the Supreme Administrative Court stated, in a judgement of 2004, that a mentally disabled person had to be considered a severely disabled person within the meaning of the Decree on Services for the Disabled and that the municipal authorities were, therefore, obliged to arrange living conditions with services for the individual (KHO 2004/69, 7.7.2004, dnro 1036/3/02). As regards to right to education, the Supreme Administrative Court stated in 1986 that hospitals have the duty to organize education for children that are hospitalized for a longer period of time (KHO 1162/1986, 27.3.1986, dnro 1541/55/85) and in 1984 the Supreme Administrative Court had stated with regard to working conditions that the employer had the duty to provide protective eyewear for the employees so that they would be protected from injury in their work (KHO 4409/1984, 11.10.1984, dnro 990/65/84).

⁴⁷ Statement by the Under-Secretary of State of Finland, Jaakko Laajava, made before the fifty-ninth session of the Commission on Human Rights, 19 March 2003. Ministry for Foreign Affairs, GEN0018-83, 27.5.2003, annex. UN doc. E/CN.4/2003/SR.6, paragraphs 22-26.

⁴⁸ Statement by the delegation of Finland at the Working Group's first session, 5 March 2004. Ministry for Foreign Affairs, HEL1027-13, 9.3.2004, annex.

2 The question of adequate housing

Matthew Craven has made the observation that the Committee on Economic, Social and Cultural Rights "has dedicated more attention to the right to housing than to any other right".⁴⁹ The Committee has also been clear and consistent with regard to the right to adequate housing and with regard to the interpretation of article 11, paragraph 1, of the Covenant on Economic, Social and Cultural Rights. The same cannot, necessarily, be said about the former main intergovernmental human rights body of the United Nations – the Commission on Human Rights – nor about the position presented by the Government of Finland.

2.1 Is one component of a right also a right?

When drafting the resolution on adequate housing as a component of the right to an adequate standard of living during the fifty-eighth session of the Commission on Human Rights in 2002, the delegation of Finland made an attempt to include an explicit reference to the right to adequate housing. The reference merely to adequate housing as a component of the right to an adequate standard of living, while following the pattern of the Commission's resolutions from the previous sessions, was considered unsatisfactory.⁵⁰

In its position presented during the Commission's fifty-eighth session in 2002, the delegation of Finland noted that the right to adequate housing finds explicit recognition in international human rights treaties,⁵¹ numerous resolutions adopted, for instance, by the General Assembly⁵² and the Commission on Human Rights itself,⁵³ as well as in other authoritative

⁴⁹ During its fourth session in 1990, the Committee on Economic, Social and Cultural Rights devoted a day of general discussion to the issue of the obligations arising under article 11 of the Covenant on Economic, Social and Cultural Rights, especially with regard to the right to housing (UN doc. E/1990/23; E/C.12/1990/3, paragraphs 281-285) and at its sixth session in 1991, the Committee adopted its General Comment No. 4 on the right to adequate housing (UN doc. E/1992/23; E/C.12/1991/4, annex III) and at its sixteenth session in 1997 its General Comment No. 7 on the right to adequate housing: forced evictions (UN doc. E/1998/22; E/C.12/1997/10, annex IV). In addition, and as noted by Matthew Craven, the Committee has found a number of states parties to the Covenant on Economic, Social and Cultural Rights to be in violation of their treaty obligations with respect to the right to housing. Matthew Craven, 1995, p. 329. Also Scott Leckie has made the observation that "few rights are violated on the scale or with the degree of intensity as the human right to adequate housing". Scott Leckie, 2001, p. 149.

⁵⁰ Ministry for Foreign Affairs, COREU CFSP/HEL/0068/02, 3 April 2002.

⁵¹ See, for example, article 14 (2) (h) of the Convention on the Elimination of All Forms of Discrimination against Women, article 27 (3) of the Convention on the Rights of the Child, article 2 of the Convention relating to the Status of Refugees, and article 5 (e) (iii) of the Convention on the Elimination of All Forms of Racial Discrimination.

⁵² As an example was given General Assembly resolution 41/146 of 4 December 1986 where the General Assembly, in operative paragraph 1 of the resolution, expresses "its deep concern that millions of people do not enjoy the right to adequate housing". Resolution 41/146 was adopted by 153 votes to none, with 2 abstentions.

⁵³ As an example was given Commission on Human Rights resolution 1993/77 of 10 March which, in its operative paragraph 1, states that "forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing". Resolution 1993/77 was adopted without a vote. UN docs. E/CN.4/1993/SR.67, paragraphs 20-22 and E/1993/23; E/CN.4/1993/122, paragraph 554. See also Commission on Human Rights resolutions 1988/24, 1987/22 and 1986/36 on the realization on the right to adequate housing and Commission decision 1993/103 and resolution 1994/14 on the mandate of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to carry out a two-year study on promoting the realization of the right to adequate housing; Sub-Commission on Prevention of Discrimination and Protection of

statements,⁵⁴ and should, therefore, be recognized also in the resolution under preparation. It was, among other things, stated that the argument “to the effect that no right to housing would exist, while there exists a right to an adequate standard of living that includes housing, is undoubtedly somewhat spurious”. In the statement of the delegation of Finland, a reference was also made to the Convention on the Elimination of All Forms of Racial Discrimination. In this regard, it was noted that article 5 (e) (iii) in that Convention “makes explicit reference to the right to housing. While this article focuses on the obligation not to discriminate in relation to that right, it nonetheless constitutes an unequivocal recognition of the right, *per se*”.⁵⁵

The delegation of Finland soon, however, realized that the number of governments working actively for the recognition of a particular human right to adequate housing still was rather modest and the additions requested by the delegation of Finland were not accepted. Consequently, the resolution on the issue of housing adopted by the Commission on Human Rights at its fifty-eighth session in 2002 deals with adequate housing merely as a component of the right to an adequate standard of living, but not as a separate right.⁵⁶

The delegation of Finland presented a similar position concerning the right to adequate housing when commenting on the draft EU statement on economic, social and cultural rights that was to be delivered on behalf of all EU member states at the Commission’s fifty-eighth session. In its opinion, the delegation of Finland stated that it was necessary to maintain a reference, in the statement, to the right to adequate housing because “[T]he right to adequate housing finds explicit recognition within an array of international instruments”.⁵⁷ Although this proposal was not included in the joint EU statement, a reference to the right to adequate housing was, nevertheless, made in the paragraph where it was noted that “[T]he need to guarantee the right to adequate housing was brought up in the Special Session of the General Assembly held to revise the implementation of the Habitat Agenda (Istanbul+5), held in New York in June 2001”.⁵⁸

Minorities resolutions 1994/39, 1993/41, 1992/14 and 1991/12 on forced evictions and resolutions 1994/38, 1993/36, 1992/26 and 1991/26 on the right to adequate housing; Economic and Social Council resolutions 1986/41 of 23 May 1986 and 1987/62 of 29 May 1987 on the realization of the right to adequate housing as well as resolution 14/6 of 5 May 1993 on the human right to adequate housing adopted by the Commission on Human Settlements.

⁵⁴ Reference was, in this regard, made to General Comment No. 4 on the right to adequate housing adopted by the Committee on Economic, Social and Cultural Rights in 1991 as an authoritative interpretation of article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights.

⁵⁵ Ministry for Foreign Affairs, COREU CFSP/HEL/0068/02, 3 April 2002. In its comments made to the draft resolution on “Housing Rights” to be presented at the fifty-seventh session of the Commission on Human Rights the previous year in 2001, Finland emphasized the need to include, in the draft, provisions that would ensure equal access to adequate housing, among other things, to indigenous peoples and persons belonging to minorities and those affected by multiple discrimination, but made no attempt to include a reference to a right to adequate housing. Ministry for Foreign Affairs, COREU CFSP/HEL/0070/01, 9.3.2001.

⁵⁶ Commission on Human Rights resolution 2002/21 of 22 April 2002 was adopted without a vote.

⁵⁷ Ministry for Foreign Affairs, HELD2024-47, 24.3.2002.

⁵⁸ Statement on behalf of the member states of the European Union at the fifty-eight session of the Commission on Human Rights under agenda item 10 (economic, social and cultural rights), 8 April 2002. Statement of file with author.

The following year, at the Commission's fifty-ninth session, no attention was given by the delegation of Finland to the interpretation it had presented in 2002 of a reference to a right to adequate housing. Apparently, the attention was entirely limited to ensuring the renewal of the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living for a further three-year period.⁵⁹ When the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living had been negotiated at the Commission's fifty-sixth session in 2000, the situation had, nonetheless, been somewhat different. According to the draft resolution containing the proposal to establish the special rapporteur's mandate, the Commission was to appoint a special rapporteur "whose mandate will focus on aspects related to the right to adequate housing contained in the right to an adequate standard of living".⁶⁰ This paragraph was, however, orally modified by the representative of Germany when introducing the draft resolution to read "whose mandate will focus on adequate housing as a component of the right to an adequate standard of living".⁶¹ For the Government of Finland, this change which could be interpreted to represent a question of principle of considerable significance was, apparently, not that significant after all as no mention of this last moment modification is to be found in the otherwise detailed report prepared at the Ministry for Foreign Affairs concerning the Commission's fifty-sixth session.⁶²

At the sixtieth session of the Commission on Human Rights in 2004 when the resolution on adequate housing was again before the Commission, the draft resolution was prepared jointly by the Germany and Finland. In 2004, attempts were again made to include references to the right to adequate housing. On that occasion, the delegation of Finland did not, however, support such attempts. Instead, the delegation of Finland was of the understanding that such a wording was unacceptable because it was not in conformity with the interpretation of article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights.⁶³

The argument presented by the Government of Finland in 2002 corresponds with a more progressive interpretation among leading human rights experts according to which if there is a right to the overall package – the right to an adequate standard of living – then there is simultaneously also a right to the component parts, and thus also a right to adequate housing.⁶⁴ Any other interpretation would in fact be close to absurd. Also the first Special

⁵⁹ Ministry for Foreign Affairs, GEN0018-83, 27.5.2003; GEN0018-49, 8.4.2003. UN doc. E/CN.4/2003/L.30/Rev.1; Commission on Human Rights resolution 2003/27 renewed the Special Rapporteur's mandate for a further three year period.

⁶⁰ UN doc. E/CN.4/2000/L.17, paragraph 6 (c).

⁶¹ UN doc. E/CN.4/2000/SR.52, paragraph 35. Commission on Human Rights resolution 2000/9, paragraph 7 (c).

⁶² Ministry for Foreign Affairs, GEND024-38, 8 June 2000. A debate concerning the title of the resolution took place the following year, in 2001, when a proposal to rename the resolution "right to access to adequate housing" was proposed. This met, however, strong opposition and the resolution, as the Special Rapporteur's mandate, became on adequate housing as a component of the right to an adequate standard of living. Ministry for Foreign Affairs, GENT003-55, 29.5.2001.

⁶³ Ministry for Foreign Affairs, GEN0018-53, 29.6.2004; UN doc. E/CN.4/2004/L.27/Rev.1; Commission on Human Rights resolution 2004/21 was adopted without a vote.

⁶⁴ Philip Alston, 1996 and 1995; General Comment No. 4 by the Committee on Economic, Social and Cultural Rights (UN doc. E/1992/23, annex, pp. 114-120); Rajindar Sachar, 1996; Scott Leckie, 1989, and 2001; Letter addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to Mr. Wally N'Dow,

Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, has consistently represented an authoritative source supporting the progressive interpretation of the right to adequate housing, despite the more restrictive formulation of the Special Rapporteur's mandate.⁶⁵

It is, therefore, with great surprise one reads the concluding report by the Finnish delegation from the Commission's sixtieth session in 2004.⁶⁶ If an approach had been chosen in 2002 that supported the interpretation of adequate housing as a right as such and not merely as a component of the right to an adequate standard of living, the position presented at the sixtieth session meant a return to a more orthodox and restrictive interpretation of economic, social and cultural rights. When explaining the refusal to accept the proposed reference to the right to adequate housing mention was not, for example, made to tactical reasons concerning the negotiations aiming at the adoption of the draft resolution without a vote, but, rather, to an interpretation of article 11, paragraph 1, of the Covenant on Economic, Social and Cultural Rights that was anything but progressive. The delegation of Finland made reference also only to the Covenant on Economic, Social and Cultural Rights and its article 11, paragraph 1, although numerous other international and regional instruments, to which also Finland is a state party, contain a reference to the right to adequate housing which has not been questioned. In addition – and to make the work on economic, social and cultural rights look even more confusing – the statement by the Presidency of the European Union, on behalf of the EU member states, on economic, social and cultural rights delivered at the Commission's sixtieth session on 30 March 2004 contains a sentence according to which the European Union "welcomes the positive steps taken towards the realisation of the right to adequate housing".⁶⁷ Similar references to the right to adequate housing are also found in the common EU statements delivered at the Commission's fifty-seventh session in 2001, fifth-eighth session in 2002, fifth-ninth session in 2003, and sixty-first session in 2005.⁶⁸

Considering the preciseness with which common EU statements are prepared together with the competence and professionalism of those involved in the drafting of these statements, it would indeed sound rather odd if a reference to a right which does not exist – at least according to the occasional interpretation by the Finnish delegation – would appear many consecutive years in these statements without the drafters' endorsement.

It is true that during the past decade the majority of the governments members of the Commission on Human Rights has rather consistently insisted on a wording according to which adequate housing is referred to only as a component of the right to an adequate standard of living. This is the case with the resolutions on adequate housing as a component of the right to an adequate standard of living and with those on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate

Assistant Secretary-General, United Nations Centre for Human Settlements (Habitat). UN doc. E/1996/22; E/C.12/1995/18, annex VII; Ingrid Westendorp, 2007, pp. 10.

⁶⁵ For the Special Rapporteur's reports, see UN docs. E/CN.4/2001/51; E/CN.4/2002/59; E/CN.4/2003/5 and Add.1-3; E/CN.4/2004/48 and Add.1-2; E/CN.4/2005/48 and Add.1-3; E/CN.4/2006/41 and Add.1-3; A/HRC/4/18 and Add.1-3.

⁶⁶ Ministry for Foreign Affairs, GEN0018-53, 29.6.2004; HEL1162-77, 27.4.2004.

⁶⁷ Presidency Statement, on behalf of the EU, on economic, social and cultural rights at the sixtieth session of the Commission on Human Rights, 30 March 2004. Statement of file with author.

⁶⁸ Statements on file with author.

housing.⁶⁹ The governments members of the Commission – precisely like the Government of Finland – have not, however, been equally consistent when it comes to resolutions on forced evictions. For instance, although the resolution on adequate housing as a component of the right to an adequate standard of living adopted by the Commission on Human Rights in 2004 does not recognize the right to adequate housing, the Commission did, at the very same session, adopt a resolution on the prohibition of forced evictions which, in its first operative paragraph, reaffirms that the practice of forced evictions may constitute a gross violation of a broad range of human rights “in particular the right to adequate housing”.⁷⁰

The question of the right to adequate housing was also thoroughly examined during the preparatory process of the Second United Nations Conference on Human Settlements (Habitat II). During this process the question of the right to adequate housing became one of the main political issues of the conference preparations and definitely the central issue as regards human rights. It was at the fifteenth session of the Commission on Human Settlements, in 1995, in connection with the preparatory work for the Habitat II Conference, that the delegation of the United States presented the argument that there is no such right as a right to adequate housing.⁷¹

The position of the delegation of Finland on adequate housing, during the preparatory process of the Habitat II Conference, can be found in the comments made to the Draft Habitat Agenda of 13 October 1995. The Finnish position on adequate housing followed the view according to which there is an explicit right to adequate housing as part of contemporary international human rights law and as stated in several human rights instruments. At the same time, and in accordance with the fundamental rights provisions as drafted during the constitutional reform,⁷² Finland emphasised that the right to adequate housing did not imply the obligation

⁶⁹ Commission on Human Rights resolutions 2005/25; 2002/49; 2000/13. The only reference to the right to adequate housing is found in an operative paragraph reaffirming resolution 42/1 of the Commission on the Status of Women of 13 March 1998. In this operative paragraph, the Commission on Human Rights urges states, among other things, "to design and revise laws to ensure that women are accorded full and equal rights to own land and other property, and the right to adequate housing, including through the right to inheritance". The problem with this paragraph is, however, that Commission on the Status of Women resolution 42/1 to which the Commission on Human rights is referring to makes no reference to adequate housing. A debate on this issue has taken place at a number of sessions without, however, having lead to any change to the misleading reference to resolution 42/1 of the Commission on the Status of Women. Ministry for Foreign Affairs, GENT003-55, 29.5.2001; GEN0018-83, 27.5.2003; GEN5043-54, 28.6.2005.

⁷⁰ Commission on Human Rights resolution 2004/28 was adopted by 45 votes to 1, with 7 abstentions. UN docs. E/CN.4/2004/L.26; E/CN.4/2004/SR.52, paragraphs 54-59. See also Commission on Human Rights resolution 1993/77 which was adopted without a vote. UN docs. E/CN.4/1993/SR.67, paragraphs 20-22 and E/1993/23; E/CN.4/1993/122, paragraph 554.

⁷¹ This came to many delegations as a surprise since at its fourteenth session the Commission on Human Settlements had unanimously adopted resolution 14/6 on the human right to adequate housing. The fifteenth session of the Commission on Human Settlements was held in Nairobi, Kenya between 25 April and 1 May 1995 simultaneously with the second session of the Preparatory Committee of Habitat II (Nairobi, Kenya, 24 April – 5 May 1995). Matkaraportti YK:n asuinyhdyskuntakomission 15 istunnosta Nairobissa 25.4.-1.5.1995 (22.6.2.1995); matkaraportti Habitat II-konferenssin valmistelukomitean 2. istunnosta Nairobissa 24.4.-5.5.1995 (22.6.1995). See also the letter addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to Mr. Wally N'Dow, Assistant Secretary-General, United Nations Centre for Human Settlements (Habitat) and the statement of the Committee on Economic, Social and Cultural Rights of 6 December 1995 on United Nations Conference on Human Settlements (Habitat II). UN doc. E/1996/22; E/C.12/1995/18, annexes VII and VIII. Scott Leckie, 2001, p. 164.

⁷² Government Bill 309/1993 vp.

of the public authorities to provide each and every individual or family with a dwelling as a subjective right, but that national housing policies were to be led by the principle of an enabling approach.⁷³ This was also the view included in the Habitat Agenda as adopted by the Second United Nations Conference on Human Settlements in Istanbul in June 1996.⁷⁴

2.2 Discrimination in the area of housing

Following the constitutional reform of 1995, the protection given to fundamental rights was developed by specifying provisions and by broadening their scope. An important step was the inclusion, into the Constitution of Finland, of economic and social rights which earlier had been ensured by secondary legislation only. By the reform, the right of the individual to necessary minimum subsistence and care obtained a considerably higher legal status. The general aim of the reform was to ensure the conformity of the Constitution with the Government's international human rights obligations and to increase the direct applicability of provisions of fundamental rights in courts and other authorities by formulating the provisions in greater detail and to improve the possibility of the individual to directly invoke such provisions in national courts of law and before other authorities. Economic and social rights were made justiciable rights, although only certain of these rights were made subjective rights.⁷⁵ Nonetheless, and as pointed out by the observer for Finland at the fifty-fourth session of the Commission on Human Rights in 1998, the practical realisation of economic and social rights was thus enhanced.⁷⁶

According to the Constitution of Finland “[T]he public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing”.⁷⁷ There is no subjective right to obtain a dwelling by turning to public authorities, except for special categories such as persons with severe disabilities⁷⁸ and children.⁷⁹ Although the right to

⁷³ See, *e.g.*, written statements by Veli-Pekka Viljanen of 24 March 1994 submitted to the Finance Committee of Parliament and of 10 March 1994 submitted to the Environment Committee of Parliament concerning the Government Bill on the fundamental rights catalogue (HE 309/1993 vp). On the enabling approach, see, *e.g.*, The Global Strategy for Shelter to the Year 2000 as adopted by the United Nations General Assembly in its resolution 43/181 of 20 December 1988; Scott Leckie, 1989, p. 545.

⁷⁴ The following paragraphs are found in the Habitat Agenda as adopted by the Second United Nations Conference on Human Settlements (Habitat II) in Istanbul, Turkey, 3-14 June 1996: "...the full realization of the human rights set out in international instruments and in particular, in this context, the right to adequate housing as set forth in the Universal Declaration of Human Rights, and provided for in the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, taking into account that the right to adequate housing as included in the above mentioned international instruments shall be realized progressively”.

⁷⁵ Government Bill HE 309/1993 vp, p. 69; report of the fundamental rights committee (komiteamietintö 1992:3), pp. 333. Kaarlo Tuori, 1999, p. 593-630.

⁷⁶ Ministry for Foreign Affairs, GENC011-40, 26.3.1998, annex.

⁷⁷ Constitution of Finland, Chapter II, Section 19, paragraph 4.

⁷⁸ The Act on Services and Assistance for the Disabled (Act No. 380/1987).

⁷⁹ The Child Welfare Act (Act No. 683/1983) sets the obligation for local authorities to correct deficiencies in housing conditions or providing housing according to need when these factors put at risk the rehabilitation of a

housing is not guaranteed as a subjective right in the Constitution or by secondary legislation, it is not impossible to draw the conclusion that the right to receive indispensable subsistence and care for those who cannot obtain the means necessary for a life of dignity as guaranteed in Article 19, paragraph 1, of the Constitution as a subjective right obligates the authorities to undertake appropriate measures also in the area of housing.⁸⁰ The emphasis is strongly, however, on the activity of the individual to ensure the fulfilment of the provisions concerning economic and social rights in general and on the right to housing in particular.⁸¹

Despite the legislative protection concerning the right to housing and the prohibition of discrimination,⁸² numerous international and national human rights monitoring bodies have expressed their concern about discrimination, in particular, against the Finnish Roma minority in the area of housing.

In its concluding observations on the fifth periodic report of Finland adopted in May 2007, the Committee on Economic, Social and Cultural Rights regrets that despite measures taken to combat discrimination, *de facto* discrimination of the Roma was still widespread, for example, in the field of housing.⁸³ This was, by no means, the first time that the Committee on Economic, Social and Cultural Rights expressed its concern concerning the right to housing in Finland.

Already in its concluding observations on the third periodic report of Finland adopted eleven years earlier, in December 1996, the Committee on Economic, Social and Cultural Rights had expressed its concern at information according to which "members of the Roma minority have been discriminated against when decisions have been taken by some authorities in respect of the allocation of publicly-owned dwellings." The Committee, therefore, recommended that the Government of Finland should "eliminate discrimination of any kind in the exercise of the rights set forth in the Covenant, especially the right to housing".⁸⁴ Similarly, in its concluding observations on the fourth periodic report of Finland adopted in November 2000, the Committee noted with concern "the lack of affordable accommodation, especially in the Helsinki metropolitan area, for the homeless, a group consisting mainly of alcoholics, drug abusers, victims of domestic violence and the mentally ill".⁸⁵ The Committee also requested the Government of Finland to provide information in its next periodic report "on the

child and family or affect the situation of a young person in the process of becoming independent who had been client of social welfare services before the age of 18.

⁸⁰ Kaarlo Tuori, 1999, p. 628.

⁸¹ Government Bill HE 309/1993 vp, p. 72; report of the fundamental rights committee (komiteamietintö 1992:3), p. 351.

⁸² Non-Discrimination Act (Act No. 21/2004) and Section 6, paragraph 2, of the Constitution of Finland according to which "[N]o one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person".

⁸³ UN doc. E/C.12/FIN/CO/5, paragraph 13. The Committee did not, however, adopt any suggestions or recommendations in this regard.

⁸⁴ UN doc. E/C.12/1/Add.8, paragraphs 15 and 22.

⁸⁵ UN doc. E/C.12/1/Add.52, paragraph 18.

enjoyment by the Roma of their economic, social and cultural rights".⁸⁶ Consequently, the Government of Finland included detailed information also on the issue of housing and the Roma, in its fifth periodic report.⁸⁷

According to the fifth periodic report of Finland considered by the Committee on Economic, Social and Cultural Rights in May 2007, the integration of the Roma with respect to housing has succeeded rather well.⁸⁸ Nonetheless, and as also verified by the Minority Ombudsman⁸⁹ and the National Discrimination Tribunal,⁹⁰ the housing situation of the Roma in Finland continues to be problematic as it is not uncommon that Roma face direct discrimination, in particular, with regard to the selection of tenants for rental apartments. In addition, apartments they have been offered may be unsuitable to them with regard to their location or the particular needs of the Roma culture.⁹¹ It was for this reason that the Committee expressed its regret that, despite measures taken, *de facto* discrimination of the Roma minority was still widespread.⁹²

In addition to the Committee on Economic, Social and Cultural Rights, of the United Nations treaty monitoring bodies also the Human Rights Committee,⁹³ the Committee on the Elimination of Racial Discrimination⁹⁴ and the Committee on the Rights of the Child⁹⁵ have all expressed, repeatedly, their concern with regard to discrimination against the Roma in the field of housing and called upon the Government of Finland to increase its efforts to combat such discrimination.

The same issues have been raised at the regional level where, within the framework of the Council of Europe, the European Commission against Racism and Intolerance, the Advisory Committee on the Framework Convention for the Protection of National Minorities and the European Committee of Social Rights have all, repeatedly, expressed concern with regard to

⁸⁶ UN doc. E/C.12/1/Add.52, paragraph 26.

⁸⁷ UN doc. E/C.12/FIN/5, paragraphs 481-492.

⁸⁸ During the consideration of the first periodic report of Finland in 1981, the representative of Finland had noted that the reason why there was at present no legislation in Finland which explicitly defined the right to housing was that "[T]he housing situation in Finland was quite good and it was for that reason that the legislative lacuna had not been perceived to be of great importance". UN doc. E/1981/WG.1/SR.10, paragraph 58. This understanding is not, however, supported by the fact that the Act on the improvement of the living conditions of the Roma population (Act 713/1975) had been issued precisely in order to improve the poor housing conditions that the Roma living in Finland were suffering from. Government Bill HE 245/1974 vp.

⁸⁹ Annual Report 2006 of the Ombudsman for Minorities, p. 14-15.

⁹⁰ National Discrimination Tribunal, Newsletter 1/2007, 13 March 2007.

⁹¹ UN doc. E/C.12/FIN/5, paragraphs 481-492.

⁹² UN doc. E/C.12/FIN/CO/5, paragraph 13.

⁹³ UN docs. CCPR/CO/82/FIN, paragraph 15; CCPR/C/79/Add.91, paragraph 14; A/46/40, paragraphs 136-137; CCPR/C/SR.1016, paragraph 3.

⁹⁴ UN docs. CERD/C/63/CO/5, paragraph 16; CERD/C/304/Add.107, paragraph 10; CERD/C/304/Add.66, paragraph 11.

⁹⁵ UN doc. CRC/C/15/Add.272, paragraph 56.

discrimination, in particular of members belonging to the Roma minority, in the area of housing.

In its second report on Finland adopted in 2001, the Commission against Racism and Intolerance regretted that "some municipalities discriminate against Roma in the allocation of housing and have even reportedly exploited the specific cultural needs of Roma as a way of blocking their access to housing". In 2001, the Commission was, therefore, of the view that the Government of Finland "should take steps to ensure that such discrimination occurring at the municipal level is not permitted".⁹⁶ In its third report on Finland adopted in 2006, the Commission noted that discrimination against the Roma occurred, in particular, in the private housing market which is not, as the Commission observed, covered by primary antidiscrimination legislation. In order to address the issue of concern, the Commission reiterated its call for a clear commitment by the Finnish authorities to address the different areas of disadvantage faced by the Roma and recommended that the Finnish authorities draw up a comprehensive strategy in which the areas of concern, including housing, be given priority.⁹⁷

The Advisory Committee on the Framework Convention for the Protection of National Minorities adopted its second opinion on Finland also in 2006. In its opinion, the Advisory Committee expressed its concern with regard to the continued discrimination faced by the Roma in their access to housing and in the selection of tenants of apartments granted on social grounds. Consequently, the Advisory Committee recommended that "[E]fforts to ensure full and effective equality for Roma in such key fields as housing...need to be expanded further so as to ensure that the central authorities' commitment is felt at the local level and in the private sector."⁹⁸

In its comments of 22 August 2006 on the second opinion of the Advisory Committee, the Government of Finland admitted that at municipal level "new means are necessary to quickly and effectively address discrimination and problems faced by Roma in the field of housing".⁹⁹ Five years earlier, in its comments of 3 July 2001 on the Advisory Committee's first opinion on Finland, the Government had noted that "according to information available to the Government, when rental apartments are granted on social grounds, there are no differences between the Roma and other population groups, which means that Roma applicants are able to get such apartments as often as any other applicants."¹⁰⁰ This was the case despite the fact

⁹⁶ CoE doc. CRI (2002) 20, paragraph 30.

⁹⁷ CoE doc. CRI(2007)23, paragraphs 63-68. European Commission against Racism and Intolerance, third report on Finland, adopted on 15 December 2006.

⁹⁸ CoE doc. ACFC/OP/II(2006)003, paragraphs 42-44. In resolution ResCMN(2007)1 of 31 January 2007 on the implementation of the Framework Convention for the Protection of National Minorities by Finland, the Council of Europe Committee of Ministers noted that despite improved legislative guarantees against discrimination "there are still various shortcomings and practical problems in this domain, including persisting incidents of discrimination of Roma."

⁹⁹ CoE doc. GVT/COM/II(2006)004, p. 7.

¹⁰⁰ CoE doc. GVT/COM/INF/OP/I(2001)002, p. 14. Discrimination of the Roma, in general, was indeed acknowledged in the report submitted by Finland pursuant to article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities, although not with regard to housing. In the same report – a report submitted on 16 February 1999 – the Government listed measures taken to promote equality in the field of housing. With regard to the Roma, reference was made to the Act on the improvement of the living conditions of

that the Advisory Committee had, in its opinion on Finland adopted on 22 September 2000, expressed its concern about the *de facto* discrimination of Roma and noted, in particular, that the housing situation of the Roma "remains far from satisfactory".¹⁰¹

The perhaps most comprehensive coverage of the implementation of the right to housing has been carried out by the European Committee of Social Rights that supervises the implementation of the European Social Charter. The European Committee of Social Rights has given its support to the interpretation according to which the revised European Social Charter ensures everyone the right to adequate housing and that, under Article 31, paragraph 1, of the Charter, the Committee considers that "States must guarantee to everyone the right to adequate housing".¹⁰²

In addition to Article 31 of the Revised European Social Charter on the right to housing, the Committee of Social Rights has dealt with issues relevant to housing also under Article 15, paragraph 3, on the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement,¹⁰³ Article 16 on the right of the family to social, legal and economic protection,¹⁰⁴ Article 23 on the right of elderly persons to social protection,¹⁰⁵ and Article 30 on the right to protection against poverty and social exclusion.¹⁰⁶

Like many other monitoring bodies, also the European Committee of Social Rights has noted that the Roma minority in Finland continues to be disadvantaged and marginalized compared to the rest of the population, "particularly where access to housing is concerned". Nonetheless – and unlike, for instance, the European Commission against Racism and Intolerance and the Advisory Committee on the Framework Convention for the Protection of National Minorities

the Roma population (Act 713/1975), an act that had been in force between 1 January 1976 and 31 December 1980. CoE doc. ACFC/SR(1999)003, p. 9-10.

¹⁰¹ CoE doc. ACFC/OP/I(2000)1, paragraphs 20 and 57. In its resolution ResCMN(2001)3 of 31 October 2001 on the implementation of the Framework Convention for the Protection of National Minorities by Finland, the Council of Europe Committee of Ministers expressed its concern "about the *de facto* discrimination suffered by Roma".

¹⁰² European Committee of Social Rights, Digest of the case law, December 2006. See also Scott Leckie, 2001, pp. 161.

¹⁰³ In its conclusions of 2007, the Committee of Social Rights concluded that the situation in Finland is not in conformity with Article 15, paragraph 3 of the Revised Social Charter on the ground that there is no anti-discrimination legislation for persons with disabilities concerning, among other things, housing.

¹⁰⁴ In its conclusions of 2006, the European Committee of Social Rights did note that members of the Roma minority still face discrimination in the area of housing, and did request for further information on the issue of ethnic discrimination as a result of the entry into force of the Non-Discrimination Act of 2004 (Act No. 21/2004) and of the establishment of the post of the Ombudsman for Minorities and of the Discrimination Board both of 2001 (Act No. 660/2001).

¹⁰⁵ In assessing the level of the implementation of Article 23 of the Revised European Social Charter on the right of elderly persons to social protection, the European Committee of Social Rights took note, in its conclusions of 2007, of the significant growth and availability of service-housing units for the elderly, but due to pending receipt of certain information requested, the Committee deferred its conclusion.

¹⁰⁶ In assessing the level of the implementation of Article 30 of the Revised European Social Charter on the right to protection against poverty and social exclusion, the European Committee of Social Rights made the observation that "[H]ousing still remains a problem and the existing link between housing and exclusion could be given a greater focus." The Committee, therefore, requested that the next report to be submitted by Finland contain more detailed information on the issue and deferred its conclusion.

who both concluded in 2006 that discrimination of the Roma occurred in Finland in the area of housing – the European Committee of Social rights did not conclude in 2006 that the situation in Finland was not in conformity with article 16 of the Revised Social Charter on the right of the family to social, legal and economic protection. Instead, due to certain legislative developments, the Committee decided to request for additional information on the results achieved with regard to the fight against racial discrimination, and particularly against the Roma.¹⁰⁷

At the national level, the Ombudsman for Minorities has, ever since the institution of the post of the Ombudsman in 2001,¹⁰⁸ annually received numerous complaints concerning the discrimination experienced by members of the Roma minority in Finland. The complaints concern, in particular, the selection of residents for state-subsidised housing and the difficulties that members of the Roma minority face by the fact that the housing offered has been unsuitable for the particular needs of the Roma culture.¹⁰⁹ The Ombudsman for Minorities has observed that members of the Roma minority do often not even try to find a rented apartment through the private housing market, as the owners regularly refuse to rent the apartment once the ethnic background of the applicant becomes known.¹¹⁰

As reported by the Ombudsman for Minorities in 2005, "suspicions and claims of ethnic discrimination often emerged" in the situations concerning housing known to the Ombudsman. But, and as also observed by the Ombudsman, the obtaining of concrete proof of discrimination is close to impossible explaining why an actual suspicion of discrimination rarely arises. As noted by the Ombudsman, the fact that the applicant does not receive a justified decision that could be appealed to makes it difficult in practice to show whether the applicant has, for example, been subject to discrimination.¹¹¹ Also the Parliamentary Ombudsman has in numerous opinions touched upon different issues relevant to housing and, in particular, concerning the regulations in the selection of tenants to state-subsidised housing.¹¹²

¹⁰⁷ European Committee of Social Rights, conclusions 2006 on Finland.

¹⁰⁸ Act No. 660/2001.

¹⁰⁹ See the annual reports by the Ombudsman for Minorities between 2002 and 2006. In 2004, the Ombudsman reported that a clear majority of the customer cases concerning the Roma minority dealt with issues relevant to housing.

¹¹⁰ Ombudsman for Minorities, annual report 2006, p. 14. The Ombudsman for Minorities has also made the observation that quite frequently a particular women's perspective can be associated with the housing problem of the Roma. Ombudsman for Minorities, annual report 2005, p. 19.

¹¹¹ Ombudsman for Minorities, annual report 2005, p. 18-19. The Ministry of the Environment, as the responsible central authority for housing, together with the Advisory Board on Roma Affairs produced in 2003 a guidebook on the special features of the Roma culture. The guidebook *Special Aspects of Housing in Roma Culture* is designed for the use of housing authorities of the municipalities and other parties responsible for housing. CoE doc. ACFC/SR/II(2004)012 E.

¹¹² See, for example, Parliamentary Ombudsman 3 August 2007 (dnro 446/4/06); 26 April 2007 (dnro 1429/4/05); 22 June 2005 (dnro 2279/4/04); 29 December 2004 (dnro 1183/4/03); 31 August 2004 (dnro 499/2/02).

3 Preliminary observations: activity coloured by inconsistency and contradictions

According to its commitment to promote and encourage respect for economic, social and cultural rights,¹¹³ the Government of Finland has actively promoted the justiciability of these rights in its national legislation and, at the international level, by giving its full and active support to the process of drafting an optional protocol to the Covenant on Economic, Social and Cultural Rights that would establish a mechanism for individual complaints. Similarly, Finland has emphasized the importance of the inclusion of references to women, indigenous peoples and minorities when promoting the realization of economic and social rights at different international fora. One would be eager to interpret the Government's commitment to also include a progressive interpretation of economic and social rights more generally.

Despite the advanced position in strengthening the promotion and protection of economic and social rights through the creation of different international monitoring mechanisms, there is a certain cautiousness and lack of consistency to be found with regard to the substantial interpretation of these rights. The discussion on adequate housing that has taken place at the United Nations illustrates that the delegation of Finland has not adopted a consistent approach to this particular question. It is only with difficulty one manages to interpret Finland's position with regard to the substantial interpretation given to the issue of adequate housing as being consistent. Taking distance from advocating a progressive interpretation of article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights and presenting the argument that such a language was in direct contradiction to the contents that ought to be given that article may perhaps be seen as an illustration of the difficulty to maintain a certain level of innovation and consistency in an establishment where the institutional memory sometimes is regrettably short. Therefore, it is not impossible that the explanation given in 2004 concerning the Government's restrictive interpretation of article 11, paragraph 1, represents an isolated incidence. However, the fact that the Government has not actively advocated, within the framework of the United Nations, the more progressive interpretation of the said article neither before nor since the fifty-eighth session of the Commission on Human Rights in 2002 – with the exception of the preparatory process of the Habitat II Conference – gives the observer the impression that also the progressive interpretation may have been an isolated incidence.

The Government's progressive position towards the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would with certainty enhance the practical implementation of the Covenant – despite a certain lack of innovation in this exercise – together with the place given to economic and social rights in the national legislation and the substantive national case law on these rights indicate, however, that the Government does indeed support the development of economic, social and cultural rights also through progressive interpretation.¹¹⁴

Nonetheless, the observer remains, despite his good intentions, slightly confused about the precise position of the Government of Finland with regard to the international promotion and protection of economic, social and cultural rights. In this respect, a rather peculiar reference to

¹¹³ Government Report to Parliament on Human Rights, 2004, p. 136.

¹¹⁴ Further illustrating the Government's positive approach towards an effective international monitoring of economic and social rights is the fact that Finland, as the only country so far, has exercised the option of permitting national non-governmental organizations other than trade unions and employers' associations to issue collective complaints under the European Social Charter. Robin Churchill and Urfan Khaliq, 2007, p. 238.

these rights found in the Government report to Parliament on the human rights policy of Finland of 2004 according to which "[T]hese rights [economic, social and cultural rights] are important for developing countries"¹¹⁵ maintains and even strengthens this confusion. The purpose of the sentence remains unclear. The sentence ought not to mean that these rights are important only for developing countries. Nor should it mean that economic and social rights are not important for developed countries. Rather, it is to be hoped that the sentence means that economic, social and cultural rights are important for developing countries and developed countries, although the reference to this latter category of countries has, for some unexplained reason, been left out.

The widespread and ongoing discrimination of members of the Finnish Roma minority – an issue that has been subject to international and national scrutiny for years without any noteworthy improvement of the situation – is merely one example that illustrate the importance of economic, social and cultural rights also for a country that, allegedly, is "very economic rights-conscious" and where "international human rights instruments are taken very seriously".¹¹⁶

¹¹⁵ Government report to Parliament on the human rights policy of Finland, 2004, p. 201.

¹¹⁶ Analytical paper "Towards an optional protocol to the International Covenant on Economic, Social and Cultural Rights" adopted by the Committee on Economic, Social and Cultural Rights at its seventh session, 11 December 1992. UN doc. E/1993/22; E/C.12/1992/2, annex IV, paragraph 25; Philip Alston, 1991, p. 88-89.

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