

Prohibition of incitement to national, racial and religious hatred in Finland

Principle of non-discrimination in the international human rights policy of Finland

Finland's human rights policy is founded on the universality, indivisibility and interdependence of human rights.

Acting against discrimination is an essential element of Finland's human rights policy. Every individual has a right to equal treatment. Every individual also has a right to participate and have a say in decision-making on matters affecting her/him. As envisaged in the Government report to Parliament on the Human Rights Policy of 2009, Finland will continue to emphasise the equal realisation of all human rights as well as to pay special attention to the status of those groups that are at the greatest risk of becoming victims of direct or indirect discrimination and to rights that, despite their importance, have not received sufficient attention. In practice, equality may require targeted action, particularly when the rights of particularly vulnerable individuals and groups are at issue. In action aimed at combating discrimination it should also be taken into account that discrimination experienced by individuals usually takes multiple forms and is rarely due to one reason only. Individuals may also suffer discrimination for reasons that do not directly involve their own person but is directed at them due to their association with another person or with a group.

Finland implements the objectives of its international human rights policy both by using policy tools and by directing available resources into purposes that promote the realisation of those objectives.

National criminal legislation and legal practise

Criminal law

The main provision covering hate crimes is Section 10 in Chapter 11 in the Criminal Code (Ethnic agitation). This provision is intended to cover cases where someone spreads information among the public where a certain national, ethnic, racial or religious group is threatened. This provision covers crimes that are targeted against a group. If the crime is targeted against an individual there are few other provisions that may be applicable, mainly public incitement to an offence (Section 1 in Chapter 17), discrimination (Section 11 in Chapter 11) or defamation (Section 9 and 10 in Chapter 24).

In addition to the specific provisions for different offences the racist or hate motivation in committing other offences can be taken into account as an aggravating circumstance when imposing a penalty. Section 5 in Chapter 6 sets the grounds for increasing the punishment. One of these grounds is directing the offence at a person belonging to a national, racial, ethnic or other population group due to his or her membership in such a group. The purpose for this provision is to give protection against those offences that are committed because of racist or hate motivation.

Current plans to amend the Criminal Code

The Finnish Government is currently drafting a Government Bill to be given to the Parliament by the end of the year.

It is planned for example to propose that special essential elements of an aggravated ethnic agitation would be added to the Criminal Code. Aggravated ethnic agitation could be applied, for example, to incitement or persuading to commit genocide or other serious human rights violations, murder, or manslaughter with terrorist intent.

Also it is planned to propose that the scope of the penal provisions concerning ethnic agitation would be clarified in order for the provisions to apply better to the so-called hate crimes. This would be done by expressly mentioning belief, sexual orientation and disability as motivations of an offence.

It is also planned to propose that the liability of a legal person would be extended to apply to ethnic agitation, discrimination offences and, if the offence has hatred motive, to public incitement to a crime, menace and defamation offences.

Legal practise

In recent years there has been approximately one person found guilty per year for ethnic agitation. However the amount seems to be increasing. In year 2007 there were two such cases and in year 2008 four. Mainly the imposed penalties have been fines. In some of the cases the offence has been committed on the internet. The above mentioned provision on racist motive as an aggravating circumstance in imposing a penalty has been used approximately in ten cases per year.

Relevant provisions in Criminal Code

Chapter 6 – Sentencing

Section 5 – *Grounds increasing the punishment*

(1) The following are grounds for increasing the punishment:

- (1) the methodical nature of the criminal activity,
- (2) commission of the offence as a member of a group organised for serious offences,
- (3) commission of the offence for remuneration,
- (4) directing of the offence at a person belonging to a national, racial, ethnic or other population group due to his or her membership in such a group, and
- (5) the criminal history of the perpetrator, if the relation between it and the new offence, due to the similarity between the offences or otherwise, shows that the perpetrator is apparently heedless of the prohibitions and commands of the law.

Chapter 11 – War crimes and crimes against humanity

Section 10 - *Ethnic agitation*

A person who spreads statements or other information among the public where a certain national, ethnic, racial or religious group or a comparable population group is threatened, defamed or insulted shall be sentenced for *ethnic agitation* to a fine or to imprisonment for at most two years.

Section 11 - *Discrimination*

A person who in his/her trade or profession, service of the general public, exercise of official authority or other public function or in the arrangement of a public amusement or meeting, without a justified reason

- (1) refuses someone service in accordance with the generally applicable conditions,
- (2) refuses someone entry to the amusement or meeting or ejects him or her, or
- (3) places someone in an unequal or an essentially inferior position owing to his/her race, national or ethnic origin, colour, language, sex, age, family ties, sexual orientation, state of health, religion, political orientation, political or industrial activity or another comparable circumstance shall be sentenced, unless the act is punishable as extortionate industrial discrimination, for *discrimination* to a fine or to imprisonment for at most six months.

Chapter 24 - Offences against privacy, public peace and personal reputation

Section 9 - *Defamation* (531/2000)

(1) A person who

- (1) spreads false information or a false insinuation of another person so that the act is conducive to causing damage or suffering to that person, or subjecting that person to contempt, or
- (2) disparages another in a manner other than referred to in subparagraph (1) shall be sentenced for *defamation* to a fine or to imprisonment for at most six

months.

(2) Criticism that is directed at a person's activities in politics, business, public office, public position, science, art or in comparable public activity and that does not obviously overstep the limits of propriety does not constitute defamation referred to in subsection 1(2).

(3) Also a person who spreads false information or a false insinuation about a deceased person, so that the act is conducive to causing suffering to a person to whom the deceased was particularly close, shall be sentenced for defamation.

Section 10 - Aggravated defamation (531/2000)

(1) If, in the defamation referred to in section 9(1),

(1) the offence is committed by using the mass media or otherwise by making the information or insinuation available to many persons, or

(2) considerable or long-lasting suffering or particularly or significant damage is caused

and the defamation is aggravated also when assessed as a whole, the offender shall be sentenced for *aggravated defamation* to a fine or to imprisonment for at most two years.