



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/129/Add.5  
5 January 2005

Original: ENGLISH

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Third periodic reports of States parties due in 2003**

**Addendum**

**FINLAND\***

[26 November 2003]

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\* For the second periodic report submitted by Finland, see CRC/C/70/Add.3; for its consideration by the Committee on 19 September 2000, see CRC/C/SR.643 and 644 and CRC/C/15/Add.132.

The annexes to the report submitted by the Government can be consulted in the files of the secretariat.

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### Introduction

1. The Convention on the Rights of the Child was adopted in 1989. Finland has been a State party to the Convention since 1991. The Convention constitutes an international standard applicable to the rights of the child, and its provisions are legally binding on the States parties. The national legislation of Finland concerning the child is consistent with the principles set out in the Convention. At the moment, the Convention on the Rights of the Child is the most widely ratified human rights convention in the world. The Convention is recorded in the Finnish Statute Book under Treaty Series No. 60/1991.

2. The implementation of the Convention is monitored by the Committee on the Rights of the Child, established by the Convention. The States parties are under the obligation to submit periodic reports to the Committee concerning the legislative, legal and administrative measures that have been implemented to give effect to the rights recognized in the Convention. The periodic reports, submitted every five years, constitute a response to the recommendations of the Committee concerning the implementation of the Convention.

3. The Committee on the Rights of the Child deals with the information provided in the periodic report within one to two years from the date of submission of the report. In connection with the treatment of the report, there is an oral hearing where the Committee hears representatives of the Government and, according to established practice, also non-governmental organizations. After the treatment has been concluded, the Committee adopts its conclusions and recommendations related to the implementation of the Convention with regard to the country concerned.

4. This is the third periodic report of the Government of Finland on the implementation of the Convention on the Rights of the Child. The report covers the period from July 1998 to July 2003. A statistical overview of children in Finland, compiled by Statistics Finland, is appended to the report.

**Further information.** Inquiries concerning human rights conventions and periodic reports related to the monitoring of their implementation can be addressed to the Ministry for Foreign Affairs, Legal Department, Division for Human Rights Conventions and Consular Issues. Please contact:

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## **I. GENERAL MEASURES FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE CONVENTION**

### **A. Implementation of the rights of the child (art. 4)**

#### **1. The new Constitution of Finland**

5. After the submission of Finland's first periodic report, a new Constitution of Finland was passed (731/1999) on 11 June 1999, effective as from 1 March 2000. The Constitution repeals the former constitutional acts: the Constitution Act of Finland of 1919, the Parliament Act of 1928, the Act on the High Court of Impeachment (273/1922) of 1922, and the Act on the Right of Parliament to Inspect the Lawfulness of the Official Acts of the Members of the Council of State, the Chancellor of Justice and the Parliamentary Ombudsman (274/1922) equally of 1922.

6. The entry into force of the new Constitution has required review of other legislation. Projects that are specifically linked with fundamental rights include, inter alia, the overall reform of the Aliens Act, reform of the legislation concerning freedom of expression, amendment of the Language Act, preparation of a new Administration Act and review of the Nationality Act.

#### **2. New legislation**

7. Parliament adopted a new Administrative Procedure Act (434/2003) and an Act on the Amendment of the Administrative Judicial Procedure Act (435/2003) in February 2003. The age limit concerning the right of minors to be heard in administrative issues is 15 years. In accordance with the new act, both a minor who has reached 15 years of age and his or her parent or legal guardian or other legal representative have the right to be separately heard in an issue that concerns the person of the minor or his or her personal interest or right. The Acts will take effect as from the beginning of 2004.

8. In accordance with the Act on the Status and Rights of Social Welfare Clients (812/2000), the wishes and views of minor clients shall be sought and taken into account as befits their age and level of development. The Act specifically seeks to improve the position and legal protection of the child as a social welfare client and also underline the participation and right of self-determination of the child in issues that concern him or her. The Act is discussed in more detail in chapter III, section D.

9. The new Security of Child Maintenance Act (671/1998) took effect at the beginning of 1999. The Act secures the maintenance of persons who are under 18 years of age and live in Finland. An account on maintenance payments is given in chapter V, section F.

10. The Young Workers Act has been amended by law (754/1998). The amendments became effective at the beginning of 1999. The main aspects of the amendments are discussed in chapter VIII, section C.

11. A reform related to pre-school education has been phased in beginning from August 2000. In Finland, children are entitled to receive pre-school education in the year preceding the year when they reach the statutory school age. This education aims at giving

young children a more equal start in their school career. By virtue of the Act on Basic Education (1288/1999), local authorities are under the obligation to arrange for pre-school education free of charge. The pre-school education reform are discussed in chapter VII, section A.

12. A new Freedom of Religion Act (453/2003) will take effect on 1 August 2003. The Act will bring the legislation concerning teaching of religion at the comprehensive and upper secondary school levels up to date and make it more consistent with the provisions on the freedom of religion and conscience, which are laid down in the new Constitution of Finland. These changes are discussed in chapter IV, section D.

13. The provisions of the Penal Act (563/1998) that pertain to sexual offences became effective in their amended form at the beginning of 1999, including offences concerning the sexual exploitation or aggravated sexual exploitation of a child. Purchase of sexual services from a young person was also enacted to be a punishable act. Procuration involving a person who is under 18 years of age is also punishable. Furthermore, production, possession and dissemination of child pornographic material have been punishable acts as of the beginning of 1999. More detailed information about the legislation concerning sexual offences is given in chapter VIII, section C.

14. The new Act on the Amendment of the Code of Judicial Procedure (360/2003) adds a provision to the code of procedure, according to which such testimony given by a person under 15 years of age in a preliminary investigation as is recorded on a video or on a comparable film or audio record may be used as evidence in court, if the accused has been reserved the opportunity to ask questions from the examinee. According to law, hearing a person under 15 years of age is still subject to the discretion of the court. Hearing a person under 15 years of age is discussed in more detail in chapter III, section D.

15. The Act on Checking the Criminal Background of Persons Working with Children (504/2002) took effect at the beginning of 2003. The purpose of the Act is to protect the personal integrity of minors and to promote their personal security. The Act provides for the procedure to be used to find out that persons appointed to work with minors, that is, with persons under 18 years of age, have not committed certain offences in the past. The content of the Act is dealt with in chapter VIII, section C.

16. A new Act on the Protection of Privacy in Working Life (477/2001) strengthens the protection of privacy required in article 16 of the Convention on the Rights of the Child. The Act also protects young workers under 18 years of age. More detailed information about the Act is given in chapter IV, section F.

17. A new Employment Contracts Act (55/2001) took effect at the beginning of June 2001. The Act comprises the core provisions on working life and applies to all working relationships irrespective of the type of work.

18. The Act on the Integration of Immigrants and Reception of Asylum-Seekers (493/1999, as amended 118/2002, 1292/2002) became effective in May 1999. Children are integrated as



part of the family-specific integration plan and, in practice, primarily through their enrolment in day care and the comprehensive school. The Act is discussed in greater detail in chapter VIII, section A.

19. The position of the Ombudsman for Minorities was established in Finland at the beginning of September 2001. The responsibilities of the Ombudsman for Minorities is enacted by law (660/2001). The tasks of the Ombudsman for Minorities will be discussed in greater detail in chapter VIII, section, D.

20. The new Language Act (423/2003) will protect the linguistic rights of the Finnish and Swedish populations in the manner set out in the Constitution of Finland. According to the Bill, the Language Act is a general law related to the national languages of Finland, Finnish and Swedish. The Act obligates the authorities to take independent initiative and ensure that the linguistic rights are secured. The right of an individual to receive service in Finnish and Swedish introduces a new dimension to the body of fundamental rights. The new Language Act includes accurate provisions on the right of an individual to use Finnish and Swedish in courts of law and other authorities in various situations, provisions on the language of proceedings and the working language in the authorities, and the language of official documents. The Act includes a specific provision on measures designed to promote linguistic rights.

21. A new Act on the Treatment of Aliens and Detention Units (116/2002) took effect on 1 March 2002. Based on the Aliens Act, this Act provides for arrangements related to the treatment of foreigners in detention especially in the detention units that have been specifically reserved for the purpose. The content of the Act, insofar as it applies to children, will be discussed in chapter VIII, section A.

22. The new Land Use and Building Act (132/1999), in force since the beginning of 2000, includes a significant legislative amendment: both land-use planning and the guidelines set for building aim at the creation of a safe, healthy, pleasant and socially well-functioning living and working environment, which meets the needs and service requirements of different population groups, such as children. Thanks to the amendment, it is possible to assess town plan and building permit programmes from the point of view of their impact on children's living environment. A more detailed account of children and the environment is given in chapter VI, section B.

23. An Act on the Classification of Audio-visual Programmes (775/2000) took effect at the beginning of 2001. The Act provides for the inspection and classification of audio-visual programmes and, for example, for programmes that are harmful to children's development. The issue is dealt with in greater detail in chapter IV, section G.

### **3. New international contractual obligations**

24. *ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.* Finland ratified the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 17 January 2000. The Convention was enforced in Finland by decree (300/2000; Treaty Series 16/2000) on 25 February 2000.

25. *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.* Finland ratified the Optional Protocol to the Convention on the involvement of children in armed conflict on 28 March 2002. The Optional Protocol took effect in Finland on 10 May 2002 (Treaty Series 31/2002). When the ratification instruments were deposited, an explanation was submitted based on article 3, paragraph 2, of the Protocol, stating that persons recruited to the national armed forces of Finland are required to have reached at least 18 years of age and that the minimum age shall apply equally to men's universal conscription and women's voluntary armed service. The first periodic report on the implementation of the provisions will be submitted in May 2004.

#### 4. Provision of basic services

26. *Recommendations.* The Committee on the Rights of the Child has recommended that Finland undertake an evaluation of the implementation of all aspects of the Convention by the municipal authorities and that every effort be made to ensure an effective implementation of the Convention by the local authorities. The Committee has also reiterated its recommendation to establish an integrated monitoring system or mechanism to ensure that children in all municipalities benefit to the same extent from basic social services (*recommendation No. 14*). In addition, the Committee has urged Finland to consider ways through which all children can be guaranteed equal access to the same standard of services, irrespective of where they live, for example, by establishing nationwide minimum standards for and allocation of resources to the implementation of the Convention's provisions, in particular in the areas of health, education and other social welfare services and in conformity with article 2 (*recommendation No. 16*).

27. Finnish municipalities have a high degree of autonomy, and they are free to decide about the administration of their tasks and the arrangement of their services, including the ways in which the functions are organized. This also applies to the provision of the basic social services for children, referred to by the Committee. Municipal self-government and statutory State grants (State grants for the operation of schools are based on the number of students, hours used for the provision of education or some other calculable unit to be established on an annual basis; the contribution of the municipality in which the school is located to the financing of its operation is determined on the basis of its share of the total costs of education per capita in the entire country) allow much latitude in the targeting of services and funds at ends that are considered to be of priority, with an equal emphasis on the different parts of the country. As representatives of the public authorities, municipalities, for their part, carry out their duty to promote the welfare of the inhabitants in the area. Municipalities have occasionally been prevented from providing all the basic services on account of such factors as large-scale inflow of migrants. Local authorities have therefore intensified their cooperation to develop regional service structures. Finland has not considered it necessary to establish a specific integrated monitoring system or mechanism to ensure that the municipalities take care of their basic functions. At the moment, State Provincial Offices, for example, monitor the implementation and control of the quality of certain special services.

28. In addition, the Association of Finnish Local and Regional Authorities has adopted a Child Policy Programme of its own, which recommends that each municipality prepare a child policy programme to meet the local needs, carry out regular reviews of the programme and evaluate the implementation of the measures taken.

29. Municipalities have been very active and, according to reports, as many as over 40 child policy programmes had been prepared by the beginning of 2003 and some 50 municipalities were working on their programmes. In addition, six subregional units are preparing regional programmes in cooperation with municipalities. The materialization of the objectives set out in the programmes is followed as an element of the municipal economic and operational planning.

30. Related to the financial resources of local authorities and their equal distribution, the Department for Municipal Affairs of the Ministry of the Interior prepares, on an annual basis, a proposal on discretionary financial grants for municipalities that are in need of additional support. Aspects that have an effect on the need of support have included also the local special conditions. The total number of recipient municipalities and grants received in the past few years has been as follows:

|                                    | 1999   | 2000   | 2001   | 2002   |
|------------------------------------|--------|--------|--------|--------|
| Grant (EUR 1 000)                  | 38 683 | 70 639 | 58 866 | 54 157 |
| Number of recipient municipalities | 93     | 148    | 132    | 109    |

In addition, central government transfers to local government in the aforementioned years have been channelled to the organization of social and health services and educational and cultural services.

31. The Ministry of Social Affairs and Health has set up a Board for Basic Security to assess the implementation of municipal basic social services in the social welfare and health sector. However, it is difficult to set criteria for the quality and level of these services. In the past years, one evaluation instrument has been a set of quality recommendations, so far available in mental health services, and currently under preparation for school health-care services, to be finalized by the end of 2003. A project is carried out by the Central Union for Child Welfare, spanning from 2001 to the end of 2004, which aims to produce national criteria for the quality of extra-familial care for children and young people.

## 5. Ombudsman for children

32. *Recommendation.* Finland has considered the establishment of the position of an ombudsman for children since 1995. The Committee on the Rights of the Child has also invited Finland to seriously consider the establishment of an independent national ombudsperson for children (*recommendation No. 20*).

33. The Government Bill for the establishment of the position of another deputy ombudsman stated that when the ombudsman institution is developed, special attention should be paid to the monitoring of the rights of the child (Government Bill 129/1997). In the report of the Constitutional Committee of Parliament (5/1997), the following is stated: "The idea is that, in the rules of procedure of the Office of the Ombudsman, issues that concern the rights of the child form a new set of duties assigned to one of the Deputy Parliamentary Ombudsmen. The Committee supports this, but notes that the transfer of such duties related to the child as fall under the administration of an Ombudsman to one of the Ombudsmen cannot be an expression of opinion about whether a special ombudsman for children is needed or not" (unofficial translation).

34. Neither the Parliamentary Ombudsman nor the Deputy Parliamentary Ombudsmen therefore compensates the missing ombudsman for children, as referred to by the Committee on the Rights of the Child. However, when the position of another deputy parliamentary ombudsman was established in autumn 1998, the status of the child in legality control was strengthened because after that, all issues relating to children have been the responsibility of one ombudsman. The Deputy Parliamentary Ombudsman, Riitta-Leena Paunio, who has taken care of children's issues, was chosen to become the Parliamentary Ombudsman as of 1 January 2002 by decision of Parliament, and she has continued doing so based on a mutual division of labour between the Parliamentary Ombudsman and the Deputy Parliamentary Ombudsmen.

35. As long as there have been two Deputy Ombudsmen, children's issues have been the responsibility of the Parliamentary Ombudsman or one Deputy Parliamentary Ombudsman, and it has been possible to lay greater emphasis on the monitoring of the rights of the child. The Office of the Parliamentary Ombudsman has also employed a full-time reporting official for issues relating to children. Beginning in 1998, appeals related to the rights of the child have been recorded under one title in the Parliamentary Ombudsman's report.

36. In the third biggest city in Finland, Tampere, there is a municipal ombudsman for children since the beginning of 2003. The experience is positive and the idea is that the knowledge gained will be put to use at the national level.

37. The discussion about the position of an ombudsman for children, which has continued for nearly eight years, arrived at a significant milestone in spring 2003. Prime Minister Matti Vanhanen's Government programme of 24 June 2003 states as one of its objectives the establishment of the position of an ombudsman for children.

## **6. Improved coordination of child issues**

38. *Recommendation.* The Committee on the Rights of the Child has been concerned about the lack of such a focal point for children within the Government and of a coordination mechanism in the central administration and local level to be responsible for large-scale programmes. The Committee has encouraged Finland to take further steps to establish a focal point for children within the Government and coordination mechanisms between the various ministries, as well as between central and local authorities, in order to establish a better coordinated policy and action for the realization of children's rights (*recommendation No. 12*).

39. The Ministry of Social Affairs and Health set up a committee for child issues in spring 2003. The Committee was assigned, inter alia, to make a proposal concerning a permanent national mechanism for child and family issues. The Committee functions as the national body required by the special session of the General Assembly on Children and takes responsibility for information about the rights of the child. A working party, which operates under the administration of the Committee, prepares the National Action Plan of Finland, as provided for in the final documents of the special session.

## 7. Amendment of the Child Welfare Act

40. The Ministry of Social Affairs and Health is preparing a Government Bill for the amendment of the Child Welfare Act and certain related legislation. The Bill suggests that the present provisions of the Child Welfare Act be specified and complemented in respect of the preconditions of the various restrictions applying to children who have been taken into custody in a child welfare institution, control of the use of these measures, and the legal protection of children who have become objects of such measures. According to the Constitution of Finland, “those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care” (sect. 19). To secure the implementation of this major fundamental right, it may be necessary to limit some other fundamental rights of the child protected by the Constitution. However, this kind of interference shall be provided for in exact detail by law. The legal protection of the child and family is not guaranteed if decisions concerning an individual, such as decisions on the custody of a child, are taken by politically elected municipal bodies. A committee set to find out about decision-making concerning children has submitted a memorandum in which it proposes a revision of the decision-making system.<sup>1</sup>

41. Furthermore, suggestions have also been made concerning the elaboration of the provisions related to contacts between a child who has been placed in extra-familial care and his or her parents or other close persons, and specification of the legal protection of the child in the issue. The obligation to take a decision should be emphasized and the right of appeal clarified.

42. In addition, it is proposed that the Child Welfare Act be amended so that placement of a child who has reached 12 years of age outside his or her own home as a non-institutional support service could take place based on his or her consent, also against the consent of the parents or legal guardians, in an acute crisis situation between the two parties. At present, a non-institutional placement, like other non-institutional support services, always calls for the consent of the parents or legal guardians.

43. *Decisions by the Parliamentary Ombudsman.* The Parliamentary Ombudsman, Riitta-Leena Paunio, has identified flaws in the materialization of the fundamental rights of children placed in community homes. The Parliamentary Ombudsman has informed the Ministry of Social Affairs and Health of them, with the idea in mind that the Ministry would accelerate the ongoing reform of the Child Welfare Act.<sup>2</sup>

44. The Parliamentary Ombudsman has also drawn attention to such non-institutional support measures as are taken to place a child outside the home based on the consent of the parents or legal guardians. When a child is aged 12 years or older and placed without the consent of the parents or guardians or the person who has taken responsibility for his or her care and upbringing, the placement is conditional upon the child’s consent. The Parliamentary Ombudsman has made a proposal concerning the amendment of section 14 of the Child Welfare Act.

## 8. Collecting information about children

45. *Recommendation.* The Committee on the Rights of the Child has recommended that Finland continue developing a comprehensive system of data collection consistent with the Convention. This system should cover all children up to the age of 18 years, with a specific emphasis on those who are particularly vulnerable. The Committee has further encouraged Finland to use indicators and data in the formulation of policies and programmes for the effective implementation and monitoring of the Convention (*recommendation No. 18*).

46. Indicators illustrating the welfare of children and young people have been developed as a joint project of the National Research and Development Centre for Welfare and Health (Stakes), Statistics Finland and municipalities, and in connection with contacts to parties engaged in similar work in the rest of Europe. The indicators are tested and examined by applying them to municipal welfare strategies concerning children and young people. An extensive report on the collection of information related to children and young people is being made as part of the Tieto 2005 Project, which evaluates the production of information in the field of social welfare and health as a whole. As concerns children of statutory school age, several data collection projects are under way, focusing on such issues as their health and health habits, and Finnish schoolchildren are also involved in the European School Survey Project on Alcohol and Drugs (ESPAD). The most comprehensive of these projects is the one focusing on schoolchildren's health. The inquiry, in which pupils answer to questions relating to their health and health habits, is made in alternate years in the eastern and western parts of Finland, and nearly all municipalities are involved.

47. Statistical data on children is compiled by different parties in Finland. Based on the present division of labour, Statistics Finland takes responsibility for the accumulation of general statistical data focusing on the population and people's living conditions, while Stakes collects statistical data on such performances and inputs of the social welfare and health administration as are significant from the point of view of the conduct of child policy. Accounts related to the quality of services for children and whether these services are targeted in an appropriate manner, for example, remain in the intermediate region where development of systematic coordination is only starting.

48. *Review of the child population and children's living conditions.* In 2000, Statistics Finland prepared a special report on the living conditions of children.<sup>3</sup> This report was completed after the submission of Finland's previous periodic report. The Committee on the Rights of the Child was informed of the report at a hearing on the report in October 2000. A summary of the report has also been published in English<sup>4</sup> and is contained in the annex to the present report.

49. The information that is supplied in the report is related to many articles of the Convention. Statistical data is given on the demographic, social and socio-economic structures of the child population of the country and on any changes in them. In addition, children's health, school attendance, working and judicial conditions are covered. Data on the demographic and socio-economic characteristics of the parents and grandparents are also presented. The idea is to produce similar reports at regular intervals. When plans are made for the following year by Statistics Finland in autumn 2003, a decision will be taken on how often the report is to be issued in the future.

50. The content of the report is compiled from research results related to income distribution, living conditions, consumption and wealth; statistics related to education, law and accidents; censuses; and population, family, population change, housing and work statistics based on administrative documents collected by Statistics Finland on an annual or regular basis. When the report is prepared, the original materials are reviewed and the data is processed to make it better describe the conditions of the child. The regular statistical unit is the child.

51. *New data in and collections of Statistics Finland after 1998.* Pooling statistical data, about education in particular, significantly enhances the possibilities of finding out about events that characterize the educational career of the child. Statistics Finland has developed a personal database that helps follow a child's educational career over a long period of time. Data on the post-comprehensive educational career and placement in working life and further education after that were published in 1995 in respect of persons who had completed the comprehensive level by then.<sup>5</sup> Statistical data on pre-school education and special education have also been improved.

52. New information about children's use of time and leisure will be obtained from the results of a survey which was conducted in 2001 and 2002 and which is being processed.<sup>6</sup>

53. *Statistical data about the most vulnerable children.* The basic material in the body of general statistical data often lacks such information as would be the most useful from the point of view of effectively identifying social problems affecting the most disadvantaged children in society, such as child victims of assault or abuse, children with disabilities, children of families with limited means, children who are involved with the law, and immigrant and minority children.

54. In Finland, the most vulnerable groups of children (children of refugees, immigrants, persons with disabilities, or persons with a prolonged illness) are very small. Investigation of delicate information or the socio-economic and cultural conditions of small minorities is not without problems in terms of data security and from the point of view of statistical generalization. Methods that are based on samples, common in general population surveys, are out of the question in this case. The best source of relevant information are administrative documents prepared in conjunction with contacts with the authorities or the provision of services for children. It is possible to also ask if more irregular research would produce information more effectively than regular monitoring.

55. As concerns child victims of assault or mistreatment, cases have been reported to the authorities. Statistics Finland collects statistical data of this kind on an annual basis only, insofar as the cases meet the criterion of a crime or if police action or legal proceedings are involved.

56. Statistics Finland has collected data for a general population survey on victims of accidents and violence (*Uhritutkimus*). The survey is based on interviews and it focuses on the rate of frequency and circumstances of cases - also in respect of cases of violence that have not been reported to the police. However, the survey covers only persons who are older than 15 years of age. Information about cases involving younger children has been collected from their parents. Similar data were compiled in 1997,<sup>7</sup> and new material is being collected in the present year. Cases of violence against persons aged under 15 years are very rare, and this survey therefore combines cases of violence with accidents, which very well illustrates the problems involved in sample surveys when the idea is to describe rare cases.

57. *Children with disabilities* constitute an entity that Finland recognizes to be statistically very scattered and defective. The Ministry of Social Affairs and Health is involved in a reform concerning the compilation of statistical data to be carried out in 2005. A proposal concerning the way in which the reform will be conducted will be made in autumn 2003.

58. In order to find out about the education of children with disabilities and children who are in need of special support, Statistics Finland has been assigned the collection of data on such aspects relating to recipients of special education in the comprehensive school as grade, sex, reason for special education and the method of education. Statistical data are compiled on an annual basis and data are available for the year 1998, and from 2001 onwards. In addition, data are produced on special education given in vocational schools and special educational arrangements available in Finnish upper secondary schools. The data have been published in collections of educational statistics.<sup>8</sup>

59. *Children of families with limited means*. Statistics Finland has produced data on the number, family conditions, and living conditions of children of families with limited means, such as income distribution statistics, household budget surveys, employment statistics and censuses, and has published reviews related to the issue both in its own publications and in cooperation with others with a research interest in the matter.<sup>9</sup> New documentary material will be obtained in the future; for example, data on income distribution illustrating the reasons for prolonged poverty among children is being collected (European Community Household Panel (ECHP), Income Distribution Measurements).

60. *Children who have become involved with the law*. As concerns young persons with criminal liability (over 15 years of age), detailed data are available of such crimes as have been reported to the police, including suspected offences and the operation of the prosecuting authority and sanctions. As concerns young offenders, the use of the juvenile punishment and community service, for example, are monitored statistically.<sup>10</sup>

61. *Children of immigrant and minority families* are monitored by Statistics Finland on a regular basis insofar as they are recorded in the population register as citizens of a foreign country with a residence in Finland. A foreigner or citizen of a foreign country has a residence in Finland if his or her stay has been meant to last or has lasted for more than one year. Asylum-seekers are granted residence only after the application for residence has been accepted, which means that asylum-seekers are not included in statistics that are based on the Finnish population register system. Equally, when a citizen of a foreign country acquires Finnish nationality, he or she ceases to be a foreigner in statistics. Statistics Finland publishes very comprehensive surveys of foreigners and migrants every year.<sup>11</sup> Data on population structure are also published on persons born abroad and based on language and the country of birth.<sup>12</sup>

62. During 2002, Statistics Finland interviewed immigrants with a view to obtaining data illustrating immigrants' living conditions in the country. In this survey, an immigrant status does not depend on whether the respondent has acquired Finnish nationality or not but refers to his or her background as a foreigner who has moved to Finland. The material comprises data on the four major immigrant communities in Finland - Russians, Estonians, Vietnamese and Somalis and their families; this means that also families with children are involved. The first reports will be published in the course of 2003.



63. *Monitoring access to services of an equal standard.* The Committee on the Rights of the Child has urged Finland to create coordination mechanisms between the State administration and local authorities in order to establish a better coordinated policy and action for the realization of children's rights (*recommendation No. 12*). The Committee has further reiterated its recommendation to establish an integrated monitoring system or mechanism to ensure that children in all municipalities benefit to the same extent from basic social services (*recommendation No. 14*) and to establish nationwide minimum standards for and allocation of resources to the implementation of the Convention's provisions, in particular in the areas of health, education and other social welfare services (*recommendation No. 16*).

64. Information about the resources used for the provision of services is amply available, but due to the deluge of information it is difficult to form a picture of the availability, quality and effectiveness of the basic services. There has only recently been discussion about the need of assessment for municipal basic services and about a systematic and reliable collection of data to facilitate the assessment. To date, only preliminary studies have been started, pending an official initiative concerning a regular provision of statistical data.

### **B. Making the Convention widely known (art. 42)**

65. During the special session of the General Assembly on Children in May 2002, a number of Finnish children and young people convened to a Finnish children's special session to discuss the rights of the child. In this session, they voted to decide which was the most important article of the Convention on the Rights of the Child. Article 42 won the most votes. According to it, States parties undertake to make the principles and provisions of the Convention widely known by appropriate and active means, to adults and children alike. The children explicitly expressed their view that all the 54 articles of the Convention are important but they are not widely known. Getting familiar with the Convention would require introduction of new measures to make the articles more concrete.

66. They developed ideas of how to step up dissemination of knowledge on the rights of the child. They suggested, for example, that schools organize events for schoolchildren on the anniversary of the Convention on the Rights of the Child, the content of TV programmes targeted at young audiences take the rights of the child into account, and a cool soft drink sticker campaign be introduced: "*collect the 54 articles and win a trip to the United Nations Headquarters!!*".

67. *Recommendation.* The Committee on the Rights of the Child has recommended that Finland develop more creative methods to promote the Convention and incorporate the Convention in the school curriculum. It has further encouraged Finland to consider translating the Convention into the Roma language and into other minority languages and making the Convention available in the main immigrant languages. The Committee has also recommended further systematic training and/or sensitization of professional groups working with and for children (*recommendation No. 22*).

68. *Promotion of the Convention.* The Finnish children's special session led to one concrete response to the lack of knowledge of the Convention. The Mannerheim League for Child Welfare, Plan International Finland and the Finnish Children and Youth Foundation have jointly produced a new card game *Ota oikeus* ("take the right"), which helps make the Convention known among both children and adults. The Ministry for Foreign Affairs and the leading national newspaper *Helsingin Sanomat* have sponsored the production of the cards. A pack of *Ota oikeus* cards is contained in the annex to this report.

69. In connection with the special session of the General Assembly on Children, the Convention and the rights of the child in general were advocated in the form of various national events. Local decision makers and office-holders have obtained information about the Convention through the Child Political Programme of the Association of Finnish Local and Regional Authorities. Articles of the Convention have been incorporated into the Programme to support the municipalities' own objectives and measures.

70. *The rights of the child in development cooperation.* The Department for Development Policy of the Ministry for Foreign Affairs published a booklet in 2002 entitled *Lapsissa on tulevaisuus - Lapsen oikeudet kehitysyhteistyössä*.<sup>13</sup> ("Children: our future - The Rights of the Child in Development Cooperation"). It describes the main principles of the Convention and gives a more detailed account of the materialization of the rights from the point of view of development cooperation. The booklet emphasizes children's participation and right to be heard in development cooperation.

71. *Criticism.* NGOs involved in work related to the rights of the child have criticized the fact that public information about the Convention has been defective. Dissemination of information and production of educational material has, in the past few years, remained largely the responsibility of NGOs. The Department for Development Policy of the Ministry for Foreign Affairs grants appropriations to NGOs to spread information about the Convention, but the NGOs reach only the educational institutions that happen to ask for material.

72. The National Committee on the Rights of the Child, operating under the administration of the Ministry of Social Affairs and Health since spring 2003, will for its part respond to this challenge and disseminate information.

73. *Curricular principles.* The objectives of the basic education given in Finnish comprehensive schools emphasize equality in society (Act on Basic Education 628/1998; sect. 2, subsect. 3). The content of the Convention on the Rights of the Child has been integrated to correspond to the grounds of the national curricula of basic education, which are to be introduced gradually so that all schools that provide basic education will observe the new curriculum by 1 August 2006.

74. *Roma translation of the Convention.* The Advisory Board for Roma Affairs has supported the Committee's proposal concerning inclusion of the Convention in the curricula and development of visual material to illustrate the Convention. However, the Advisory Board is of the opinion that there is no reason at this phase to direct resources to the translation of the Convention into the Romani language of Finland because of the poor command of the language in Finland at present.

75. *Training of judges.* The Ministry of Justice has organized annual continuing training courses on family law for judges. In the past years, the training has focused on issues related to the custody and visiting rights of a child. The significance of the Convention on the Rights of the Child from the point of view of this theme has been discussed in these two-day training sessions.

### **C. Making the report available (art. 44, para. 6)**

76. The third periodic report of the Government of Finland on the implementation of the Convention on the Rights of the Child has been prepared by the Legal Department of the Ministry for Foreign Affairs in cooperation with the ministries and authorities that take responsibility for the various themes involved. The civil society has played a key role in the various phases of the process. Preparation of the report started by a request of statements in writing from all competent authorities and NGOs that have an interest in the matter. A total of 23 written statements from various NGOs and government authorities were received.

77. The Ministry for Foreign Affairs organized a public hearing on 2 July 2003, and invited 34 different local and government authorities and public associations to attend the event. As many as 9 different authorities or NGOs were represented, and 9 other parties sent their comments in writing.

78. The Convention on the Rights of the Child and the Optional Protocol to the Convention on the involvement of children in armed conflict have been published in the Treaty Series of the Statute Book in both Finnish and Swedish (Treaty Series 60/1991 and 31/2002, respectively). The Convention has been also translated into North Sami. The Statute Book is available for consultation at the biggest public city libraries of Finland. Visitors to the Internet can access the Convention and the Optional Protocol also at <http://www.finlex.fi> (FINLEX is a database of laws, decrees and international treaties, maintained by the Ministry of Justice), and on the home page of the Ministry for Foreign Affairs at <http://formin.finland.fi>. In Finland, citizens can use the Internet in the public libraries free of charge.

79. The second periodic report of Finland on the implementation of the Convention on the Rights of the Child was published in the publication series of the Ministry for Foreign Affairs (10/1998) and on the Ministry's web site at <http://virtual.finland.fi>. The Ministry's home page has been since amended, and periodic reports concerning human rights conventions can now be accessed at <http://formin.finland.fi>. The third periodic report will be published on these web sites as soon as possible. In addition, the third periodic report will be published in a soft-cover paper edition, which is easy to distribute and which allows a big number of editions. The report will be sent for information to a large number of government authorities and NGOs.

80. Material related to the text of the Convention, statutes concerning its implementation and documents concerning monitoring of the implementation of the Convention can be obtained by request from the Division for Human Rights, Conventions and Consular Issues of the Legal Department of the Ministry for Foreign Affairs (OIK-30), which also answers to enquiries concerning the rights and obligations set in the Convention. Contact information are at the end of the introduction above.

## II. DEFINITION OF THE CHILD (art. 1)

81. In the Finnish legislation, a person who has not reached 18 years of age is a minor. In accordance with the Child Welfare Act (683/1983), a child is a person under 18 years and a young person is a person aged under 21 years. There are, however, several provisions that depart from the main provision and afford a minor a right to self- and co-determination.

## III. GENERAL PRINCIPLES

82. *Recommendation.* The Committee on the Rights of the Child has invited Finland to continue to take all necessary measures to better reflect in its legislation and its policies the general principles of the Convention, especially non-discrimination, the best interests of the child, right to development and respect for the views of the child (*recommendation No. 24*).

### A. Prohibition of discrimination (art. 2)

83. According to the Constitution of Finland, “Everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.” A separate subsection provides that “children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to them to a degree corresponding to their level of development” (chap. 2, sect. 6).

84. The provision has been included to emphasize the fact that children must be treated both as equals in relation to adults and, in principle, as individuals having equal rights and as persons who are on an equal footing with their peers. In addition, the provision shows that every child is to be treated as an individual, not only as a passive object of measures. On the other hand, as a group that is legally incompetent and weaker than adults, children are in need of special protection and care. The provision therefore offers a basis for a positive discrimination of children, required to secure that children are treated equally in relation to adults.<sup>14</sup>

85. In March 2001, the Government adopted an Action Plan entitled Towards ethnic equality and diversity<sup>15</sup> to combat ethnic discrimination and racism. The Action Plan focuses on the years from 2001 to 2003. The purpose is to support and develop measures that promote good ethnic relations and combat ethnic discrimination and racism in Finnish society.

86. The measures apply to both immigrants who have arrived recently and immigrants who have resided in Finland for many years, second generation immigrants and ethnic minorities, including the Sami, who are the indigenous people of Finland, the so-called historical ethnic minorities, which comprise the Roma, the Jews, the Tatars and the long-established Russian population in Finland. The measures also apply to expatriate Finns and their families who have returned to Finland.

87. The purpose of the Action Plan is, above all, to heighten awareness of discrimination issues and to encourage the introduction of best practices. The focus is at the local level but measures to be carried out at the national and regional levels are also included. The roles of the social partners, NGOs, religious communities and the media are also important.

88. The local level plays a central role in the development of good ethnic relations and combat against ethnic discrimination and racism, because cities, towns and villages is where people meet one another and encounter various daily events. Municipalities are of very many different kinds depending on their cultural background, business and trade structure, area and number of inhabitants, and population structure. Therefore, the measures required are also very different in the municipalities.

89. The Government Action Plan to combat ethnic discrimination and racism has been prepared to respond to the needs of today, but it also forecasts the onset of a new developmental phase, where the present small ethnic minorities will expand and where the care relationship between the different age groups will be strongly biased because of the ageing of the population.

90. According to the Action Plan, special attention should be directed to the school attendance of young people belonging to immigrant and ethnic minorities, and arrangements should be made to ensure that they continue their studies to prevent social exclusion. In addition, it is important to take care that ethnic, multicultural, and religious and ideological issues are covered in teaching, education and studying materials at all stages of education beginning from pre-school. In accordance with the Action Plan, the Ministry of Education will, in cooperation with the Ministry of Labour, launch a project to encourage young immigrants to prepare and apply for training in lines of work with a growing demand for labour force.

91. In his doctoral dissertation, Osmo Virrankoski charted Finnish schoolchildren's attitudes to patriotism, prejudices and racism in the years 1990-1998. Virrankoski's research published in April 2001, shows that young people who have completed comprehensive school are increasingly uncompromising. According to the research, the number of pupils who have racist prejudices grew from 15 per cent to 24 per cent in the period from 1990 to 1998, while the number of tolerant pupils dropped from 28 per cent to 24 per cent. Boys proved to be less tolerant than girls. Hidden racism also appears to be common, because 66 per cent of upper secondary school students held attitudes falling in that category.

92. The Ministry of Education grants assistance mainly to projects combating racism and xenophobia, carried out by associations. Grants are awarded on an experimental basis also to municipal projects against racism. The projects are mainly of developmental and piloting character, meant to increase tolerance through such measures as cooperation between ethnic minorities and the main population and by means of dissemination of information about other cultures, religions and traditions to the main population. When decisions on assistance are made, emphasis is laid on projects that help direct young people away from groups that stir up racism.

93. *Roma children and discrimination.* The Advisory Board for Roma Affairs has drawn attention to the right of Roma children to childhood without discrimination. An important goal is provision of comparable equality of opportunities for Roma children to that accorded to other children in Finland. The socio-economic disparity between the Roma and the main population is

still considerable. Problems related to housing, unemployment, poor education, social problems and consequent general social exclusion are common among the Roma. The well-being of the population naturally reflects in children. Racism and ethnic discrimination against them lead to a greater risk of their becoming socially excluded.

### **B. Principle of the best interests of the child (art. 3)**

94. The relevance of the principle of the best interests of the child has been recognized in Finnish legislation since the early 1980s. The principal provisions concerning the best interests of the child are included in the Child Custody and Right of Access Act (361/1983) and the Child Welfare Act (683/1983). A more detailed account of these provisions was given in the first periodic report of Finland. The best interests of the child are also paid attention to in other legislation concerning the child.

95. *Recommendation.* The Committee on the Rights of the Child has recommended that the Government of Finland consider the full implications of the principle of best interests of the child especially in the context of the work of municipal authorities and in situations concerning child asylum-seekers and child refugees, and that the Government make efforts to ensure that this principle is a primary consideration in all decisions affecting children (*recommendation No. 26*).

96. *The best interests of the child in legal practice.* In a decision<sup>16</sup> concerning refusal of entry into Finland of a foreigner, the Supreme Administrative Court emphasized that when the options were considered and a decision was taken, priority was given to aspects related to the best interests of the child and the child's health and stage of development.

97. In accordance with the Aliens Act (537/1999), the best interests of the child shall be accorded special attention when decisions are made affecting a person who has not reached 18 years of age. However, as concerns the administrative and legal practice, hardly any detailed grounds are given on the issue of the best interests of the child. For example, the child has often remained marginal in questions concerning family reunification. In its own legal practice, the Administrative Court of Helsinki has applied the general clause on the best interests of the child by making reference to the clause but disregarding the obligation of guaranteed means of support, provided for in the Aliens Act, when a child with a residence in Finland has acquired a residence permit based on grounds other than refugee status and need of international protection.<sup>17</sup>

98. The Government Bill on a new Aliens Act, submitted to Parliament on 13 June 2003, proposes that if a child is not in need of international protection, a residence permit may be issued in individual cases on humanitarian grounds. In respect of a family member, the precondition of guaranteed means of support still has to be met, but derogation is possible. The Bill opens up the opportunity of easier entry into Finland for parents with minor children. The Government Bill seeks to harmonize the relevant legislative provisions and, as far as possible, to protect the position of an individual child, without forgetting the pull that an automatic reunification of families in Finland, for example, could have.

99. *Decisions by the Parliamentary Ombudsman.* The Deputy Parliamentary Ombudsman, Riitta-Leena Paunio, Parliamentary Ombudsman as from 1 January 2002, took an independent initiative in 2000 and started investigating the supervision of a private children's home, the family community *Kuttula*. The Deputy Parliamentary Ombudsman identified a number of defects in the conduct of the supervision. In her decision, she brought several issues to the attention of the Ministry of Social Affairs and Health.<sup>18</sup> Attention was drawn, for example, to the need of specification of the inaccurate and scattered legislation related to private child welfare institutions and the need for special efforts to upgrade legislative provisions related to the supervision. The Deputy Parliamentary Ombudsman was of the opinion that a reform of the legislation would best secure the materialization of the rights of children placed in private child welfare institutions. In 2001, a working group set up by the Ministry of Social Affairs and Health submitted a memorandum concerning the reform of the supervision of private child welfare services<sup>19</sup> that suggested, inter alia, legislative amendments.

100. With reference to article 3, paragraph 3, of the Convention, the Deputy Parliamentary Ombudsman in her decision concerning the rights of children placed in community homes maintained by the Government,<sup>20</sup> called attention to the supervision of child welfare institutions. According to the Community Homes Decree, the National Research and Development Centre for Welfare and Health (Stakes) shall take responsibility for the general leadership and supervision of community homes. In the opinion of the Parliamentary Ombudsman, there have been defects in the direction and control of the community homes, especially as concerns legal direction. The Parliamentary Ombudsman has informed Stakes and the Ministry of Social Affairs and Health of her views to help the parties assess the need for adjustments and/or a reorganization.

101. *Early intervention and the best interests of the child.* The Central Union for Child Welfare has emphasized the importance of early intervention. The earlier children and young people with problems are approached, the more fruitful is the assistance, and expensive and hard measures need not be resorted to. The problems related to early intervention concern the methods used, on the one hand, but also the required knowledge and skills. The so-called services for adults do not at present take the needs and special situation of the child adequately into account in such cases as concern families with intoxicant and mental health problems or in situations involving domestic violence. The issue is of significance now that we know that the main reason for taking a child into custody and extra-familial care continues to be the parents' intoxicant and mental health problems.

102. *The Early Intervention (Varpu) project,* coordinated by the Ministry of Social Affairs and Health and carried out in cooperation between Stakes and the Central Union for Child Welfare, aims at the development of cross-sectoral and multiprofessional early intervention models and methods in collaboration with the public and third sectors for such uses as pupil and student welfare, and support of families with intoxicant and mental health problems. The objective is to arrive at a more comprehensive cultural and attitudinal change to avoid barriers to early intervention. Changes are required both in the service structure, operational systems and policies that set the guidelines for action. One of the principal objectives of the project is to support parents and children face problematic situations and to arrive at a situation where remedial measures are not necessary.

103. *The best interests of the child and cultural special characteristics.* The concept of the best interests of the child is evidently difficult to define. The best interests of the child shall be kept in mind also in relation to cultural special features in such situations as divorce, disputes over guardianship or when a child is taken into custody. The best interests of the child take priority over cultural special features. The Advisory Board for Roma Affairs has reminded that the authorities should be aware of the view prevailing among the Roma concerning the family. The Roma concept of family involves that other relatives take responsibility for the upbringing and development of the child, if the parents of the child, for some reason, cannot assume that responsibility.

### C. Right to life, survival and development (art. 6)

104. *Right to life.* The Constitution of Finland provides that everyone has the right to life. Based on the *travaux préparatoires* of the fundamental rights reform,<sup>21</sup> everyone is entitled to enjoyment of the fundamental rights during his or her lifetime. Furthermore, the legal order provides different types of protection also before birth. This takes place partly through the fundamental legal safeguards of the mother. In accordance with the Constitution, the constitutional fundamental values include also protection of the human dignity. Therefore, such medical and scientific experiments as affect the foetus or embryo and violate the human dignity are against the Constitution.

105. *Artificial insemination.* Finland's second periodic report mentions the proposal for an act on the use of germ cells and embryos in medical fertility treatment and for an act amending the paternity act, prepared by the Ministry of Justice. The idea is to legislate about the use of germ cells and embryos in fertility treatments, the preconditions of fertility treatment, donation of germ cells and embryos for medical fertility treatment, surrogate motherhood and the right of access to information by a child born as a result of fertility treatment. The Paternity Act (700/1975) would be amended by adding to it provisions about the paternity of a child born as a result of medical fertility treatment.

106. A Government Bill (76/2002) for new fertility treatment legislation was submitted to Parliament in summer 2002. However, it was withdrawn in February 2003 after an eventful period of discussion in Parliament. The Government considered it necessary to continue the preparation of the law. The objective is to reach a solution that would take into account the position of the woman, whether she is married, cohabiting, living in a registered same-sex relationship or single, and the best interests of children born as a result of a medical fertility treatment.

107. Finland does not have specific legislation concerning medical fertility treatments. The goal is to provide for medical fertility treatments in a manner that would set an acceptable ethical, legal and medical framework for the activity.

108. *Right to development.* In respect of article 6 of the Convention, the Committee on the Rights of the Child has noted that the second periodic report does not clearly describe the way in which Finland carries out the right to development. The Committee has encouraged Finland in its plans of action, strategies, policies and programmes to review the perspective according to which each child has the right to physical, mental, spiritual, moral, psychological and social development (*recommendation No. 28*).



109. A Decision-in-Principle of the Council of State Concerning the National Policy Definition on Early Childhood Education and Care<sup>22</sup> was published in February 2002 by the Ministry of Social Affairs and Health. Preparation of the Decision-in-Principle is part of the National Target and Action Plan for Social Welfare and Health Care for the years 2000-2003 adopted by the Government.

110. The national guidelines for early childhood education comprise the main principles and developmental priorities of Finnish early childhood education. The document seeks to upgrade the quality and content of early childhood education in the entire service and support system that has been created to support children and families before the child reaches the statutory school age.

111. The most common form of public early childhood education, which reaches about 200,000 children under the statutory school age, is day care. The principles of early childhood education are based on the needs of children and families. Early childhood education should promote the healthy growth, development and learning of the child. It must offer all children equal opportunities for development in accordance with each child's individual capacity. Children learn by playing and taking part in various activities and develop and grow in social interaction. It is important to support not only children's individual development but also educate them to build social relationships.

112. The principles that govern early childhood education pivot around children, parents and the educational staff. Early childhood education is emphasized to be a process that promotes the growth, development and learning of the child with the child itself an active participant. Children learn in a growth and learning environment that has been specifically and intentionally designed for the purpose and in interaction between adults and other children. A high standard early childhood education levels off the differences arising from children's various backgrounds and thus offers all children equal opportunities of development based on their individual capacity.

113. The early childhood education policy supports the Committee's recommendation concerning the right of each child to physical, mental, spiritual, moral, psychological and social development. As a continuation of the early childhood education policy, Stakes is preparing a national early childhood education plan. The national documents will serve as a foundation for municipal policies and plans related to early childhood education.

114. *Social and psychological development.* The preconditions of a child's physical and cognitive development are well secured in Finland. In the social and psychological development, however, there are problems that Finland has not managed to address with satisfactory effectiveness. Problems occur in such areas as reconciliation of work and family life. Parents do not have enough time to spend with their children, which is why children do not receive enough parental support and guidance for their development.

115. *Roma children and the right to development.* The Advisory Board for Roma Affairs is concerned about the fact that Roma children are not adequately addressed concerning the materialization of the principles of non-discrimination and the right to development. All branches of administration must pay special attention to the developmental opportunities of minority children in their respective areas of operation.

#### **D. Views of the child (art. 12)**

116. *Recommendations.* The Committee on the Rights of the Child has recommended that Finland make sure that the views of children under 12 years of age who are affected by a judicial proceeding, if considered mature enough, be always heard in a child-friendly environment. It also recommends that Finland undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making and court decisions, programme implementation and on children themselves (*recommendation No. 30*).

117. In accordance with the Constitution of Finland, children shall be allowed to influence matters pertaining to them to a degree corresponding to the level of their development. The provision corresponds to section 5, subsection 3, of the former Constitution as it has been since the constitutional reform of 1995 (969/1995).

118. Consideration of the best interests of the child requires that children be heard and that they be allowed to express their views, wishes and hopes in matters that concern them. In accordance with Finnish legislation, a child who has reached 12 years of age shall always be reserved an opportunity to be heard and his or her views shall be taken into account when decisions are made concerning guardianship and visiting rights of the child or taking into custody or placement outside the home. The views of children who are younger than that must also be considered, insofar as it is possible considering the child's age and the level of his or her development.

119. The following can be stated about other more recent provisions concerning the person of the child. In accordance with section 1 (c) of the Aliens Act (537/1999), which was added to the Act in 1999, prior to making a decision concerning a child who has reached 12 years of age, the child shall be heard as provided in section 15 of the Administrative Procedure Act, unless it is regarded to be evidently unnecessary. Also younger children can be heard if the child is so developed that his or her views can be paid attention to. Since the parent's or legal guardian's interest may differ from that of the child, it is important that the law expressly provides for the obligation to hear the child.

120. The above-mentioned provisions reflect the developmental trend that becomes clearly evident in the valid law, emphasizing the right of the child to be treated equally in relation to the adult population. When decisions are taken concerning the person of the child, it is important to highlight the significance of the best interests of the child and see if they differ from the interests of the parent or legal guardian.

121. The child's right of participation in matters that involve him or her are developed in many ways in the administration of education. The fundamental principles governing the curricula of basic education are currently under reform.

122. *Promotion of the participation of young people.* The Ministry of Education participates in the carrying out of an Action Plan to promote the participation of young people in its own branch of administration. The Action Plan comprises 15 different projects. The idea is, among

other things, to increase collaboration to prevent social exclusion in the transition phase from comprehensive school to secondary education, to help teachers more easily detect symptoms of potential social exclusion, to support immigrant youth to adjust by inviting them to take part in courses of Finnish and integration programmes, and to make workshops for young people an established form of activity.

123. The project to promote the participation of young people will be carried out as a broad-based joint pilot programme by several municipalities. Models will be worked out to prevent social exclusion and to enhance participation. The expenses arising from the five-year pilot programme will amount to about 2 million euros annually. Municipalities will hire coordinators to steer the implementation of the Action Plan at the local level. The project is composed of slightly less than 100 local projects, which will be carried out by individual municipalities or as joint regional projects by several municipalities.

124. A coordination group has prepared the decisions concerning central government transfers to local government. The group regarded it important that the objectives of the Action Plan be carried out on several fronts in the municipalities that were chosen to participate in the pilot project. Special attention was paid to the municipalities' capacity to develop their basic functions so as to encourage young people to get involved. One of the criteria set for a grant was that the project takes into account also regional aspects so that different municipalities and subregions of different sizes from different parts of the country would be included. The number of participating municipalities by province is as follows: 12 from the province of Southern Finland, 6 from the province of Eastern Finland, 14 from the province of Western Finland, 5 from the province of Oulu, and 3 from the province of Lapland.

125. The joint piloting Action Plan is led by a national steering group and coordinated by a national coordinator under the steering group's administration. The coordinator cooperates with its local counterparts. Municipalities that have not obtained funds for projects can cooperate by participating in the networking.

126. To step up the participation and exercise of social influence by children and young people, the Ministry of Education in cooperation with the Finnish Youth Cooperation Allianssi runs an umbrella and service organization for young people, and developed an online instrument of network democracy<sup>23</sup> used for example in the education to democracy in Finnish schools. In addition, support has been directed to children's parliament, an activity in schools, which seeks to offer schoolchildren an opportunity to exercise influence in order to improve their own school community and immediate neighbourhood. Some municipalities maintain a Youth Affairs Board, which is an integral part of the municipal administration and which deals with issues concerning youth work and youth-related activities. Some municipalities have also set up youth councils to discuss local youth issues. As a rule, young people age 13 to 18 years in schools and other educational institutions take responsibility for the election of members for these councils.

127. Practical problems arise from the fact that all the persons that listen to children are not sufficiently informed, and do not have the required skills and time to hear and interpret correctly the child's feelings. Social welfare workers play a key role when the views and best interests of the child are clarified in connection with official decision-making. Their capacity to hear the

child and interpret the best interests of the child can be enhanced through training. Municipalities should take care that the employees responsible for social welfare services affecting children have an appropriate vocational training. The units in charge of training courses related to social welfare should also take care that the training sessions provide an adequate account of and help assess the best interests of the child.

128. In 2001, Stakes published a set of instructions entitled *Lapsen etu erotilanteissa. Opas sosiaalitoimelle*<sup>24</sup> (the best interests of the child in divorce, instructions for the social welfare service). The topics discussed include such issues as how the child should be heard and how to make the conditions as friendly to the child as possible.

129. In connection with disputes over maintenance and visits, the child is usually heard when the Social Welfare Board prepares a statement for a court of law about the maintenance and visits. Social welfare workers also hear the child when custody is prepared or when other measures related to child welfare are involved. This ensures rather well that the child is heard in as friendly environment as possible. The hearing can take place, for example, in the office of the social welfare worker, in the premises of the child's day-care centre or, at best, in his or her home. If required, the skills and expertise of child and family guidance clinics can be used in the hearing.

130. *Hearing the child in a court of law.* Court proceedings dealing with offences against the child, such as assault or sexual abuse, are especially difficult from the child's point of view. In court the child would have to meet the suspect who is often a close person to him or her, which can make the situation unbearable to him or her. It is therefore rather common in connection with offences against children that the child's statement is taped on video during the pre-trial phase and a separate hearing is reserved for the suspect. In accordance with the Finnish law of procedure, a complainant's statement given during the pre-trial phase of a criminal case cannot be adopted as a trial document. However, as concerns offences against children, pre-trial statements have been accepted. In addition, courts have sometimes heard a child in connection with such trials as involve maintenance and right of access outside the courtroom, for example in the judge's room, which has provided a friendlier environment for the child.

131. The new Act on the Amendment of the Code of Procedure (360/2003) introduced a new provision to the procedure, according to which a pre-trial statement by a person who is under 15 years of age or mentally disturbed, which has been taped on video or recorded on a cassette can be used in court as evidence, if the accused is reserved the opportunity of asking questions from the examinee.

132. According to law, hearing a person who is under 15 years of age is still subject to the consideration of the court of law. The closer to 15 years of age the child is the easier it is to decide to hear him or her in court. Younger children are very seldom heard in court, and the younger the child the less common it is. Children aged under 10 years should not, as a rule, be heard in court. Younger children are predisposed to being easily influenced and the border between imagination and reality is not always clear to them, which does not necessarily become evident during court proceedings. The child also easily adjusts his or her statement to

correspond to what he or she thinks the adults want to hear. The court has to take these aspects into account when it decides whether to hear a child under 15 years of age. It is possible to also consider if the child's pre-trial statement, provided that it has been taped in an appropriate manner, gives adequate evidence.

133. Hearing a child under 15 years of age shall be based on the assumption that it is of major significance from the point of view of the investigation, and the hearing may not cause such pain or other disadvantage for the child as can be detrimental to his or her development. The court must, as required, order a support person for the examinee. A child is heard by a court of law unless it considers that there is a special reason to trust the task to the parties involved. They must be reserved an opportunity of presenting questions to the examinee via the court or, if the court considers it appropriate, directly to the examinee. If necessary, the hearing can take place in some other place than the courtroom.

134. *Act on the Status and Rights of Social Welfare Clients.* The Committee on the Rights of the Child referred to the fact that efforts have been made in Finland to include the best interests and right to be heard of the child in the recent legislative reforms (*recommendation No. 23*). In this connection, the Committee identified the Act on the Status and Rights of Social Welfare Clients (812/2000) (subsequently referred to as the Social Welfare Clients Act). This Act was under preparation at the Ministry of Social Affairs and Health at the time when Finland submitted its second periodic report. The Act became effective at the beginning of 2001. Several other social welfare acts that are closely related to the Social Welfare Clients Act were also amended at the same time (812-819/2000).

135. In accordance with the Act, the wishes and views of a minor client shall be found out and taken into account, taking note of his or her age and level of development. All measures in the sphere of public or private social welfare that affect a minor child have to place the highest priority on the best interests of the minor. A Government Bill concerning the Act (37/1999) states that it has been noted that a minor does not often have an actual opportunity of taking part in the treatment of matters affecting him or her. When disputes over maintenance or visits or the best interests of the child in child welfare are discussed, small children are very easily left to play only a minor role.

136. The Social Welfare Services Act includes the central legal principles concerning participation, treatment and legal protection of social welfare clients. The Act also contains provisions on confidentiality, submission of confidential information, and the authorities' right of access to information and right to obtain executive assistance. According to the Act, every municipality shall appoint a social welfare ombudsman, responsible for counselling and information. In addition, the amended Act provides that every municipality shall have access to the services of a qualified social welfare officer who participates in work with clients.

137. The Act also seeks to specifically improve the status and legal protection of children as clients of social welfare services, and emphasizes the participation and self-determination of the child in matters that affect him or her.

138. The Social Welfare Clients Act is applied to both official and private social welfare services. In the Act, a client refers to a person, including a child, who turns to social welfare services for help or who uses them.

139. In accordance with the Act, a client shall be entitled to receive good social welfare services and good treatment without discrimination. The client shall be treated without offending his or her human dignity and with respect for his or her conviction and privacy. The Act specifically provides that when social welfare services are given, the client's wishes, views, interests and individual needs and his or her mother tongue and cultural background shall be paid attention to.

140. The Act also grants the client the right to obtain an account of the different alternative measures that may be called for in his or her case. The social welfare officer shall inform the client of his or her rights and obligations and of the different alternatives that are available and of their impact as well as of any other aspects that are of significance in the case. The social welfare officer shall make sure that the client understands the content and significance of the information and, if need be, take care of interpretation or look for an interpreter.

141. The client's opportunities of participation are further improved by a provision, which obligates the social welfare service to work out a service, care, rehabilitation or other plan for the client unless the plan is considered, in all probability, unnecessary. A plan must be worked out unless there is an evident obstacle to it, in cooperation with the client. The Child Welfare Act and the complementary Child Welfare Decree have, as long as they have been valid, included a provision complementing this general provision. According to it, a plan concerning the maintenance of a child shall be made in cooperation with the child and the parties that participate in his or her care. Such plans contribute to more effective and organized cooperation with the client and help to make more long-term decisions concerning the services and care. The plan is subject to review, periodically or as required. The objective is to have such a foundation for social welfare measures as is always based on the most recent knowledge of the client's situation.

142. The Act also includes some provisions that focus specifically on the child. There is a specific provision stating that when social welfare services are given, the wishes and views of a minor child shall be investigated and taken into account, based on his or her age and level of development. The provision does not mean that the child would be the decision maker in a matter that concerns him or her. The objective is to find out the child's own views. The authorities always take the ultimate responsibility for a decision that concerns a child; however, all public or private social welfare measures concerning minors must always give priority to the best interests of the child. It has been considered appropriate that this key principle in the Finnish legislation related to the child be included in the Social Welfare Clients Act.

143. The Guardianship Services Act (442/1999) provides for the appointment of a guardian (a person representing another person who is without full legal capacity, and managing his or her affairs) for cases of a conflict of interest between a child and his or her parent or legal guardian. The Act provides that if there are grounds to suppose that the parent or legal guardian cannot objectively look after the best interests of the child in a single social welfare case that concerns the person of a minor, a social welfare officer shall take measures and appoint a guardian to the minor child, if it is considered important from the point of view of safeguarding the best interests of the minor. The guardian is appointed by application by a court of law. The guardian then uses the power of decision and the right to express his or her views instead of the parent or legal guardian in issues that he or she has been appointed to look after.

144. According to the Act, a minor child can also, taking into account his or her age and level of development and the quality of the matter, for weighty reasons, forbid submission of information concerning him/ or herself to the parent or legal guardian or to another legal representative. However, this is conditional upon ensuring that the denial is not clearly contrary to the best interests of the minor. According to the preamble to the Bill (137/1999), the purpose of the provision is to underline the materialization of the right of self-determination of minor social welfare clients also in practice. The provision does not give any maximum age, but it is clear that the child must be adequately developed and mature to give reasons for the necessity of the denial and understand its significance. Clearly contrary to the best interests of a minor would be situations where the parents or legal guardians who are in charge of arrangements related to the care and maintenance of the minor, would not be able to take appropriate measures to ensure the minor's security due to lack of information because the minor has denied access to information concerning him/ or herself.

145. The Ministry of Social Affairs and Health has published a set of instructions on the Social Welfare Clients Act.<sup>25</sup> The purpose of the instructions is to support public and private social welfare service providers and social welfare clients.

146. When the Act was adopted, Parliament required that the Government review the impacts of the legislation on the status and rights of social welfare clients and, after two years from the entry into force of the Act, and based on the review, submit an account of the assessed impacts and materialization of the objectives of the reform to the Social Welfare and Health Committee. The Ministry of Social Affairs and Health submitted an account to the Social Welfare and Health Committee on 6 February 2003, as required by Parliament, concerning the impact of the legislation on the status and rights of social welfare clients and an evaluation of the impact of the reform and the materialization of its objectives. A report has been published covering the initial phase of the evaluation.<sup>26</sup>

147. *Social Welfare Ombudsman.* In accordance with section 24 of the Social Welfare Clients Act, municipalities shall appoint a social welfare ombudsman. The ombudsman is assigned to: advise clients in issues related to the application of the Act; assist clients; provide information about the rights of the client; also otherwise act to the benefit of the promotion and implementation of the rights of the client; and monitor the development of the rights and position of clients in the municipality; and provide an annual account of the situation to the Municipal Executive Board.

148. From the point of view of the materialization of the Social Welfare Clients Act, the social welfare ombudsman plays a central role. The system of ombudsmen creates preconditions for the provision of counselling and guidance to clients and also for the supervision of services and their implementation so that the position of the client in the municipality improves. The social welfare ombudsman is in charge of the promotion of the legal protection of the client. One of the ombudsman's duties is to assist clients make complaints. Complaints are primarily directed to the actual functions of the social welfare service - treatment of the client.

149. In his or her annual account to the Municipal Executive Board, the social welfare ombudsman can, at a general level, refer to the problems and defects that he or she has noticed at work. The ombudsman can draw attention to the appropriations and how they have been reserved and directed to the different social welfare functions in the municipality, to the organization of social welfare services in the municipality and to how the service and its quality could be improved.

150. The Act on the Status and Rights of Social Welfare Clients has been in force for only a short time, which is why it is hard to make an assessment of the materialization of its objectives and the actual impacts of the Act from the point of view of the status and rights of social welfare clients. However, based on the opinions of social welfare ombudsmen, the Act can be seen to have improved the status of social welfare clients at least to some degree. The new forms of activity provided for in the Act, and the complaint and social welfare ombudsman systems in particular, seem to be developing into significant tools to the benefit of the status of social welfare clients.

151. *Preliminary Ruling by the Supreme Court.* In a preliminary ruling concerning a child custody case (2001:110), the Supreme Court has expressly referred to the wishes and views of the child. In the particular case, the children had remained without a legal guardian following the death of their mother. Both the father and the person who had lived with the mother and the children had sought custody of the children. Both children had expressed their wish to stay with the person who had lived with them and their mother. The custody order according to which the children should have moved to live with their father would not have been enforceable considering the age and wishes of the children. The Supreme Court came to the conclusion that it was in the best interests of the children that custody be awarded to the person with whom they were living.

152. *Decisions of the Parliamentary Ombudsman.* In 2001, one of the main topics characterizing the work of the Deputy Parliamentary Ombudsman of Finland was the child's right to be heard. The Deputy Parliamentary Ombudsman, Riitta-Leena Paunio, drew attention to the child's right to be heard in some of her decisions based on complaints. The Deputy Parliamentary Ombudsman emphasized the importance of discretion when the views of a child are clarified and he or she is heard. A discreet procedure means, for example, that an oral hearing of a child is conducted, as far as possible, by a person with an appropriate professional qualification. The person could be the social welfare worker who takes responsibility for the child's issues.<sup>27</sup> In another case, she found that the procedure observed in the hearing of a child is of major significance to how well and reliably the authorities manage to find out about the child's views. The decision laid an emphasis on the social welfare officers' responsibility for how successfully a child's views are found out. The matter concerned the use of the right of institution of proceedings by a social welfare authority in a case involving the custody of a child.<sup>28</sup>

153. *European Convention on the Exercise of Children's Rights.* In January 1996, the Council of Europe adopted the European Convention on the Exercise of Children's Rights. The Convention is related to procedural measures to promote the exercise of the rights of the child,



that is, to such issues as the right of the child to express his or her views and his or her right to have a special representative in court. The Convention has been in force since July 2000. Finland signed the Convention in January 1996. Finland has not ratified the Convention to date but Finnish legislation is in conformity with its main requirements.

#### IV. CIVIL AND FUNDAMENTAL RIGHTS

##### A. Name and nationality (art. 7)

154. *Registration of the birth of a child.* In Finland, the health-care professionals (doctors, midwives, public health nurses or nurses) are under the obligation to register all births with the population register. The name and mother tongue of the child must be notified to the population register within two months of the birth of the child.

155. *First name.* Provisions related to the name of a child are enacted by the Names Act (694/1985). Every Finn shall have a family name and a first name. A person may have no more than three first names. The first name must not be inappropriate or a name that is harmful for the child, such as a woman's name for a boy or a man's name for a girl, a family name must not be used as the first name, and the child must not be given a name that is in conflict with the customary way or form of writing names in Finnish. Siblings and step-siblings must not have the same first name. Exceptions to the above may be accepted, however, based on a religious habit or such criteria as nationality. The names of a child shall be registered with the population register (the Registry Office or the Evangelical-Lutheran/Orthodox Church) within two months of the date of birth of the child.

156. *Family name.* Provisions related to the family name are also recorded in the Names Act. When a child is born, he or she receives the family name of the parents if they have a common family name. If the parents do not have a common family name, the child receives the family name of either of the parents, based on an agreement between them. Minor children who are in the joint care of their biological parents always receive the same family name.

157. The family name of a child shall be registered with the population register (the Registry Office or the Evangelical-Lutheran/Orthodox Church) within two months of the date of birth of the child. If both parents of the child are not his or her legal guardians, they are or one of them is entitled to decide which parent's family name the child receives.

158. If the child's family name has not been registered with the population register as enacted, the child receives the family name that the mother had at the time when the details of the child are notified to the population register.

159. When adoption of a minor is confirmed in a court of law, the child receives the family name of the adoptive parent or the adoptive parents' common family name. An adopted child must have the same family name as the other minor children in the joint care of the adoptive parents have. An adoptive child may, however, maintain his or her former family name by a court decision if it is considered to be in the best interests of the child.

160. Whenever a child is adopted from abroad, he or she can receive the adoptive parents' common family name or either adoptive parent's family name. All the minor children that are in the joint care of the adoptive parents shall have the same family name.

161. If the paternity of the child had not been established at the time when the child was given a family name, the child cannot have received the father's family name. After the paternity is established, a minor's family name can be changed to the father's family name.

162. If a minor's parents marry and adopt a common family name, the parents can agree between themselves that the child's family name is changed and he or she takes the common family name of the parents. A child can also receive the family name of his or her new parent's new spouse. The change requires both parents' consent. If a man's paternity is disestablished, he can request a court of law rule that the child take the family name that the mother had when the child was born. The change of the name of a minor calls for the child's consent if he or she is 12 years old or older. However, the child's consent is not required if he or she is incapable of expressing his or her will due to an illness or disability. A minor who intends to get married is entitled to decide on his or her family name at the time of getting married.

163. *Nationality.* In accordance with the Constitution of Finland, a person receives Finnish nationality based on birth or the parents' nationality, as is separately provided by law. Nationality can be granted in certain cases also upon notification or application.

164. Finland's new Nationality Act (359/2003) entered into force on 1 June 2003. The Act replaces the former Nationality Act enacted in 1968. The most significant change is that the new Nationality Act provides for a wider application of multiple nationality (dual nationality). Finnish nationals will no longer lose their Finnish nationality if they take another nationality. Similarly, foreign nationals who are granted Finnish nationality will not need to give up their former nationality. The legislation of the other country determines whether a person can have another nationality besides the one he or she already has.

165. In accordance with the new Nationality Act, a child who has attained the age of 12 years shall be heard when an application or notification related to his or her nationality is dealt with. A child who has attained the age of 15 years can inform that he or she opposes the granting of a new nationality or exemption from a nationality. The best interests of the child can have an impact on the adoption of a nationality even if the child opposed an application or notification made by somebody else but he or she.

166. A child receives Finnish nationality at birth if:

- The mother is a Finnish citizen;
- The father is a Finnish citizen and married to the mother of the child, or the child is born in Finland and the man's paternity is established;

- The father is dead but was a Finnish citizen when he died and he had been married to the mother of the child, or the child is born in Finland and the man's paternity is established; or
- The child is born in Finland and does not acquire any other nationality at birth and, based on birth, is not even as a secondary option entitled to any foreign nationality.

167. A child that is born in Finland acquires Finnish citizenship based on the place of birth if the parents have a refugee status in Finland or if they have been otherwise afforded protection against the authorities of their country of nationality. An additional precondition for the above is that the child does not acquire the nationality of either of the parents except if his or her birth is registered with the authorities of either parent or elsewhere in a manner that calls for the contribution of the authorities of the State in question. If the aforementioned protection has been afforded to one of the parents only, it is further required that the child be not given the other parent's nationality at birth or that he or she be not granted even a secondary right to the nationality of the other parent based on birth.

168. A foreign child aged under 12 years who has been adopted to Finland acquires Finnish nationality based on adoption beginning on the date when the adoption becomes valid in Finland, if at least one of the adoptive parents is a Finnish citizen.

169. A child can acquire Finnish citizenship based on the parents' marriage to one another beginning on the date when the parents enter into marriage provided that the husband was a Finnish citizen at the time when the child was born and has been a Finnish citizen since then, and the husband's paternity was established prior to the date of marriage. If the paternity of a man who is a Finnish citizen is established only after the parents got married, the child acquires Finnish citizenship beginning from the date when the paternity was established. If the father dies after the parents got married, the child acquires Finnish citizenship beginning from the date when the paternity was established if the father was a Finnish citizen when he died.

170. A foundling found in Finland or a child born in Finland whose parents' nationality is unknown is considered to be a Finnish citizen as long as he or she is not known to be a national of a foreign country. The same applies to a child born out of wedlock whose mother's nationality is unknown. However, if a child has attained the age of 5 and is found to be a national of a foreign country only after that, he or she remains a Finnish citizen.

171. The parent or legal guardian of a child can apply for a Finnish citizenship for the child. This requires that the person who completes the application form is a Finnish citizen and the child lives in the household of the person who completes the application form.

172. If the co-applicant attains the age of 18 years or gets married before the application has been dealt with, he or she has to amend the application to apply to him or her. If the child becomes 18 years of age or gets married before an application made on his or her behalf by a parent or legal guardian has been dealt with, he or she has to confirm the application by signature. If the application is not confirmed, it will be rejected.

173. If a foreign child is adopted to Finland after he or she has attained the age of 12 years, he or she acquires Finnish citizenship upon notification. The precondition is that at least one of the adoptive parents is a Finnish citizen and the adoption is valid in Finland. An adoptive child aged under 12 years acquires Finnish citizenship upon notification, if the decision concerning adoption has been made before the entry into force of the Nationality Act, that is before 1 June 2003. At least one of the adoptive parents shall be a Finnish citizen and the adoption must be valid in Finland. The notification shall be made within five years from the date of entry into force of the Nationality Act.

174. In case the husband's paternity has been disestablished or action has been brought leading to the disestablishment of paternity before the child is 5 years of age, or if an established paternity has been disestablished or action has been brought leading to the disestablishment of paternity within five years from the date when the paternity was established, it is possible to decide that the child loses his or her Finnish citizenship that has been acquired based on the father's nationality. In that case, a decision is made on the basis of a thorough consideration of the child's situation. The child's age and ties to Finland, in particular, must be taken into account when the case is assessed.

#### **B. Preservation of identity (art. 8)**

175. *Nationality.* The content of the new Nationality Act is described in section A above. The provisions of the Act related to loss of nationality and exemption from nationality must not be applied if, as a result of it, the person concerned would become stateless.

176. *Change of name.* A person's name may only be changed on grounds provided by law. A person can change his or her first name upon notification once (the change of name is made for the first time). In the notification, no reasons for the change need to be specified. Otherwise, the change of one's first name is conditional upon the submission of a written application to the Registry Office. In that case, a reason for the change is required.

177. The change of the name of a child who is 12 years or older is conditional upon his or her own consent. A person who has attained 15 years of age can apply for the change of his or her name alone.

178. A person can also change his or her family name upon notification in certain specific cases or by submitting a free-form application. The parents or legal guardians of a child have to be unanimous about the change of the child's name. A good cause has to be presented for the change of the family name, and there may not exist any impediment for the new name. For example, if the proposed new family name belongs to another family, the change is not possible.

179. The change of the family name of a child must always be applied for separately, that is, a child's family name does not change automatically when the parents' family name changes. The family name of a child who has attained 12 years of age cannot be changed without his or her consent. A person who has attained 15 years of age can lodge an application concerning the change of his or her family name.

180. *Adoption.* As regards adoption, the Finnish legislation is based on the principle of a so-called strong adoption, which means that the rights and obligations of the biological parents towards the child and the child's legal ties to the biological family are terminated by adoption.

181. An adopted child and his or her adoptive parent and offspring have the right of access (with appropriate counselling) to documents related to the adoption. Municipal social welfare authorities, the adoption office and the service provider must retain the documents related to an adoption for a minimum of 100 years from the date of their preparation. Access to information may be denied if provision of the information would endanger the health or development of the adopted child or would otherwise be against the best interests of the adopted child or other private interests.

182. *Refugee children's identity.* A major part of the refugee population of Finland, approximately 6,000 persons, are citizens of Somalia. Nearly all of them have arrived in Finland without any documentary evidence of their identity. On account of the civil war in Somalia, documents are still not available. Some of the refugees are children whose dates of birth and names have been recorded incorrectly for a variety of reasons, or they have arrived in the country through family reunification with forged evidence of identity. Correcting false information on identity has proved to be an extremely difficult and time-consuming process. In accordance with the Population Information Act (507/1993), a foreigner shall submit a reliable account of the required information to the population information system. In practice, Somali children and adults have not been able to verify their identity by other means but their own stories, which have been considered an inadequate means of evidence. Refusals by the Registry Offices can be appealed to administrative courts of law. The Helsinki Administrative Court has corrected the personal data of minor Somalis in at least two cases, based on witness statements in an oral hearing (Helsinki Administrative Court, 19 December 2000 and 19 May 2002).

### **C. Freedom of expression (art. 13)**

183. According to the Constitution of Finland, everyone has the right to freedom of expression, which entails the right to express, disseminate and receive information, opinions and other communications without being forestalled by anyone. The freedom of expression is constitutionally guaranteed to everyone within the Finnish jurisdiction, irrespective of his or her nationality or such aspects as age.

184. The freedom of expression can be restricted by means of legislation only on grounds based on child welfare. Restrictions on pictorial programmes, for example, can be necessary to protect children.

185. A new Act on the Use of Freedom of Expression in the Mass Media (460/2003) was adopted in the spring 2003.<sup>29</sup> It replaces the valid Act on Freedom of the Press and the Act on Responsibility for Broadcasting.

186. *Participation of children and young people.* To succeed, society needs the active participation of all its citizens. Acknowledgement of and respect for the significance of the rights of participation of the child is an investment in the future. Both research and practical

experience have shown that children also have opinions and expertise in issues that relate to themselves and, for example, their living environment, if only there is will and wisdom to hear their views. Giving children access to greater participation is also an excellent tool in their education to democracy, developing the child's capacity to take on responsibility for issues that concern him/ or herself, which has, among other things, a preventive impact on such possible adverse developments as social exclusion.

187. The Committee on the Rights of the Child noted that not enough attention has been paid to the participation of children, inter alia, in education at the comprehensive school level. Starting from the economic depression of the early 1990s, schools have made savings by means of cutting such activities as after-school clubs and student bodies. The Committee has encouraged Finland to take effective action to step up the participation of children in, for example, activities that relate to their own education.

188. The Ministry of the Interior administered a national Participation Project in the years 1997-2002, which improved the opportunities for participation and influence of local residents.<sup>30</sup> During the project cycle, many municipalities and cities carried out various programmes and projects to enhance the participation of children and young people. An example of the results is the *Kempeleen Pikkuparlamentti* (Children's Parliament in the municipality of Kempele). Children and young people draft proposals related to their own school and neighbourhood, and elected class representatives meet under the leadership of the chair of the Municipal Council to decide which proposals will be accepted.

189. In addition, many child and youth organizations, such as the Central Union for Child Welfare, are engaged in cooperative projects that enhance children's participation and provide guidelines on how to exercise influence. Municipalities operate at the moment as many as some 250 youth workshops and some 150 participatory projects for the youth.

190. The development of information and communication technologies (ICT) and the reduction of the prices of equipment and programmes have opened up new kinds of learning and communication environments for children and young persons all over the world. This has improved the opportunities for participation and also for internationalization and multiculturalism.

191. However, the information society revolution has its reverse side. All children and young people do not have access to the advantages that the new technologies offer, which increases children's and young people's inequality. Children and youth who have access to welfare and "have travelled and seen the world" are more prepared to take independent initiative and better equipped to take part in discussions and to exercise influence when decisions are made that concern them.

#### **D. Freedom of thought, conscience and religion (art. 14)**

192. The Constitution of Finland guarantees freedom of thought, conscience and religion to everyone, including the right to profess and practise a religion, the right to express one's conviction and the right to belong or not to belong to a religious community. Of the Finnish population, 84.9 per cent belong to the Evangelical-Lutheran Church, 1.1 per cent to the

Orthodox Church and 1.1 per cent to other religious communities. 12.9 per cent of Finns do not belong to any religious community (Statistics Finland, 2001). Finnish comprehensive schools and high schools give denominational religious education based on the faith of the religious communities of the pupils and students.

193. *Parents as their children's religious educators.* The provisions relating to a child's religious status are designed to secure the religious unity of the family, to safeguard the continuity of the child's religious status and his or her right to co-determination, and to protect minors.

194. A new Freedom of Religion Act (453/2003) will become effective on 1 August 2003, superseding the valid Freedom of Religion Act from the year 1922 (267/1922). The new Act will bring the legislation concerning religious education given in basic education and upper secondary schools up to date, so that it better corresponds to the provisions on religion and the freedom of conscience of the Constitution. Another goal is to enhance the opportunities of pupils and students to access religious education in accordance with their own religion and, in case denominational religious education in their own religion is not organized, to other ethical education. It also seeks to clarify the regulations concerning such events and ceremonies in schools as are considered to fall within the framework of practice of religion.

195. Based on legislation, a child's religious status is no more automatically determined in accordance with the religious status of the parents or legal guardians. The parents or legal guardians of a child decide whether he or she enters or leaves a religious community. The change unifies the practices used in the Registry Offices and also strengthens the right of various religious communities to decide themselves about the preconditions of entry in their community and, on the other hand, reinforces the right of the parents or legal guardians to decide on their child's religious status.

196. The parents or legal guardians settle on their child's religious status together. However, if the parents or legal guardians do not reach agreement about the religious status of their newborn baby, the mother, who is the child's guardian at this stage, can make a decision about the child's religious community on her own. Similar presumptions, giving preference to the mother of a child, are included in the former Freedom of Religion Act (267/1922) and in the Names Act (694/1985), according to which a child acquires the family name of the mother in case the parents have not, within the given time limit, informed which of the two parents shall give the family name to the child.

197. The mother should then report the community in question about the entry of the child into that community within one year of the date of birth of the child. The exception to this provision, mentioned above, refers only to a situation when a child was born and his or her religious status was not yet determined. All later changes in the child's religious status will be made jointly by the mother and the father or by the legal guardians.

198. As a deviation to the report of the Freedom of Religion Committee,<sup>31</sup> the law does not prevent the parents or legal guardians from joining the child to any religious community of their choice. According to the Committee's proposal, a child could only be made a member of the

religious community to which the parents or legal guardians or one of them belong. The Committee was of the opinion that an exception to this could be possible only if it secured the child access to education corresponding to his or her earlier religious education or if the child's permanent residence was not with the parents or legal guardians. Assessment of whether the preconditions for these exceptional provisions are met would ultimately have remained the duty of the Registry Office. However, the opportunities for Registry Offices to find out about the content of a child's previous religious education would in practice have been rather limited. It is possible to say that in situations like this the parents or legal guardians have better chances of assessing whether joining the child in a community other than their own meets the requirement of the best interests of the child or not.

199. When the parents or legal guardians of a child are deciding upon his or her religious status or considering of consenting to a change of the religious community of a 15-year-old, they are also advised by the provisions on the objectives of the care of a child given in the Child Custody and Right of Access Act (361/1983). The underlying principle is to safeguard a balanced development and welfare of the child in accordance with his or her individual needs and wishes. Joining a child to a community where he or she does not have any natural ties cannot, as a rule, be considered to be in line with these objectives.

200. Decisions concerning one's religious status have been considered to call for a particularly sound judgement and maturity, which is why a person cannot make an independent decision on his or her religious status until after he or she has attained 18 years of age, and provided that the parents or legal guardians have given their consent, at the age of 15. The age limits have not changed. To protect the continuity of a child's religious status and his or her right of co-determination, the right to be heard has been expanded in respect of persons aged under 15, and so the change of the religious status of a child who has attained 12 years of age is possible only subject to his or her consent.

201. *Religious education.* Participation in religious education is provided for in the provisions related to the education of religion and ethics in the Act on Basic Education (628/1998) and the Act on Upper Secondary Schools (629/1998). The expression used in the present provisions, "denominational education", is replaced by a wording that better describes the present content and arrangement of religious education, and goes as follows: "teaching of the pupil's own religion".

202. This does not call for any changes in the present content of religious education in Finnish schools. The pupil's right and obligation to take part in the education of his or her religion or in the education of ethics has remained for the main part as it is today. Teachers of the Evangelical Lutheran and Orthodox religions do not need to belong to the church in question.

203. Pupils who do not belong to the religious community of the majority of the pupils are not given a separate exemption from the religious education of the majority, but they participate in the education only if they specifically enrol in the class. Some minor other amendments have also been made in the provisions concerning the education of religion and ethics.



204. A pupil who belongs to a religious community can also attend classes of ethics in case religious education is not organized in the religion that he or she professes. Furthermore, pupils and students who do not belong to any religious community but whose religious view is clear, based on their upbringing and cultural background, have improved access to education of their own religion.

205. *Act on Basic Education, section 13 (454/2003)*. With reference to the grounds expressed in the Freedom of Religion Act, the section has abandoned the concept of “denomination” and replaced it with the concept of “a religious community”. This change is in line with the present practical application of the law. The expression “denominational education” has also been deleted. Instead, the current content of religious education is better conveyed by using the wording “teaching of the pupil’s own religion”.

206. References to the provisions of the Freedom of Religion Act that concern exemption from religious education have been removed from the section based on the grounds set forth in the Act. The new Freedom of Religion Act does not include any provisions on exemption from religious education. According to the section, a pupil need not participate in the religious education given based on the religion of the majority of the pupils if he or she does not belong to the religious community professing that religion. However, the pupil can take part in the religious education that is based on the religion of the majority of the pupils after his or her parent or legal guardian has informed about the matter to the provider of the education.

207. The amended section ensures better than before the materialization of the principle of freedom of religion secured in the Constitution. In the provision on religious education, the overriding concern is to secure the rights of the pupils and not to support the interests of religious communities.

208. Subsection 4 deals with the right of the parent or legal guardian of a pupil to choose what religious education the pupil attends if he or she belongs to more than one religious community at the same time. The provision is required because the new Freedom of Religion Act does not prohibit a person from belonging to several religious communities simultaneously, but the religious communities shall decide the matter by themselves. However, the new Freedom of Religion Act states that the prohibition to belong to several religious communities simultaneously, provided by the former Freedom of Religion Act, shall be applied for three years as of the entry into force of the new Act. The parents’ or legal guardians’ freedom of choice, referred to in subsection 3 of section 13 of the Act, will therefore become applicable only after the said period of time.

209. Subsection 5 provides that if a pupil belongs to a religious community the teaching of which is not organized, the parents or legal guardians may request that the pupil be taught ethics. According to the former law, a pupil who belonged to a religious community could not attend teaching of ethics. This has been considered a defect, because in situations like this a pupil is left outside any ethical education at all; for example, no denominational education was organized for a pupil if the required minimum number of three pupils in the same group, set to entail a duty to organize teaching, was not met. Pupils who belong to a religious community and ask to receive the education of ethics referred to in subsection 5 are taken into account when the duty of the organizer of the education to make arrangements for the teaching of ethics is assessed.

210. Subsection 6 lays down provisions concerning an exception to the principle according to which a pupil's participation in classes of religion is determined based on what religious community the pupil belongs to. In accordance with this subsection, a pupil who does not belong to a religious community can also participate in such religious education organized by the education provider as apparently, based on the upbringing and cultural background of the pupil, corresponds to his or her religious views. The practice has been already observed in some municipalities. The provision will apply to such groups as Orthodox or Muslim immigrants. It often happens that immigrants do not join any religious community registered in Finland, even if their religious views were known. Since the education provider's duty to organize such religious education as is other than that given based on the religion of the majority of the pupils may not remain subject to interpretation, the pupils referred to in subsection 6 are not taken into account when the education provider's duty to organize that education is assessed.

211. *The Act on Upper Secondary Schools, section 9 (629/1998)*. Amendments corresponding to those made to section 13 of the Act on Basic Education, referred to above, have been made to this section, too. In the upper secondary schools, the right to be heard in issues related to the education of religion and ethics is used by the student instead of the parent or legal guardian. This is in line with the general premise in the legislation concerning education, according to which students in upper secondary schools exercise the right to be heard in issues related to their own studies.

#### **E. Freedom of association and assembly (art. 15)**

212. In accordance with the Constitution of Finland, everyone has the right to arrange meetings and demonstrations without a permit and the right to participate in them. In addition, everyone has the freedom of association, in other words, the right to form an association without a permit, to be a member or not to be a member of an association, and to participate in the activities of an association. The freedom of association applies equally to the formation of trade unions and to getting organized in order to look after other interests.

213. Provisions related to the setting up of an association are laid down in the Associations Act (503/1989). The fundamental principle is freedom of association, but the purpose of an association must not be contrary to law or good manners. For example, such associations are prohibited as, on account of the obedience required of members, the division into units or groups or the equipping with arms, are deemed militarily organized. Some associations may be set up subject to a licence. An association that operates in essential ways contrary to law or good manners can be discontinued, and persons running an association engaged in illegal activities can be sentenced to a fine.

214. To form an association, a person must have attained 15 years of age. However, the chair of the Board of Directors of a registered association must have come of age as is provided by law, that is, he or she must have attained 18 years of age. The members of a Board of Directors of an association must have reached 15 years of age, but membership of an association is not limited by any age requirement. Therefore, the Act also secures the right of a child to join an association for ideological purposes. Every member of an association who has reached 15 years of age has the right to vote in the meetings of the association, unless otherwise provided by the rules of procedure of the association.

215. Provisions concerning the use of the freedom of assembly, provided in the Constitution of Finland, are secured by a separate Assembly Act (530/1999), which also includes the necessary provisions related to public order when public meetings are arranged. Public meetings may be arranged by private persons with full legal capacity (18 years). A person who has attained 15 years of age may arrange a public meeting if he or she is capable of fulfilling the requirements imposed by law on the organizer, such as maintenance of order. A person who has not attained 15 years of age can arrange a public meeting in cooperation with a person with full legal capacity. Everyone has the right to participate in a public meeting irrespective of his or her age.

#### **F. Protection of privacy (art. 16)**

216. Protection of privacy is secured by the Constitution of Finland. According to the Constitution, everyone's private life, honour and sanctity of the home are guaranteed. Protection of privacy is based on the principle that private individuals have the right to lead a life of their own without arbitrary or groundless involvement by the authorities or other parties in their private lives. The elements of private life include, for example, an individual's right to freely enter into and maintain relationships with other people and the environment, and the right to make decisions concerning him/ or herself and his or her body.<sup>32</sup>

217. Protection of personal data falls within the framework of the protection of privacy secured by the Constitution of Finland. Provisions on the protection of personal data are laid down in a separate Act (Personal Data Act, 523/1999). An Act (565/1999) and Decree (723/1999) have been enacted for the protection of privacy and data security in telecommunications.

218. *Data security.* The protection of privacy stipulated in article 16 of the Convention on the Rights of the Child is reinforced by a new Act on Data Protection in Working Life (477/2001). The Act covers all employees, including young employees who are under 18 years of age. The Act, which entered into force in 2001, seeks to implement the protection of private life and other basic rights safeguarding privacy in working life, and to promote the development of and compliance with good data-processing practice. The provisions of the Act apply to employees, civil servants and job applicants, and the Act complements the Personal Data Act (523/1999).

219. In accordance with the Data Protection Act, an employer is allowed to process only such personal data as is directly necessary from the point of view of the employment relationship, which concern the management of the rights and obligations of the parties to the employment relationship or the benefits provided by the employer for the employee, or which arise from the special nature of the employee's duties. No exceptions can be made to this provision even with the employee's consent.

220. The Act has also expanded the scope of issues to be dealt with in collaboration between the employer and the employee, including collection of information at the start and during the employment relationship, and matters relating to the technical monitoring of the employee and of his or her use of the information network and electronic mail. The requirement of necessity must be respected also in the cooperation procedure. A brochure entitled *Data Protection in Working Life* is appended to this report.<sup>33</sup>

221. Provisions related to data and communications offences are recorded in the Penal Code (578/1995, chap. 38). A punishment has been enacted for, inter alia, violation of a secrecy obligation, that is such violations as opening a letter or other closed communication addressed to another person with a view to obtaining information. The provision also applies to the violation of secret communications addressed to minors. After the reform, a provision was added to the Guardianship Services Act (442/1999), according to which a guardian is entitled to open such letters addressed to his or her ward that can, on the basis of the sender's name or other specific circumstances, be expected to concern a matter that the guardian should know. As a rule, the inviolability of the secrecy of communications addressed to a minor applies also to a violation by the parents.

222. The protection of the privacy of a child with disabilities may be threatened in many ways. Disability organizations have emphasized that, as concerns the protection of privacy, children with disabilities must be secured an equal treatment in relation to other children in spite of their need of assistance. Children with disabilities should be protected from any possible overprotection and excess assistance from the part of their parents. The idea of the use of personal assistants, for example, is to support a child with disabilities to make full use of his or her potential and not make him or her dependent on the personal assistant. Children with disabilities must also be allowed to test their limits and to experience both success and failure.

#### **G. Access to information (art. 17)**

223. *Information and communication technologies (ICT)*. Finnish children lead their daily lives in the information society and are very skilled in the use of ICT. Schools invested in the information technology in the late 1990s, and households also bought computers for private use. Today, nearly all children and young people in Finland have access to the computer, as required, at school, at home or in a public library, for example.<sup>34</sup> Electronic literacy (e-literacy) and enhanced education of communication skills are in all respects becoming of paramount importance.

224. Prevention of the development of a digital divide requires that all groups in society, including children, have access to the new media. The safe use of the content services calls for effective self-regulation from the part of the service providers and suppliers at both the national and international levels. As required, the activities are intensified by means of cooperation with the authorities.

225. *Viewing the TV*. All four national television broadcasting companies have programmes for children. The Finnish Broadcasting Company Ltd. (YLE) has concentrated all its children's programmes to be broadcasted on Channel 2, and, for example, television news and children's programmes are not sent one after the other at weekends. YLE Channel 1 is responsible for programmes for young people and young adolescents. The Swedish programmes constitute a separate line of activities in YLE. The Swedish *Finlands Svenska Television* broadcasts programmes for children and young people in Swedish. The commercial television broadcasting companies MTV3 and Channel Four broadcast programmes to both children and young people. Of the total supply of television programmes, YLE Channel 1 broadcasts the highest number of programmes for children (in 2000, children's programmes represented 9 per cent of the total supply, amounting to 11.1 hours a week).

226. The time used for watching TV on an average day in various age groups (watching videos is not included) is as follows:

| Age group      | 2002        | 2001        |
|----------------|-------------|-------------|
| 4 to 9 years   | 68 minutes  | 72 minutes  |
| 10 to 14 years | 100 minutes | 97 minutes  |
| 15 to 24 years | 115 minutes | 108 minutes |

*Source:* Finnpanel Oy (27 March 2003).

227. The Finnish Broadcasting Company YLE is a public service provider. The company is responsible for the full provision of television and radio broadcasting services, including related supplementary and additional services, for all citizens under equal conditions (legislative amendment 492/2002). An amendment enforced at the beginning of 1999 (746/1998) lays down provisions according to which the Finnish- and Swedish-speaking citizens must be treated on equal grounds and services must be produced in the Sami, Romani and sign languages, and broadcasting services must be provided, as appropriate, also to other language groups in the country.

228. A new Act on the Classification of Audio-visual Programmes (775/2000) took effect at the beginning of 2001. The Act provides for the inspection and classification of audio-visual programmes and, for example, for programmes that are harmful to children's development.

229. *Programmes with an adverse effect on children.* In the Act on Television and Radio Operations (744/1998), provisions are laid down on television and radio programmes and advertising directed at minors. The legislation protects minors from harmful programmes and advertising. Programmes that contain violence, sex and horror, and are unsuitable for minor viewers must be broadcasted at such times of the day when children do not normally watch television (legislative amendment 778/2000). In addition, programmes that are inappropriate for children must be labelled as such prior to the start of the programme. The Finnish Communication Regulatory Authority (FICORA) supervises television and radio broadcasting in Finland.

230. Minors are also protected in respect of television and radio advertising. Children must not be urged to buy products or services taking advantage of the fact that they are inexperienced or credulous. A child's trust must not be exploited, and the advertiser must not unreasonably show children in dangerous situations. Provisions on television and radio advertising are laid down in the Act on Television and Radio Operations.

231. The Consumer Ombudsman supervises compliance with the regulations pertaining to advertising and, to complement the legislative guidelines, issues instructions to advertisers. In accordance with these instructions, broadcasters must devote special attention to television and radio advertisements directed at children (a child is defined as a person between 2 and 14 years old). The instructions emphasize that an adequately clear distinction must be made between advertisements and other programmes, because a child is not necessarily capable of understanding the difference between advertisements and actual programmes.

232. *Violence and pornography in the media and advertising.* There has been much public discussion recently about the increasing display of pornographic material in the media and advertising, which shapes the general picture of women and men and offers harmful role models for boys and especially young girls. The media often represents girls as passive sex objects and persons who take an active initiative. NGOs have appealed to the authorities to take action on the issue, because advertising often communicates a picture that is sexually discriminating.

233. According to the Government programme of Prime Minister Matti Vanhanen of 24 June 2003, an Action Plan will be drawn up to combat violent entertainment targeted at children. In May 2003, the Minister of Cultural Affairs, Tanja Karpela, invited 30 representatives of the media, the authorities and child welfare professionals to discuss ways to reduce violent entertainment. The discussion focused on the present state of the content of the media from the point of view of the protection of minors and on the practical problems and problematic situations. Responsibility for the use of the media by children and young people falls on families and other carers. Media education at school is probably the most effective way outside the home to combat the impacts of harmful media contents.

234. *Children as users of library services.* By international standards, Finland maintains a high-quality and effective municipal library service. The first public libraries were founded in Finland 200 years ago. The library network serves the Finns rather well, even though some parts of the country are sparsely populated; today, every Finnish municipality has a public library. Public libraries are maintained by the local authorities and financing is taken care of jointly by the local and government authorities. In 2002, the expenses per inhabitant on libraries were an average of 43.35 euros. Access to public libraries and lending of material are free.

235. Public libraries operate in nearly 1,000 different locations. On top of that, municipalities have a total of 197 mobile libraries with as many as 16,000 stops. Thanks to the dense service network, children have easy access to libraries. Finnish libraries are so-called family libraries, where services for both children and adults are available in the same premises and the different departments are often separated only by means of pieces of furniture. The Finns are active users of libraries. More than 90 per cent of children under 15 years of age visit libraries. Of young people aged 15 to 19, 81 per cent visit a library at least five times a year.

236. In the libraries' collections, 10 million items (28 per cent) are children's or youth literature. To ensure that the collections are interesting and that the most recent editions are available, about 600,000 new items are purchased annually to complement the children's and youth literature shelves. This represents 36 per cent of the total number of acquisitions. As concerns lending, items belonging to children's and youth literature account for 38 per cent of the total lending, representing about 30 million items. In addition to books, libraries have a large supply of other items such as magazines, music and other recordings, videos, CD-ROMs and DVDs. All Finnish public libraries have access to the Internet and, as a rule, the use of the Internet in a library is free of charge.

237. Finnish public libraries maintain a joint portal.<sup>35</sup> The front page gives direct access to the children's pages from where visitors can go to the pages of many other libraries' pages targeted at children and young people, to suggestions for reading, to book catalogues and literature pages, to pages where visitors are advised on the use of libraries, to the *Ask the Librarian* - service, to children's link library and pages meant to serve librarians and teachers.

238. Public libraries arrange regular story-telling hours for small children. Some libraries also organize puppet theatre and film presentations, visits by writers, fairy tale and painting sessions and various kinds of exhibitions. In the past years, the libraries have especially invested in book talks. Also in Finland, reading competes with the other hobbies that children have. To strengthen children's reading skills and interest in reading, book talks has been adopted as a tool to make reading an interesting and appreciated hobby also today.

239. In Finland, libraries have always worked in close cooperation with schools. About half of the public libraries and 80 per cent of the mobile library stops are located in the immediate vicinity of schools and different educational institutions. Libraries help people become friendly with all kinds of reading, contribute to improved e-literacy and encourage reading in general. Together with schools, libraries teach information retrieval skills and give advice on how to seek and assess information.

240. *Access to information in the minority languages.* In their collections and services, libraries also take into account the special cultural and linguistic needs of the national linguistic minorities and the foreign population. Children of minorities have access to all public information services. However, as concerns minority groups, such as the Roma, only little material in their native language is available. For example, radio or television programmes are not broadcasted for children in Romani. The National Board of Education has developed material for the Roma population primarily for educational purposes. A first-reader workbook in Romani, together with supportive material for the teacher, is being prepared.<sup>36</sup> A new version of a cassette and song booklet of Romani songs for children (*Romanilapset laulavat, 1997*) will soon be published, entitled *Behaven ta dzamben*.

241. The situation is slightly better for the Sami. The Sami Radio (YLE) has broadcasted programmes since 1947, with some 2,000 hours of radio programmes a year in three different Sami dialects, North Sami, Inari Sami and Skolt Sami, in their own channels in the north of Finland. Some of the programmes are produced in cooperation with the Norwegian and Swedish Sami Radios. The Sami Radio launched a new project in the spring 2002, which involves production of children's programmes in the Sami language. The Sami Radio also produces Internet services in Sami.

242. The Library Act (904/1998) provides that in the municipalities of the Sami home area, the needs of both the Sami and Finnish language groups shall be taken into consideration on equal grounds. The Lappi provincial library has been assigned to serve as the special Sami library in Finland (Ministry of Education 1990, 633/252/88). The special library has to maintain a collection of materials and take care of a Sami database in Finland, to participate in international cooperation in the domain of interest, to manage an information service on issues related to the Sami, and to support the operation of municipal libraries in the Sami home area. The Ministry of Education grants an annual special appropriation for the activities, which covers approximately half of the total expenditure. The rest is taken care of by the city of Rovaniemi. The municipal libraries seek to make their services available to all without discrimination.

Library acquisitions in Sami have proved to be a problem compared with acquisitions in the main language, however, because there is no Sami network of bookshops in Finland. At least all literature and audio-visual material that has been produced in Finland is purchased by the collections.

243. *Support to a hotline contributing to child welfare.* In spring 2003, the Ministry of Transport and Communications granted 25,000 euros to the Northern Hotline project *Nettivilje* of Save the Children Finland. The Northern Hotline operates on the organization's web site, where anyone who finds child pornography or such other material on the Internet detrimental to the development of children can pass on the information on the web site of the organization. The project also involves training and campaigns organized to promote a safe use of the Internet.

244. *Children and the information society.* The Information Society Institute of the University of Tampere approaches the position of children in Finnish society from the point of view of different disciplines in a research project entitled *Children and the Information Society*. The project addresses children as actors in the information society and produces multidisciplinary information about children's thoughts and activities in the information society. This large-scale research project is scheduled to take place in the years 2001-2003.

245. *Coordination of production of data on children.* Monitoring and coordination of the policy on children require increasingly intensive investments in the generation of knowledge and research. At the moment, regular data is produced only on the number of non-institutional care units, child custody cases, placements outside the child's home, and school health care (Stakes). Statistics on non-institutional care units, custody cases and placements, however, measure only the quantitative development and do not tell anything about the actual reasons and problems behind the growing figures.

246. Research on childhood, child welfare and parenting is carried out in Finland by different organizations and many universities. However, child organizations have criticized the fact that the findings of research cannot be made use of to an adequate extent in child political planning and decision-making because there is not a body or party that would coordinate or assess or make political conclusions on the basis of the research that has been conducted. The Central Union for Child Welfare has decided to focus on the coordination of information about the child in the future.

#### **H. The right not to be subjected to torture or other form of cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

247. Finland does not accept torture in any form. Prohibition of torture is absolute and no exceptions to this prohibition are possible in any circumstances. In accordance with the Constitution of Finland, no one may be sentenced to death, tortured or otherwise treated in a manner violating human dignity. Capital punishment in times of peace was removed from the Finnish penal system in 1949 (Act 728/1949) and totally in 1972 (Act 343/1972). The prohibition of treatment violating human dignity applies to both physical and mental treatment.



248. According to the Constitution of Finland, a foreigner may not be deported, extradited or returned to another country if in consequence thereto he/she would risk capital punishment, torture or other treatment violating human dignity. The Aliens Act takes into account the prohibition of torture and other cruel and inhuman treatment in the provisions relating to refusal of entry into Finland and deportation from the country (legislative amendment 537/1999). A foreigner who seeks entry into Finland cannot be turned back at the border, and a foreigner residing in Finland cannot be deported to an area where he or she may become subjected to inhuman treatment or persecution or to an area from where he or she might be sent to such an area.

249. The Child Custody and Right of Access Act (361/1983) provides that a child shall not be subdued, corporally punished or otherwise humiliated. When Finland prohibited the corporal punishment of children by an Act in the early 1980s, it was one of the first countries to do so.

250. The Government of Finland considers it important that the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment be enforced as soon as possible.

251. Finland has helped child victims of torture, for example, through international development cooperation and cooperation with neighbouring countries by improving the position of street children, who are particularly vulnerable to poor treatment.

## **V. FAMILY ENVIRONMENT AND EXTRA-FAMILIAL CARE**

### **A. Parental guidance (art. 5)**

252. The Child Custody and Right of Access Act (361/1983) provides that the parents and other legal guardians of a child shall have both the right and the duty to take care of the child. The parent or legal guardian shall take care of, educate and supervise the child. Even if the principal decision-making authority in issues concerning the child has been entrusted to the parent or legal guardian, he or she shall discuss with the child before making a decision, if possible, taking into account the age and level of development of the child and the nature of the matter. The parent or legal guardian, therefore, has to take the child's views and wishes into consideration.

253. Local authorities must make sure that the development of the municipal social welfare and health-care services, provision of education and other services for children, young people and families with children support parents and legal guardians in the performance of their child-rearing responsibilities.

### **B. Parental responsibilities (art. 18, paras. 1 and 2)**

254. In accordance with the Constitution of Finland, the public authorities must support families and others responsible for providing for children so that they have the capacity to ensure the well-being and individual development of the child.

255. Parents have the principal responsibility for the upbringing and balanced development of the child. During the past few years, there has been much discussion in Finland about parents' "inability to bring up children", a phenomenon noticed by childcare professionals in their work.

Research has not provided evidence that would support this view. However, parents in Finland today discharge their parental responsibilities very much on their own and have to try and find a balance between the conflicting pressures arising from family and work.

256. There is an obvious demand in Finnish society today for support services for parenting and development of family skills. It is important to upgrade the provision of such basic services as maternity and child clinics to correspond to present day needs and to support couples and partners, parenting and paternity. For more information about health-care clinics, see chapter VI, section B.

257. Improvement of the position of families with children continues to be one of the major challenges facing Finnish society. Due to the growing demands of working life, parents often find reconciliation of work and family life a struggle that hangs in the balance. In Finland, the majority of working mothers and fathers work full time, and the proportion of working women has traditionally been very high. Work is full of challenges and it takes away time and attention from the family, which is why the well-being of families and especially children may suffer. Many Finnish children and young people miss the presence of an adult in their daily life. Insecurity has been said to be the reason for the growing incidence of mental health problems among Finnish children and young people.

258. Parents' unemployment, occupational employment and the requirements of intensive and hectic work also reflect in family life. The opportunity of reconciling work and family life is a central factor in efforts to support parenting. Problems related to the reconciliation of work and family life cannot be solved by means of legislative measures only. Working communities must take on commitments and make value-based changes and decisions, and parents are required to manifest greater capabilities and preparedness to bring about equality both in family life and on the labour market. Men's opportunities for parenting must be strengthened because, from the point of view of the child, it is a key issue in efforts to reconcile work and family life.

### **C. Separation of a child from the parents (art. 9)**

259. *Recommendation.* The Committee has expressed its deep concern at the fact that the net income of families with children has considerably decreased as a result of the high unemployment rate and budgetary measures that have led to the lowering of benefits for children. The Committee has recommended that Finland allocate more funds to families with children and develop effective measures to provide those families with appropriate support in order to avoid, among other things, placement of children in foster care or institutions (*recommendation No. 34*).

260. The State Budget for 2003 includes an allocation of 15 million euros to municipalities and federations of municipalities to be used as a discretionary government transfer covering expenses arising from services targeted at children and young people who run the risk of becoming socially excluded. The transfer is meant to strengthen cooperation between networks supporting children's development and families' well-being and to improve multiprofessional cooperation in municipalities. The transfer is based on the Government report to Parliament submitted in April 2002 concerning the well-being of children and young people. More detailed grounds for the transfer are given by a Government decree, submitted on 30 January 2003, effective as of 17 February 2003.

261. The Government transfer is not meant to finance existing activities but to upgrade and develop new activities. It is specifically designed to support cooperation between family welfare networks and various professionals engaged in work for the benefit of children and young people. The focal areas include maternity and child welfare clinics, and child and family guidance work, arrangements related to the care and education of children who need special support in day care, promotion of early intervention, and other measures to combat social exclusion.

262. *Recommendation.* The Committee on the Rights of the Child has noted with concern that the number of children placed outside the home has grown in the past years in Finland. The Committee has recommended that Finland take all necessary measures to ensure that placement of children outside their family only occurs when it is evidently in the best interests of the child and for the shortest period possible (*recommendation No. 36*).

263. The number of children placed outside their families grew in Finland throughout the 1990s. While the number of children placed outside their families was 8,724 in 1991, the figure had soared as high as 12,224 in 1999. The same trend has continued, and in 2001 the number was 13,453. Of the children placed outside their families, 7,396 were taken into custody, and of them 1,332 against the child's own will. The rest had been placed as a non-institutional support measure. In 2001, as many as 3,955 new placements were made, of which 1,293 were related to custody.

264. The economic depression of the 1990s in Finland seems to affect the child welfare service with delay. The longer the parents have been unemployed, the harder the financial situation of the family is and the more mental health and intoxicant problems exist. The great number of children in custody who have been placed in extra-familial care is also influenced by the fact that extra-familial care tends to last longer because of the seriousness of the problems that children and families have.

265. Child welfare should focus on preventive measures and non-institutional care. One of the objectives set in the National Target and Action Plan for Social Welfare and Health Care for the years 2000-2003 adopted by the Government is the promotion of health and welfare of children and young people and prevention of social exclusion. The programme calls attention to preventive measures in particular. The Target and Action Plan also emphasizes such issues as the need for resources for the psychiatric treatment of minor children.

266. Measures to take a child into custody must not be taken before it has been confirmed that custody is the alternative that best secures the child's development. It is important to consider if there were any non-institutional support services available that might be successful or if the family and the social or other support network of the family had any resources that had not been exhausted. Preparation of custody must be linked to an adequate level of expertise, and the preparative work should always take place in cooperation with the child, his or her family and the parties working with them, such as health care, school, day-care professionals and the police. The wishes of the child and the parents or legal guardians must be clarified and they must also otherwise be invited to take part in the treatment of the matter.

267. As a non-institutional support measure, a care arrangement in a family can be made or in a residential institution in cooperation with the parents, legal guardians or person who takes responsibility for the care and upbringing of the child. A child who has reached 12 years of age can be placed outside the family as a non-institutional measure provided that he or she requests it or consents to the arrangement. A child who is under 12 years of age can be placed in this manner to foster care or residential care for a maximum of three months in case the care of the child cannot be otherwise organized on account of the illness of the parent or legal guardian or for some other reason. The placement can be extended to a maximum of three months if a special reason is provided. When a child is placed outside the family as a non-institutional support measure, the placement is always based on the consent of the parties involved, and the placement must be discontinued without delay if, for example, the parents or legal guardians of the child or the child itself requests it. In order to make such a decision, the child has to be 12 years of age or older.

268. Whenever a child is placed outside the family, the objective should be his or her return to live with his or her family, if possible, and as soon as possible. The social welfare authorities should always try to contribute to favourable preconditions for the child's return. It is also important that the child can use the right, granted to him or her by virtue of the Child Welfare Act, to keep in touch with his or her parents and other close persons while in extra-familial care. In accordance with the provisions concerning child welfare, restrictions on contacts can apply only for a limited period of time, and the restriction must be grounded on statutory and weighty reasons. While the child is in extra-familial care, support should be given also to the parents by, for example, organizing support services and, if required, rehabilitation. Parents must also be encouraged to keep in touch with their child and the contacts must be supported.

269. In accordance with the Child Welfare Act, the local Social Welfare Board shall discontinue the placement in custody as soon as it appears that there are no more grounds for custody and extra-familial care, unless ending the placement would clearly be in conflict with the best interests of the child. When the best interests of the child are considered, attention should be paid to the length of the extra-familial care, the nature of the relationship between the child and the person responsible for the extra-familial care, and the contacts between the child and his or her parents. Custody always ends with the child reaching 18 years of age or getting married. When decision is made concerning termination of a custody order, the child shall be interviewed to find out about his or her own wishes. It is also important to find out if the child has retained adequately good relations with his or her biological family to ensure that the return would be a positive change. The child should also be offered the opportunity of keeping in contact with the extra-familial care provider.

270. As has been noted above, the difficulties that families wrestle with have become more serious and complicated over the past few years, and parents are not always able to bring about adequate changes to improve their situation within a short period of time. There is sometimes no other option but to accept the fact that the parents do not get rid of their difficulties and the child must stay in extra-familial care until he or she reaches majority.

271. Placement outside the home should ensure the child stable and secure conditions and permanent relationships. Situations where a child has to move several times to extra-familial care and back to the family, depending on how well the parents are capable of looking after him or her, should be avoided. Research has found this kind of “ball game, back and forth” especially harmful for the child.

272. Stakes has published a booklet entitled *Huostaanotto. Lastensuojelun asiantuntijaryhmän suositus huostaanotto prosessin laatua ohjaaviksi yleisiksi periaatteiksi* (Taking a child into custody. Recommendation by a group of experts for the general principles governing the quality of the process.) This is a detailed review of the process of taking a child into custody and includes instruction on such issues as what has to be taken into account in the different phases of the process.

273. The child’s position in the social welfare has been improved, as has been described earlier in this report, through the Act on the Status and Rights of Social Welfare Clients (812/2000).

274. *Decisions by the Parliamentary Ombudsman.* The Parliamentary Ombudsman, Riitta-Leena Paunio, has called attention to the right of a child separated from his or her parents to maintain a personal relationship and direct contacts with both parents. In her decision<sup>37</sup> on the materialization of some of the fundamental rights of children placed in community homes, the Parliamentary Ombudsman said that very treatment-intensive placements (such as crisis stabilization or 24-hour on-site interventions) can, depending on their length and intensity, mean interference in the child’s personal liberty referred to in the Constitution, or in the family life between the child and his or her parents. The Parliamentary Ombudsman was of the opinion that whenever these rights of the child are interfered with by means of treatment, a decision should be made on the matter, which is subject to appeal. The decision should make it explicit that the care is temporary and justified.

275. *Equalization of the high expenses of child welfare.* Based on an amendment of the Child Welfare Act, which entered into force on 1 March 1999, each municipality is to introduce an equalization system that was set up to provide for the high costs arising from child welfare services. The objective of the system is to level off the economic burden caused by the provision of child welfare services on local authorities, and to channel resources so that child welfare clients receive appropriate and well-timed services. The equalization system makes municipalities entitled to a compensation of 70 per cent of the expenses that are caused by child welfare measures recorded in the child’s care plan and exceed 25,000 euros a year per family (limit of a municipality’s co-payment) as from the date of the first care plan. A federation of municipalities responsible for an equalization system may decide that the municipal co-payment is lower than that specified above or that the municipality be reimbursed more than 70 per cent of the expenses exceeding the amount of the co-payment. The Government participates in the financing of the funding by contributing half of the estimated total amount of the equalization. Municipalities take on responsibility for the rest of the compensation. The development of the equalization system has been monitored by means of an annual special survey.

276. The Ministry of Social Affairs and Health is preparing a legislative amendment to the child welfare legislation. The reform is explained in chapter I, section A, above.

#### D. Family reunification (art. 10)

277. *Recommendation.* As concerns unaccompanied children seeking asylum, the Committee was concerned about the delays in the processing of family reunification applications and encouraged Finland to shorten the application procedures (*recommendation No. 38*).

278. *Family reunification in the valid Aliens Act.* In accordance with the Aliens Act, a child who has been granted a residence permit based on refugee status or the need for protection shall be entitled to family reunification without guaranteed means of support, provided that the other conditions of the provision are met. If the child does not get asylum or a residence permit based on the need for protection, the situation is different. In that case the child is often granted a residence permit based on the principle of equity. Situations like this do not prevent the possibility that the child's family be reunified in the country of origin. It is important that the situation in the child's country of origin and the parents' circumstances are investigated as thoroughly as possible. If the return of the child to his or her parents turns out to be impossible, the family can be reunified in Finland as soon as the precondition of guaranteed means of support is met or, at the latest, when the family is entitled to a permanent residence permit.

279. Application for a residence permit based on a family tie is made by a person without a permit. The Aliens Act has expanded the right to lodge an application, and now a person who has legal residence in Finland (a sponsor, that is, a third-country national residing lawfully in a Member State and applying or whose family members apply for family reunification to be joined with him/her) has the right to lodge an application for a residence permit. Before a decision is made, both the applicant and the sponsor are heard about their wish to continue life as a family in Finland and about other aspects that may call for clarification. If the Directorate of Immigration considers that the account of the family ties is not satisfactory, it can direct the party to a DNA test. It is important from the child's point of view that the reunification process leads to his or her return to the parents' care.

280. In 2002, only a few of the unaccompanied minor asylum-seekers who arrived in Finland have, to date, lodged an application to get a residence permit for their parents. More than 30 applications lodged prior to the year 2002 were still pending at the end of 2002. The majority of them are being dealt with in the America-Africa Division of the Directorate of Immigration. An application is pending until the interested parties have been heard and the matter is clear enough. The responsibility for the arrangement of hearings and investigations is shared between three authorities: the local police, the Directorate of Immigration, and Finnish missions abroad. In 2001, processing of applications for a residence permit based on a family tie took an average of six to eight months in all.

281. *Family reunification in the Government Bill for a new Aliens Act.* The Government Bill<sup>38</sup> for a new Aliens Act was submitted to Parliament in January 2003. However, Parliament did not have time to adopt the Bill, which is why it expired with the parliamentary elections of

March 2003. In the preliminary debate in Parliament, one topic of discussion was family reunification of unaccompanied minor asylum-seekers. A Government Bill was submitted to Parliament a second time on 13 June 2003.<sup>39</sup>

282. In the Government Bill, no amendment is proposed to the substantive content of the provisions concerning a child receiving international protection and his or her family members. In accordance with the Bill, the parents of a child in need of international protection can be taken to Finland even if the requirement of guaranteed means of support is not met. It has also been proposed that the provision according to which family ties is to be understood to represent an undivided entity, that is, family ties is considered to lead the family to a third country, should be preserved. Provided that the child did not need international protection, he or she could, instead, be granted a residence permit for a personal human reason. As concerns a family member, the precondition of guaranteed means of support would remain valid, but derogation would be possible. This would open up opportunities for the parents of a minor to receive a right of entry into Finland more easily than takes place today. The Government Bill seeks to find a balanced solution to the provision by safeguarding, as far as possible, the status of an individual child without ignoring the pull that such a measure as an automatic reunification in Finland could have.

283. *Decisions by the Parliamentary Ombudsman.* Decisions by the Parliamentary Ombudsman and the Deputy Parliamentary Ombudsman which concern the materialization of the rights of children who have arrived in Finland as unaccompanied minor asylum-seekers and who have obtained a residence permit based on an application for asylum, are analysed in chapter VIII, section A, on refugee children.

284. *Judgements by the European Court of Human Rights.* In some cases concerning the taking of a child into custody and placement in extra-familial care, complaints have been lodged with the European Court of Human Rights concerning family reunification and parents' rights to visit their children while the children are in extra-familial care. The Court has not found offences in respect of actual cases of custody. However, in the case *K. and T. v. Finland*,<sup>40</sup> the Grand Chamber of the European Court of Human Rights stated that a child's admission into custody and, in the Court's opinion, inadequate action on the part of the authorities concerning possible reunification of the child's family, violated article 8 of the European Convention on Human Rights (Treaty Series 439/1990). A similar violation was found in the case *K.A. v. Finland*.<sup>41</sup>

#### **E. Illicit transfer and non-return (art. 11)**

285. Finland is a contracting party to international conventions concluded on child abductions: the Hague Convention on the Civil Aspects of International Child Abduction (Treaty Series 57/1994) and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg Convention) (Treaty Series 56/1994).

286. In Finland, the Ministry of Justice is the central authority in charge of issues related to the aforementioned Conventions. As concerns cases where a child has been abducted to a State that is not a contracting party to one of the aforementioned Conventions, the competent authority is the Finnish Ministry for Foreign Affairs.

287. The new Consular Services Act (498/1999), which took effect in December 1999, specifically provides for consular services aiming at the return of the child. The Finnish diplomatic missions abroad can, based on the Consular Services Act, contribute to:

- The achievement of an amicable agreement by, for example, making and keeping in contact with the parent that has abducted the child and with the child;
- Investigations concerning the whereabouts and conditions of the child;
- Finding a legal adviser and legal assistance, based on the local legislation, for example by providing a list of local lawyers;
- Access to general information on the law of the State concerned, as appropriate;
- Transmission of relevant information and documents to the authorities and the legal adviser who is in charge of the matter;
- The practical arrangements related to the repatriation of the child.

288. Assistance can be given also in case of abduction between two foreign countries, provided that the provisions of the Consular Services Act are observed.

289. In 2002, there were 16 pending child abduction cases (to States that are not contracting parties to international child abduction conventions), involving a total of 21 children. The Russian Federation was the State with the highest number of abducted children. One reason for this is the increase of Russian-Finnish marriages in the past decades. The number of child abductions is expected to continue to grow.

290. Finland endeavours to promote dialogue with non-parties to the Hague Convention with a view to preventing and handling child abductions and makes every effort to try and cooperate with the other EU member States on this issue.

291. The Ministry for Foreign Affairs, the Ministry of Justice, the Ministry of Social Affairs and Health, and parents of abducted children have founded an association, the Association for Abducted Children (Kaapatut Lapset ry), and jointly prepared a brochure on international child abductions. The brochure was published in December 1999 and is meant to be both a set of first-hand instructions to parents and a guide for the authorities dealing with international child abductions. The topics of the brochure include provisions related to child abductions, the content of the Hague Convention and measures taken by the authorities in charge of cases concerning child abductions. The brochure can be requested from the Ministry of Justice. A link to the brochure can also be found on the web site of the Ministry of Justice,<sup>42</sup> and further information on international child abductions can be accessed on the web site of the Ministry for Foreign Affairs.<sup>43</sup>



**F. Ensuring maintenance payments for the child (art. 27, para. 4)**

292. The new Security of Child Maintenance Act (671/1998) took effect at the beginning of 1999. The Act secures the maintenance of children living in Finland who are under 18 years of age.

293. *Recovery qualifications.* Whenever maintenance is based on a maintenance order issued by decision of a court of law or based on confirmation by a Social Welfare Board, it is subject to recovery. Maintenance can also be deducted from earnings and other similar income for five years. As concerns recovery of debts, maintenance payments take priority over other items. This special provision has been enacted to ensure a child the right to sufficient maintenance.

294. *Expiry.* The provision concerning the expiry of maintenance was amended in 1999 (Act on Child Maintenance, section 16c; 673/1998). Maintenance can be claimed for five years and the term cannot be terminated earlier. Maintenance debts expire sooner than other debts. In case a maintenance debt has expired, it cannot be claimed any more.

295. The One Parent Federation in Finland has considered that the amended provision concerning the expiry of child maintenance is unreasonable for single parent families and exacerbates their financial embarrassment. When outstanding maintenance payments expire after five years, children lose their opportunities to retroactively claim what is due to them.

296. *Maintenance.* If a person who is liable to provide maintenance for a child neglects payment or, for example, the paternity of the child has not been established, the child, based on the Security of Child Maintenance Act (671/1998), is entitled to receive maintenance from the municipality. Either the parent, legal guardian or guardian (a person representing the child and managing his or her affairs) of the child can claim the maintenance. Full maintenance for one child is 112.52 euros per calendar month from one person liable to provide maintenance. Maintenance can also be paid in smaller amounts. Municipalities recover the maintenance payments that they have paid from the person liable to provide maintenance.

297. Based on statistical data from Stakes, as many as 106,858 children received maintenance at the end of 2002.<sup>44</sup> The number of children receiving maintenance was slightly lower than at the time of the second periodic report. Last year (2002), maintenance grants amounted to a total of 144.1 million euros.

298. *Changes in the cost of living.* The amount of maintenance is raised or lowered based on changes up or down in the general cost of living. A separate law has been enacted to provide for the tying of maintenance to the cost of living (660/1966).

**G. Children deprived of the safety of a family (art. 20)**

299. *Care of a child who has been taken into custody.* A child has the right to a safe and inspiring living environment and a balanced and many-sided development, and to a priority status as regards special protection. The objective of child welfare is to secure that children have these rights. This takes place by means of influencing the general conditions where children are

raised, supporting parents and legal guardians in their duties and carrying out family-specific and individually targeted child welfare work. Family-specific and individually targeted child welfare work includes non-institutional support measures, custody, extra-familial care and after-care. The objective is to secure the child, in all conditions, such care as is provided for in the Child Custody and Right of Access Act.

300. The principal form of support is non-institutional measures. In 2001, a total of 49,610 children and young people were in non-institutional care. A child is taken into custody or extra-familial care only if the child's living environment constitutes a serious threat to his or her development or health, and the situation has not improved by means of non-institutional care.

301. When a child has been taken into the care of a municipal Social Welfare Board, the Board has the right to decide on the care, upbringing, supervision and other care and the child's place of residence. However, the Social Welfare Board must try to work in cooperation with the child's parents and other legal guardians. The Board and the head of the institution which has taken the child into custody decide about the nature of the contacts between the child and his or her parents and other close persons.

302. A child that has been taken into the custody of the Social Welfare Board can be placed in extra-familial care. This means care and upbringing of the child outside his or her home. Extra-familial care can be organized either in a family (foster care) or in an institution (residential care) or in some other place, as appropriate. Placement of a child who is under 12 years of age in a community home or other similar private child welfare institution must be carried out in cooperation with the child's parents or other legal guardians.

303. Extra-familial care must provide the child with such permanent and secure personal relationships as are important from the point of view of his or her development. The child has the right to meet his or her parents and other close persons and to keep in contact with them. The Social Welfare Board must support and contribute to the contacts between the child and his or her parents and the child and other persons that are close to him or her. Provided that it is in the best interests of the child, communication can also be limited on the basis of grounds that are specified in the Child Welfare Act.

304. After the end of extra-familial care, the Social Welfare Board is always under an obligation to arrange after-care for the child or young person. After-care supports the child or young person who has been in extra-familial care and his or her parents and legal guardians as well as the person who has been taking care of and brought up the child. Also foreign children who are for example waiting for a residence permit in Finland are entitled to child welfare by virtue of Finnish legislation.

#### **H. Adoption (art. 21)**

305. The Finnish legislation is based on the principle of so-called strong adoption, which means that the rights and duties of the biological parents towards the child are terminated and transferred to the adoptive parents. The child's legal bonds to the biological parents are also terminated by adoption, and he or she becomes a member of the adoptive family with the same rights as the biological children of the family.

306. The provisions related to adoption are included in the Adoption Act (153/1985) and the supplementary decree (508/1997). Adoption can be applied for by married partners jointly or by a single person, provided that the applicants/applicant are/is at least 25 years of age. Cohabiting partners cannot adopt a child together. Registered same-sex partners cannot adopt a child together. Neither is interfamily adoption possible in a family of same-sex partners. There is not any actual ceiling for the age of the applicant, but the adoptive parent should not be more than 45 years older than the adoptive child. Prospective adoptive parents must visit the municipal Social Welfare Board or a licensed Adoption Agency for adoption counselling.

307. In accordance with Finnish legislation, adoption cannot be confirmed if transfer of money is involved. International adoption agencies can collect a fee for their services.

308. *Intercountry adoptions.* Intercountry adoptions have become increasingly popular in Finland. As many as 200 children are adopted from abroad annually. Given the fact that all children born in Finland in need of adoptive parents can be adopted by Finnish families, Finland is only on the receiving side as concerns intercountry adoptions.

309. Finland ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in 1997 (Treaty Series 29/1997). Finland's national legislation complies with the provisions of this Convention. The Finnish Adoption Board, founded on the basis of the Hague Convention and operating under the authority of the Ministry of Social Affairs and Health, is the national central adoption authority. The tasks of the Board are specified in the Decree on the Finnish Board of Intercountry Adoption Affairs (509/1997).

310. The Adoption Act also includes provisions on intercountry adoptions. An intercountry adoption is conditional upon adoption counselling and an adoption permit from the aforementioned Adoption Board. The applicant pays the expenses arising from an intercountry adoption (service fee, travel expenses, translation of documents, etc.). Since 1 December 2002, the Finnish Social Insurance Institution KELA has given financial support to prospective intercountry adoptive parents.

311. Intercountry adoption service providers in Finland are:

- Helsinki Social Welfare Office, Family Affairs Office (contacts with Colombia, Thailand, Estonia, Cambodia);<sup>45</sup>
- Save the Children Finland (contacts with the Russian Federation, China, Thailand, Poland and the Philippines);<sup>46</sup>
- Interpedia ry (contacts with South Africa, Ethiopia, India, China and Thailand).<sup>47</sup>

312. Since 1998, families that have adopted a child from abroad, and children, young people and young adults who have been adopted from abroad have been able to contact an adoption counsellor or use a telephone counselling service.<sup>48</sup> The counsellor gives advice to help the client find a solution to possible problems related to adoption. Callers to the hotline can remain anonymous if they wish, and the conversation is confidential.

### **I. Periodic review of extra-familial care orders (art. 25)**

313. According to the Child Welfare Act and Decree, child welfare targeted at a family or an individual always requires a care plan, made for each specific case in cooperation with the parties involved. In the plan, the parties identify the things and issues that the measures are designed to influence, the tools to be used, and the time that will be used to bring about the desired effects. The care plan must state how often the plan becomes subject to revision.

314. As concerns a child who has been taken into custody or placed on the basis of a non-institutional support measure, the care plan must also record the purpose and objectives of the placement, any special support arrangements and assistance for the child and, for example, detailed information about the organization of cooperation and contacts between the child's parents and other close persons.

315. A child must be withdrawn from custody as soon as there is not any need for custody and extra-familial care.

### **J. Violence and neglect (art. 19) and physical and mental recovery and social reintegration (art. 39)**

316. In accordance with the Constitution of Finland, the public authorities must support families and others responsible for providing for children so that they have the ability to ensure the well-being and personal development of children. Promotion of well-being covers protection against violence, subordination and abuse.

317. When Finland enforced the Child Custody and Right of Access Act in 1984, it was the second country in the world to prohibit all forms of corporal punishment in the family. Even though legislation and, in principle, also public opinion are against domestic violence, it is still fairly common in Finland. Domestic violence occurs in all social groups and in all age groups, and both mothers and fathers have been found guilty of violence. Since 1995, domestic violence has been an offence subject to public prosecution, but outsiders very seldom step in. Statistical data on domestic violence are still based on estimates because the victims often remain silent about what has happened.

318. *Recommendation.* The Committee on the Rights of the Child has expressed its concern about the number of cases of violence against children in their homes, including sexual abuse. The Committee has also regretted the lack of information about this phenomenon. The Committee has recommended that Finland consider taking additional measures to prevent and, if the case be, to identify at an early stage instances of violence against children within families so as to be able to intervene at an early stage and to develop child-friendly preventive programmes and services for treatment and rehabilitation with personnel specially trained to work with children (*recommendation No. 40*).

319. Finland carried out a five-year campaign to prevent violence in 1997-2002. One of its key elements was prevention of domestic violence against children, and efforts were made to draw attention to the fact that it is also harmful for a child to be an eyewitness of an act of violence.

320. *Domestic violence that has come to the attention of the police.* In cases of domestic violence that has come to the attention of the police, the complainant has usually been a woman who has become a victim of abuse by her partner. In many cases, domestic violence takes place in a family with children, and these children have to live their childhood and youth in violent conditions. Some of these children become themselves victims of violence by their own parents or either parent's partner. In 2002, the police was alerted about 60,000 times to deal with cases of domestic violence. In as many as 53,000 cases, a police squad had to be sent to a scene of domestic violence. Of these, approximately 15,000 cases met the aforementioned criteria of domestic violence.

321. Only some of the cases to which police officers have been alerted are identified and filed in statistics as crimes. In 2002, for example, the police recorded 27,936 offences as assaults. These figures include all cases of assault that were reported to the police. Statistics of crime do not specify how many of the reported cases involve domestic violence.

322. *Information on the number of and expenses arising from domestic violence, based on research.* In 1998, a survey was made on the experiences of some 5,000 Finnish women becoming a target of violence by a man; the survey was entitled *Usko, toivo, hakkaus* ("Love, hope and battering").<sup>49</sup> According to the results of the survey, nearly every third Finnish woman has become a victim of physical violence at some phase after her fifteenth birthday. One out of five women reported experiences of violence or a threat of it in the relationship that they were in at the time of the survey.

323. During the past year, as many as 112,000 women had come across domestic violence, which had been physical in 90,000 of the cases. Only 10 per cent of the victims had reported the violence to the police and 12 per cent had sought assistance on domestic violence.

324. Even though domestic violence and violence in a close relationship occurs in all social groups, violence that takes place in the higher social groups rarely comes to the attention of the police, while police officers may be easily alerted to such families with problems as belong to the lower social categories. In the biggest cities and populated areas, there are families to which police offices are alerted even tens of times a year because of domestic violence.

325. Another survey was published in October 2000, entitled *Väkivallan hinta - Naisiin kohdistuvan väkivallan kustannukset Suomessa* ("The price of violence - expenses arising from violence against women in Finland").<sup>50</sup> It shows that in 1998, the direct expenses caused by violence against women to society were 49.7 million euros (296 million Finnish marks). The indirect expenses may have been even twice as high. An account of the expenses was made in respect of health care, social welfare services and the legal system. The expenses were the highest in the area of the administration of justice, where they rose to 26.6 million euros (158 million marks). The distribution of the expenses was as follows: police 6.2 million euros (37 million marks), sentencing the perpetrator in court 6.5 million euros (39 million marks) and imprisonment of the perpetrator 13.8 million euros (82 million marks).

326. As concerns expenses in the field of social services, the provision of sheltered homes, crisis services, social services and various kinds of therapies to women who had become victims of violence cost 14.8 million euros (88 million marks). Visits to a doctor and a hospital because of physical injuries caused by violence led to an expense of 3.4 million euros (20 million marks) in the health sector. Approximately the same amount of money had to be used on medicines.

327. Violence against women also causes indirect expenses in the form of lost life, deteriorated health and loss of productive output. Accurate calculations cannot be made, but it has been estimated that 60.5 to 111 million euros (360 to 660 million Finnish marks) are lost indirectly every year.

328. The perpetrator of violence against women is often a close person or spouse. A major part of the expenses arises from violence in a relationship. The survey does not specify all the expenses caused by domestic violence, because the focus was only on women who had become victims of violence. The expenses arising from violence experienced by children and other possible victims were not studied.

329. *Measures by the police to prevent violence.* The Supreme Police Command has drawn special attention to the prevention of domestic violence and violence against women by appointing a steering group to coordinate and develop the work and to prepare a plan of action. The plan of action has been completed.

330. In the basic education and training of future police officers, domestic violence is dealt with extensively. Domestic violence is discussed in basic police training in, for example, the module dealing with household emergencies, but also in law studies, psychology and criminology.

331. Most cases of domestic violence involve male violence against women. Police officers must be trained to recognize all the various forms of violence within families: the wife may also use violence against the husband, children against their parents, and vice versa.

332. In police training, domestic violence is defined as all forms of physical, sexual or psychological violence or threat of violence within a family, exercised by one member of the family towards another. Violent acts are committed against the will of the victim and cause suffering to him or her.

333. In the Basic Degree of Police Studies, domestic violence is studied both as an element of the aforementioned subjects and in connection with certain larger thematic entities. In the latter, domestic violence is dealt with as a phenomenon that can be prevented by means of the tools that are available. Assistance of the victim and official and voluntary work lay the preconditions for the authorities to investigate also offences that may involve much hidden crime. Of these, mental violence and sexual offences can be highlighted as offences targeted also against children. In the context of the module on violent criminality, domestic violence is a central theme. The themes of a course entitled *Lapsi esitutkinnassa* ("a child's role in pre-trial investigations"), designed for senior police officers, include the position of the child in a violent family, after-care, cooperation between the authorities, drugs and youth, the Convention on the Rights of the Child and incest.

334. *Police officers' in-service training.* In-service training related to domestic violence must be very practical and based on hands-on experience. The objective is to motivate police officers to adopt such an attitude towards cases of violence as helps them discharge their duties as well as possible, and stimulate their interest by illustrating the issue through grass-roots examples. Field squads are trained to deal with issues where they have to be capable of looking beyond the surface and, for example, recognize when a person assumes the role of the victim and see the real situation of the children that are involved. Children and the elderly always require special attention.

335. *Restraining order.* A working group at the Ministry of Justice has proposed extension of the Act on the Restraining Order (898/1998) to also include cases where the parties involved live together. A person on whom a domestic restraining order is imposed should move away from the common home for a fixed period of time, and he or she would not be entitled to contact the person who is protected. The objective is to protect the person who is likely to become a victim of violence before anything takes place. A domestic restraining order could protect not only the partner who lives at the same address but also the children living in the same household. The Ministry intends to submit a Government Bill to Parliament in autumn 2003, based on the proposals and the statements received on it.

336. *The authorities' role in case a child has become a victim of domestic violence.* In the context of the inspections carried out in 2003 by the Parliamentary Ombudsman, Riitta-Leena Paunio, special attention will be paid to the prevention of domestic violence and help directed at child victims of domestic violence. The Parliamentary Ombudsman will focus on the work of the social welfare and health authorities, education authorities, the police and the prosecutors, and also on the provisions and instructions that oblige them to cooperation.

337. *Children with disabilities and violence.* Children with disabilities find it especially difficult to defend themselves against assault or violence. A child with disabilities can be made to feel guilty because of his or her disabilities or he or she can be subjected to supremacy on grounds based on the disabilities. The Disability Forum has requested that an account be made on children with disabilities as victims of cases of domestic violence or sexual abuse.

## **VI. BASIC HEALTH CARE AND SOCIAL WELFARE**

### **A. Children with disabilities (art. 23)**

338. The development of services targeted at supporting children with disabilities and their families is one of the items recorded in the Government programme of Prime Minister Matti Vanhanen of 24 June 2003.

339. *Recommendation.* The Committee has recognized Finland's efforts to assure the rights of children with disabilities, but recommends that Finland continue its efforts to ensure equal support and assistance to families with chronically ill children and to provide them with the help of specialized staff (*recommendation No. 42*).

340. *Social exclusion.* The Cooperative Group of Associations of Parents of Children with a Chronic Illness or Disabilities (YTRY), operating under the administration of the Central Union for Child Welfare, says that families with children with multiple disabilities are the most

vulnerable to becoming socially marginalized. Other in-between groups include children who have not been diagnosed with an illness, because it may take even years to arrive at a definite diagnosis of a child's disability or illness. The present system of allowances is based primarily on medical diagnoses.

341. More attention should be devoted to the mental well-being of families with children with a chronic illness or disabilities than takes place today. Families get exhausted because of such reasons as lack of mental and financial support and inadequate home help or occasional assistance at home. Non-governmental organizations are unable to respond to all the occasional care needs of families. The situation is hard to control, partly because the relevant legislation is very complicated. About 17 different laws have been enacted that provide for the allowances and services for children and young people with a chronic illness or disabilities. There are about 40 different allowances and services. Different care, rehabilitation and service plans are made for children with disabilities, and the families themselves do not even always know about what is available. A complex application procedure is often complemented by a multi-tier complaint procedure, which the parents have to rely on to get the support and services that they are entitled to. The Central Union for Child Welfare has proposed that the dilemma could be solved by means of service coordination.

342. *A trial with case management and service coordination for children and young people with long-term illnesses or disabilities and their families 2001-2003.* The project offers a new tool to help children and young people with long-term illnesses or disabilities and their families to cope with their daily life. A case manager finds out about the needs of the family concerned in more detail than normally takes place in social welfare work and helps coordinate the various services that are required in the family. Case management is now being tested in various places in the country. Municipalities, primarily the local social service and health-care centre, and the office of the Finnish Social Insurance Institution Kela, but partly also central hospitals and education services and organizations, cooperate through the case manager in order to give the client (which refers to the whole family) a greater say in their own affairs and to improve the coordination of services provided.

343. The trial period will end in 2003 and an evaluation will be made in the autumn. After that, information about the various service coordination models will be disseminated to other municipalities in order to establish this new form of service.

344. *Deputy Parliamentary Ombudsman's decisions.* The Deputy Parliamentary Ombudsman, Riitta-Leena Paunio, took decisions<sup>51</sup> based on two complaints, in which she gives an assessment of the actual implementation of the right of children with disabilities to rehabilitation and basic education. Attention has also been directed to article 23 of the Convention on the Rights of the Child. The Deputy Parliamentary Ombudsman was of the opinion that the materialization of the rights of children with disabilities is not the responsibility of the parents or legal guardians only. She asked the authorities to pay attention to the preparation and monitoring of rehabilitation and education to make sure that they are carried out in compliance with the law. The Deputy Parliamentary Ombudsman considered that the public authorities could thus ascertain that the fundamental and human rights of the child are implemented as is provided in the Constitution of Finland.



345. *Community planning and traffic.* The promotion of barrier-free access in community planning and planning related to traffic and building of houses improves in many ways the quality of the life of children with disabilities. Accessibility has been one of the guiding principles governing the planning of buildings since 1973, supported by the provisions of the Land Use and Building Act and different regulations and sets of instructions. Today, children and young people with disabilities have an increasing number of opportunities for equal access to the built environment together with their families and legal guardians, and to different services from day care to educational institutions. The regulations and guidelines on barrier-free building from the year 1997 will be amended to correspond to the objectives set in the new Land Use and Building Act (132/1999) and to provide material for building engineers to be able to revise the former guidebook on barrier-free access.

#### **B. Health and health-care services (art. 24)**

346. *Recommendation.* The Committee on the Rights of the Child recommended that Finland ensure that children in all municipalities benefit to the same extent from the services provided by mother-and-child clinics (*recommendation No. 48*).

347. *Maternity and child clinics.* In 2003, a group of specialists appointed by the Ministry of Social Affairs prepared a handbook on the organization of services in municipal childcare clinics. The handbook is in two parts and designed to serve primarily the staff of clinics, their supervisors and municipal decision makers. Part I specifically targets decision makers and deals with proposals concerning the organization of multidisciplinary cooperation and the creation of preconditions for the operation of clinics. It also includes a summary of recommended measures. Part II is for persons engaged in daily work in clinics. The handbook is useful also for parties collaborating with clinics and for teachers and students who may want to consult the book in order to learn about the content of the work and the procedures used in clinics.

348. The Working Group's recommendations for further measures include preliminary suggestions for the upgrading of the statistical and information systems of child clinic activities. Other suggestions are also made, such as making children and young people one of the priority areas in the next government programme and in the National Target and Action Plan for Social Welfare and Health Care for the years 2004-2007, working out quality recommendations for child clinics, securing the position of health promotion and preventive work in the legislation, and strengthening of continued development and research of clinical activities.

349. *Clinics.* The national recommendations are meant to secure that municipalities offer families with children clinical services that are of an equal standard independent of the place and municipality of residence. The recommendations also cover issues related to adequate staffing, and provide municipalities with instructions concerning recruitment. Finnish legislation (the Public Health Act 66/1972) is premised upon municipal responsibility to provide for health-care services. In 2002, Parliament granted discretionary government transfers to municipalities to be used for the development of maternity and child clinic activities.

350. The usage rate of the services of mother-and-child clinics is high. In 2001, for example, 99.2 per cent of all the children born in 1997 used the free services of municipal clinics. As many as 92.5 per cent of the children born in that year had received all the vaccinations that they were scheduled to have based on the vaccination programme.

351. *Clinics for the Sami.* As concerns Sami children, maternity and child welfare clinics should take the child's linguistic and cultural background into consideration before it is born. The Sami Parliament has noted that parents should receive support and counselling prior to the birth of the child in, for example, bi- and multilingualism. It would be very important that child welfare clinics in the Sami Homeland hire staff members who can speak Sami, acquire written material on these issues in Sami, and take care that the staff members receive relevant training. The provision of such maternity and child welfare clinic services to Sami families with children and Sami children would require arrangement of services in their own language and recognition of their cultural background in the content of the services.

352. *School and student health care.* A handbook entitled *Kouluterveydenhuolto 2002*<sup>52</sup> ("School health-care survey 2002") has been made for school health-care professionals, comprehensive schools and municipalities. The handbook provides a review of the objectives, content and organization of health care in Finnish comprehensive schools and is primarily targeted at school health-care professionals. It seeks to convey an up-to-date picture of the present situation to the municipal decision makers and also support school health nurses and doctors in their often rather lonely work, to the benefit of the well-being of schoolchildren and school communities. School health care is an integral element of the school community and, to be successful, calls for cooperation with teachers.

353. A school health-care quality recommendation is under preparation. It is targeted at municipal elected officials and municipal decision makers.

354. According to a report made by the Ministry of Social Affairs and Health in 2002, the content and extent of student health-care services differ from one municipality to another. A set of guidelines for municipalities on student health-care services, prepared by the Ministry of Social Affairs and Health and the Ministry of Education, will be ready by the end of 2004.

355. *Children's nutrition.* Finnish mothers are motivated to breastfeed. According to a report prepared in 2000 nearly all newborn infants were breastfed when they left the maternity hospital. However, the mother's concept of breastfeeding does not always coincide with the actual experience, and Finland does not reach the breastfeeding objectives set by the World Health Organization (WHO). The report reveals that in 2000, every sixth infant was exclusively breastfed at the age of 4 months. About half of infants in Finland are breastfed until they are 6 months old, and every fourth until the age of 9-11 months. Breastfeeding has become slightly more common in the past years and mothers breastfeed longer than before.

356. Due to the northern location of the country, all infants and toddlers in Finland must be given vitamin D supplement independent of how the infant is fed. The system has worked well. Only some 5 per cent of infants under 1 year old have not received the supplement as

recommended. Rickets has been identified in some rare cases, caused by neglect of the use of the supplement. To secure a good vitamin D status among Finnish children, young adults and also the whole population, vitamin D supplement has become common in milk and some milk products as from the beginning of 2003.

357. Finnish children have not been found to have any nutritional deficiencies. An increasing number of overweight and obese children is a new problem. In the various age groups, 5-10 per cent of children are overweight.

358. Children who are in full-time day care receive meals that cover two thirds of their recommended daily nutrition requirement. Children in part-time day care or pre-school receive meals that cover one third of the daily requirement, and special diets are also served. Different food allergies are common and set a challenge to those in charge of children's nutrition. Provision of meals in day care is meant to not only offer food but also set an example to families.

359. Children of statutory school age are entitled to receive a balanced meal free of charge on schooldays. Based on a report made in 1998, schoolchildren's attitudes towards school meals were positive and the food is considered to be good. However, only about 17 per cent of them eat all the food offered (main course, salad, bread and drink), girls even less than boys. Nearly all have the main course, but only every second schoolchild takes the salad. Finnish schoolchildren have not been identified to have any nutritional deficiencies. Girls' eating disorders, especially those that are related to loss of weight, have become slightly more common (incidence 0.2-0.8 per cent); concerns about one's weight and slimming are common. However, the growing incidence of obesity is a greater problem.

360. Nutritional education has been integrated into other subjects, and it is an important element of the domestic science, common to all in seventh grade. There is a new subject, health and hygiene, which gives improved opportunities for schools to disseminate information related to nutrition and health.

361. *Recommendation.* The Committee on the Rights of the Child encouraged Finland to address the shortage of child psychiatrists and psychologists, in particular in the northern and eastern parts of Finland and in small municipalities without enough resources, in order to provide children with more timely access to mental health services and to prevent the institutionalization of mentally-ill children with adults (*recommendation No. 46*).

362. *Psychiatric mental health services for children and young people and a special government grant.* On account of detected shortages in the psychiatric services for children and young people, the Government has, during the period under review, granted a special transfer (grant) to be earmarked for child and adolescent psychiatry. The special grant has been allocated to cover expenses borne by municipalities and subregions and arising from measures to support the mental development of children and adolescents, the prevention of disturbances, and safeguarding of the provision of psychiatric services. The grant has made possible the creation of hundreds of temporary and permanent offices in public health care and the implementation of developmental projects in this field.

363. By European comparison, there are enough child psychiatrists and psychologists in Finland in per capita terms. The problems lie rather in the shortage of personnel and a biased distribution of qualified staff in the different parts of the country. While a significant number of public mental health positions are vacant, public health-care units have purchased the required mental health services for children and adolescents from the private sector.

364. In the Government budget for 2000, 11.8 million euros (70 million Finnish marks) were granted for the upgrading of child and adolescent psychiatric services. In 2001, 7.6 million euros (45 million marks) had been granted, of which 0.8 million euros (5 million marks) were earmarked to meet the service needs of national importance. The grant was allocated, by application, to the joint municipal authorities of hospital districts, to be used for projects implemented by the hospital district and municipalities of the region. It was possible to channel the grant to both new developmental projects and ongoing projects which had been launched under financing granted in 2000.

365. Hospital districts had to submit an account of the use of the grant to the State Provincial Office by 30 June 2002 at the latest. Of the grants, slightly over 80 per cent had been used by 30 June 2002. In 2001, the share used for projects in the basic health care had somewhat grown compared to the previous year, being of 58.3 per cent and 49.8 per cent respectively. 27.2 per cent of the Government grant was used for activities in the field of special medical care and 14.5 per cent for other joint activities. Reporting on the number of positions created thanks to the grant (about 60 permanent and 220 temporary positions) is difficult because it is impossible to find out how many of the postings had been created using the previous year's grant and only taking advantage of the new grant to continue the financing of the postings.

366. A total of 325 training events were reported in 2001. The most common subject matter in the training sessions and also the most popular developmental theme was support for early interaction. As in 2000, the most typical subsidized training event in 2001 was a one-off session, which formed part of a larger educational entity. Hospital districts used the Government grant to fund a total of 287 projects, of which two thirds were projects that had been started in 2000. The waiting lists did not markedly change compared to the year 2000, but there was very much variation both between and within hospital districts.

367. The Ministry of Social Affairs and Health allocated a Government grant of 0.8 million euros (5 million Finnish marks) to the Helsinki and Uusimaa, Varsinais-Suomi and Pirkanmaa hospital districts to be targeted at the development of projects concerning child and adolescent psychiatry. The joint municipal authority of the Helsinki and Uusimaa hospital district started an auditing project of adolescent psychiatry, the joint municipal authority of the Varsinais-Suomi hospital district started an auditing project of child psychiatry, and the joint municipal authority of the Pirkanmaa hospital district launched measures to establish a psychiatric treatment unit for children and adolescents who are dangerous and refractory to treatment.

368. The Government grant for 2001 has helped continue the positive development in child and adolescent psychiatry, which was started under the grant allocated in 2000. The amount of the grant for the year 2002 was 3,160,000 euros. A report on the use of the grant will be prepared in the course of 2003.

369. In Finland, mental health services for children and young people are available through separate service systems. The separation of functions has helped develop and strengthen both sectors. As from the start of 2001, there have been provisions for the maximum time that an assessment of a physician's referral and arrangement of treatment may last. An assessment of the need for care or treatment and of its urgency must be made within three weeks at the latest from the date of receipt of the referral by the hospital or other special care unit or comparable operational unit, and the care must be arranged to take place within three months at the latest, taking into account the urgency of the case. In addition, specific instructions have been created for the forms and objectives of local cooperation that supports the service system.

370. Several psychiatric units for children and adolescents have been established. The situation will further improve with the creation of two national units of treatment for very refractory and dangerous children and adolescents in the Pirkanmaa hospital district and Niuvanniemi hospital. It is still possible today that in some rare individual cases, a child or adolescent is taken to involuntary treatment in the same unit with adult patients.

371. *The right of access to mental health services by children placed in community homes.* The Parliamentary Ombudsman, Riitta-Leena Paunio, took an independent initiative in 2002 and started to find out how well the rights of the child materialize in community homes. All community homes maintained by the Government were investigated. In her decision,<sup>53</sup> the Parliamentary Ombudsman assessed the right of access of children placed in community homes to the required mental health services as soon as possible. She was of the opinion that children in community homes have the right of access to the mental health services that they need in the mental health service unit that is the nearest to them. She also stressed the need for a greater level of expertise in child and adolescent psychiatry in community homes. The decision was brought to the attention of the Ministry of Social Affairs and Health, in accordance with article 3, paragraph 3, of the Convention on the Rights of the Child, according to which the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities. See also chapter VIII, section C, below.

372. *Young people's sexual health (sexually transmitted diseases, contraception, pregnancies).* The rate of childbirths and terminations of pregnancies among girls age 15-19 years in the years 1998 to 2002 (per 1,000 girls) was as follows:

|              | 1998 | 1999 | 2000 | 2001 | 2002<br>(estimate) |
|--------------|------|------|------|------|--------------------|
| Childbirths  | 9.0  | 9.2  | 9.8  | 10.1 | 10.7               |
| Terminations | 13.0 | 14.1 | 14.8 | 15.4 | 16.1               |

*Source:* Stakes; Register of childbirths and register of terminations of pregnancies.

The number of childbirths and terminations of pregnancies among young girls has increased since the late 1990s, even though the total numbers are still very low by international comparison. There has been a rise in cases of chlamydia, too. Young people can visit their school health professionals, the municipal health-care centre, or private health-care centres for contraceptives. Since 2003, health and hygiene is taught as a separate subject in grades 1 to 9 of comprehensive school. Sexual health and education related to contraceptives are among the themes discussed in class in grades 7 to 9.

373. Emergency contraception (morning-after pill) has been available without a physician's prescription at the pharmacist's as from May 2002 for persons under 15 years of age. In the early part of 2002, the number of terminations of pregnancies of girls between 15 and 19 years old was slightly higher than during the same period in the previous year, but the fourth quarter of 2002 showed slightly lower figures than in the same period in 2001.

374. By 29 April 2003, a total of 35 persons under 25 years of age have been diagnosed with HIV infection.

375. *Environmental health.* The standard of health care, environmental protection and control of the environment and health is high in Finland by international comparison, which also lays preconditions for the promotion of children's and young people's health.

376. Finland's National Programme on Environmental Health, prepared jointly by the Ministry of Social Affairs and Health and the Ministry of the Environment in 1997<sup>54</sup> still lays a good foundation for the maintenance and creation of an environment that is healthy from different population groups' point of view. The programme also emphasizes issues that are important from the viewpoint of children's health, such as high-quality drinking water, safe foodstuffs, high-quality indoor air and urban air, and the need to cut down harmful noise and to decrease the psychological and social health hazards in the environment. Many municipalities have worked out an environmental health programme for their own region, dealing with local environmental health issues from the point of view of the different population groups, especially children and other vulnerable groups.

377. As concerns efforts to improve the quality of indoor air, special attention has been paid to the elimination of the harmful effects that arise from tobacco smoking, and humidity and fungus problems in schools and day-care centres, in particular. The year 2002 was dedicated to indoor air. More and more young women smoke daily. From the point of view of public health, it is alarming that Finnish children take up the habit of smoking at a very early age.

378. In spite of the decrease of emissions into the air, it is rather common in Finnish cities that the guideline values for air quality are exceeded. Minor particle emissions have been identified as a significant health hazard. When new guideline values were set for air quality in 2001, special attention was directed at such vulnerable groups as children. The Ministry of the Environment aims at ensuring that Finland does not exceed the set limits for good air quality adopted by the EU for the period 2005-2010.

379. The noise problem is aggravated by an increasing amount of traffic and people concentrating in the growth centres. The adverse effects of noise can be reduced by careful community and traffic planning and noise control.

380. Children are usually prone to accidents. Most of the serious accidents take place in traffic and on the water (drowning). Security has been one of the main concerns and targets of investment in traffic planning and, in the 1990s, Finland managed to get the number of serious traffic accidents down on previous figures. Traffic safety is also improved by investing in the improvement of pedestrian and bicycle paths.

381. Children's health has been taken into account as a key factor in the control of hazardous chemicals. The EU's Chemicals Policy Strategy aims at phasing out hazardous emissions during the lifetime of the next generation. The Plan of Action of the National Nutrition Council, prepared in 2002, emphasizes food safety from the point of view of the different population groups, such as children.

382. *Terveys 2015 (Health 2015)* is a national public health programme, which reviews the challenges facing a person's health in the various phases of life, also in childhood. The programme emphasizes the assessment of health impacts, which is also an important element of environmental impact assessment.

383. Assessment of risks related to environmental health must be developed, taking into account the position of vulnerable population groups such as, in particular, children, and monitoring of environmental health and related indicators must be upgraded. The Ministry of the Environment takes responsibility for the monitoring and reporting that is related to the state of the environment. Development of the monitoring of the environment started in 2000. The work is premised on the objectives set in the Land Use and Building Act (132/1999) enforced in 2000 and the national land-use objectives. The objective of land-use planning is to promote the creation of a safe, healthy, pleasant and socially well-functioning living and working environment, which meets the needs and service requirements of different population groups, such as children, the elderly and persons with disabilities.

384. Environmental legislation essentially aims at the protection of human health, pursued by preventing and reducing the incidence of hazardous changes to the environment. Protection of the environment is based on the principle of preventing and minimizing harmful effects.

385. The national administration in charge of the environment takes care that the health aspects of children's environment are taken into account in international cooperation, such as the development and implementation of different environmental agreements and promotion of sustainable development. Important issues include management of chemical substances and setting of standards for ozone-depleting substances and greenhouse gases, as well as promotion of access to safe drinking water and sanitation. In the bilateral and multilateral processes in which Finland is engaged and in its neighbouring area cooperation, emphasis is laid on the health of vulnerable population groups, especially children. Special attention must be paid to the improvement of the health of the environment of children living in the developing countries and countries in transition, and to the creation of preconditions for socially and economically sustainable development. The Fourth Ministerial Conference on Environment and Health in Budapest in 2004 will adopt a plan of action for the environmental health of children.

386. To promote sustainable development, the Plan of Implementation adopted by the World Summit on Sustainable Development in Johannesburg dedicated special attention to the most vital global environmental health problems, that is, access to safe drinking water and indoor air to the children of the world. These issues continue to form a bottleneck, which prevents favourable development in the field of environmental health.

387. Even if access to safe drinking water and the question of the quality of indoor air do not represent a real threat to Finnish children, Finland must seek to ensure that the microbiological environment of children is safe. Local problems are handled in cooperation with different authorities. An example of such cooperation is cross-administrative work and acquisition of financing to improve indoor air quality in schools, done in many schools over the past few years. This has laid a foundation to systematic efforts to arrive at good indoor air quality in Finnish schools through the adoption of quality standards. These indoor air quality standards can also be used to improve the indoor air of day-care centres. The Ministry of Social Affairs and Health has recently revised its instructions concerning indoor air, stepping up the implementation of the Health Protection Act and in this manner also promoting children's health. The Ministry of the Environment will also revise its D2-indoor air standards in autumn 2003.

388. Finland will continue cross-administrative work to guarantee food safety. To ensure that children's health status stays good, the Ministry of Social Affairs and Health, the Ministry of Agriculture and Forestry, the Ministry of Trade and Industry and the Ministry of the Environment are collaborating to provide guidelines for intensified cooperation in the environmental health administration so that food and water hygiene are guaranteed in Finland. To this effect, administrative cooperation across municipal borders is intensified in Finland.

389. Noise control related to securing children's health is carried out in cooperation with the Ministry of the Environment, and special efforts are made with a view to implementing the EU directive 2002/49/EC on noise.

390. Finland participates in the preparation of the Fourth Ministerial Conference on Environment and Health in Budapest, focusing on the promotion of children's health. The run-up phase is coordinated by a working group on environmental health set up by the Ministry of Social Affairs and Health.

391. It is very important to also intensify interdisciplinary cooperation in schools and the day-care service to facilitate early recognition of children with special needs and their timely support. Special attention must be directed to the availability of mental health services for children and safe financing of the services in the long term.

392. *Social welfare and health-care services in the Sami language.* The Government budget for 2002 included for the first time a special appropriation for the safeguarding of social welfare and health-care services in Sami, which the municipalities in the Sami region can use to launch projects to develop services in the Sami language. The amount of the appropriation was 200,000 euros in 2002 and 300,000 euros in 2003.

393. In accordance with what is stated in the Government budget, the appropriation can be used in the form of a government transfer payable through the Sami Parliament to safeguard Sami social welfare and health-care services in the Sami Homeland, referred to in section 4 of the Act on the Sami Parliament (974/1995). Based on instructions given by the Ministry of Social Affairs and Health, the appropriation must be granted to subsidize social welfare and health-care services in all the varieties of the Sami language. The Sami Parliament's objective in



the social welfare and health-care sector is that to give effect to the linguistic and cultural rights of the Sami, social welfare and health-care services must be offered in Sami, plans made taking into account the Sami background, culture, traditional values, and way of life and ways of thinking, and arrangements must be based on the cultural independence of the Sami.

394. The Sami Parliament is of the opinion that the Government transfer to the Sami social welfare and health care must target the Sami municipalities mainly to develop such new services as the implementation of endeavours concerning social welfare and health care identified by the Sami Parliament.

395. *Challenges of a multicultural society.* The non-medical circumcision of boys has given rise to an exchange of opinions in Finland. In recent years, approximately 100 such operations, based on cultural and religious traditions, have been performed yearly on Jewish and Muslim boys in Finland. Because circumcision does not fall under the sphere of actual health care, all health-care units have not agreed to perform the operation as a public health-care service. Primarily Muslim families with a refugee background have found that private hospitals are too expensive for them.

396. The authorities have long discussed the issue of male circumcision performed at home, but the matter gained wider publicity at the beginning of 2002, when the media brought up the case of a Muslim boy who had been taken into hospital because of post-operative complications resulting from a circumcision performed at home. Proper performance of the operation calls for sufficient medical expertise, hygiene, and painkillers. In March 2003, the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities issued a letter to hospital districts, recommending that to ensure the well-being of children and to reduce any risks, circumcisions should also be performed in the public health care.

397. The Ministry of Social Affairs and Health set up a working group in spring 2003 to assess the legislative foundation concerning the non-medical circumcision of boys, to find out about the need for new legislative provisions and the preconditions of the operation, and to prepare relevant legislative proposals. The working group will convene until the end of November 2003.

398. The Ombudsman for Minorities has taken part in consultations between different authorities and also given interviews to newspapers and television. The Ombudsman has expressed his concern about the possible consequences to the families and children if the public health-care service remains unwilling to perform male circumcisions or to use public funds for the purpose. The Ombudsman has also sought to support efforts to find solutions that respect the best interests of the child.

399. *Children and the environment.* In accordance with the Constitution of Finland, the public authorities must endeavour to guarantee that everyone has the right to a healthy environment and the possibility for exercising influence in decisions that concern their own living environment. In the past few years, the Ministry of the Environment has laid strong emphasis on the fact that

children are also entitled to enjoy this right. Research on the relationship between children and young people and their environment has revealed that they are accorded a secondary position when questions that are related to their own growth and development are dealt with. What children need is usually conveyed through an adult person's point of view.

400. Finland has adopted the principle recorded in the Habitat Agenda, the final document of the second United Nations Conference on Human Settlements (Habitat II), according to which children constitute a vulnerable group. Children are recognized as actors in their own life who must be heard when decisions are made and whose needs must be taken into consideration when plans and decisions are made that have an impact on their housing and living environment. The Land Use and Building Act (132/1999), which took effect at the beginning of 2000, includes a significant legislative amendment, providing that both land-use planning and directions related to building shall aim at the creation of a safe, healthy, pleasant and socially well-functioning living and working environment, which meets the needs and service requirements of different population groups such as children, the elderly and persons with disabilities. This provides a framework for the integration of children's views in the assessment of the impacts of plans concerning town planning and building permits on the living and housing environment of the child. In connection with residential buildings, a special provision lays down that enough space must be reserved for safe outdoor playing areas. The provisions and instructions of the National Building Code issued in 2001 give building engineers detailed guidelines on how to avoid solutions that might be hazardous for children. The Building Code is premised on Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the member States relating to construction products.

401. The link between children's health and the environment calls for new information based on continuing research. Important issues include, inter alia, children's exposure to hazards caused by indoor air, urban air, noise and chemicals, as well as the promotion of children's health as an element of community planning. Evaluation and control of risks to environmental health, especially as concerns such vulnerable groups as children, calls for more information and development of methods. A research programme on environmental health, SYTTY,<sup>55</sup> sponsored by the Academy of Finland, ended in 2002. It has made available significant new information, based on research, that can be used also in planning targeted at the promotion of children's health and the elimination of health risks.

### **C. Social security and children's day care (art. 26 and art. 18, para. 3)**

402. *Social security of families with children.* Finnish legislation related to social security applies to all persons living and/or working in Finland. This means that every child is also entitled to personal social security. Every child with a residence in Finland is, inter alia, insured against illness from birth as provided for in the Health Insurance Act.

403. Of the amendments made after June 1998 in the field of the insurance service, the following in particular directly contribute to the position of the child and pertain to the provisions of article 26, articles 3 to 5 and article 18 of the Convention.

*Amendments to the Health Insurance Act*

- As of 1 October 2001, fathers are entitled to freely divide the 18 working days of their paternity leave into at the most four separate periods of leave during the maternity and parental allowance period;
- As of 1 January 2003, partial parental allowance is payable to both parents simultaneously. Both the mother and the father are entitled to make arrangements with their respective employers for part-time work and to be on part-time childcare leave at the same time. This facilitates the reconciliation of family and working life;
- As of 1 January 2003, the father is entitled not only to a paternity allowance period, which comprises 18 working days during the maternity and parental allowance period, but also to a one-off paternity allowance period of 1 to 12 working days immediately after the end of the parental allowance period, if he has been on paternity leave at least the last 12 working days of the parental allowance period;
- As of 1 January 2003, adoptive fathers have been entitled to the same paternity allowances as other fathers;
- As of from 1 January 2003, when more than one child is born or adopted at the same time, parents have been eligible for an extended parental allowance to be taken either entirely or partially during the maternity and parental allowance period, if both parents simultaneously take part in the care of the children. Beginning from 1 January 2003, an adoptive parent is entitled to parental allowance after a so-called intra-familial adoption in case the adopted child is under 1 year of age;
- As of from 1 January 2003, it has been possible to transfer the mother's entitlement to a maternity allowance to the father, payable as a parental allowance, if the mother, due to illness, becomes incapable of taking care of the child. Entitlement to daily allowance is transferred to the father not earlier than when the mother's illness has lasted for the period of time qualifying for daily subsistence allowance, including the date when she was taken ill and nine subsequent working days.

404. *Pensions.* The child increase that used to be payable in the context of national pensions was reintroduced as of the beginning of 2002 to support families on pension responsible for the maintenance of a family.

405. As from the beginning of 2005, earnings-related pension in the private sector starts to accrue at 1.5 per cent a month during maternity, parenthood and paternity allowance periods, based on the income on which the allowances are paid. In addition, unpaid home care of a child under the age of 3 entitles the caregiver to accrual of pension at 1.5 per cent a month, based on earnings of 500 euros per month.

406. *A report on the situation of children's day care.* In January 2001, the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities compiled a report on day care for children. The report concentrated on the number of children and the number of staff members in day care, and on the arrangement of special care and care in the evenings, at night and during weekends.

407. *Day care for Sami children.* Children have access to Sami day care in the following municipalities in the Sami Homeland: Utsjoki, Inari and Enontekiö. The only Sami day-care centre in Finland is located in Karigasniemi, in the municipality of Utsjoki. The municipality offers day care in the carer's home also in Nuorgam and Utsjoki. In Utsjoki, children can choose a group where both Finnish and Sami are used. In 2003, the municipality received a Government grant of 30,000 euros, payable through the Sami Parliament and to be used for the arrangement of day care in North Sami.

408. The municipality of Inari maintains two North Sami cooperative care arrangement systems, one in Ivalo and the other in Inari. Day care in the form of so-called "language nests" may significantly contribute to the development and maintenance of Sami as the child's own language. There is a Sami language nest for Inari Sami in the municipality of Inari. The municipality has bought the day-care services from a private service provider. A total of 73,400 euros is channelled through the Sami Parliament to Sami day care in Inari.

409. In the municipality of Enontekiö, there is a group day-care centre in Heta and a bilingual group day-care centre in Karesuvanto, where both Finnish and North Sami are used. The Sami Parliament supports the day-care centre in Heta by a Government grant of 24,760 euros which becomes payable through it.

#### **D. Standard of living (art. 27)**

410. *Criticism.* The Finnish Federation for Social Welfare and Health, for example, has noted that poverty among families with children has increased during the past decade; their income development has remained behind that of other population groups. Such basic allowances as family allowance, minimum maternity, paternity and parental allowances, and home-care allowance are not, even today, at a level that would enable families to depend on them and, without difficulty, manage to bring up a family.

411. *Government report.* In its report to Parliament, the Government has noted that as regards the well-being of children and young people,<sup>56</sup> income development has been especially poor in single-parent households. Improvements in the employment situation have contributed to the economic position of families with children. However, this has not decreased the number of families living under the poverty line. Provided that the proportional poverty line is set more loosely at 60 per cent of the median income, the number of poor families with children in Finland in 1999 was of about 64,000, that is, some 10 per cent of all families with children. The main reason for poverty among families with children is unemployment, especially long-term unemployment. Families that suffer from long-term unemployment find their economic situation particularly fragile. The unemployment rate has been somewhat below average among families with children with two providers, but higher than the average among families with a single provider. Unemployment in families with children may be linked not only with economic problems but also with many other difficulties that reflect in the well-being of the children.

412. *Housing expenses and housing allowances.* In Finland, housing expenses are fairly high. Housing allowance is granted to even out the housing expenses of low-income households by channelling Government funds to cover a part of the household expenses, based on what is regarded as reasonable expenses. Housing allowance significantly contributes to a more balanced distribution of expenses among families. The amount of the housing allowance depends on such aspects as the number of family members, income and housing expenses. In 2001, as many as about 70,000 families with children were eligible for a general housing allowance, which corresponds to about 9 per cent of all families with children. The number of recipients has decreased since the latter half of the last decade, partly because criteria for the allowance were tightened in 1995-1996 and partly because the employment situation has improved during the past years. The majority of the recipient families with children are provided for by a single parent. The grounds for eligibility for the allowance were loosened in 1998 to help better coordinate the provision of housing and income allowances. The lowest-income families still need to depend also on income support to manage their housing expenses.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, vocational education and career guidance (art. 28)**

413. *Recommendation.* The Committee on the Rights of the Child has recommended that Finland implement the revised school legislation in order to ensure equality between different regions of the country and between different school and educational establishments (*recommendation No. 50*).

414. *Equality.* The legislative amendments related to education took effect on 1 January 1999. The new acts on education and training bring about extensive reforms and introduce new and multiple opportunities in the field of operation of the Finnish education system as a whole. On account of the social impacts of the reform, Parliament required that the Government submit a report on the education policy after the laws have been effective for three years, assessing the results of the reforms and the implementation of the objectives that were set. The following is a list of some of the main principles on which the legislative reforms were premised:

- The largely incoherent, scattered and overlapping legislation should form more uniform entities;
- The legislative provisions should lay an emphasis on the unified nature of the education system;
- The adaptability of the education system to changes in society should be stepped up;
- The borderlines between different forms of education and different levels of various education systems should be lowered, and cooperation between providers of education and training and educational establishments should be upgraded;

- The quality and effectiveness of education should be improved by means of, for example, introducing systematic assessments;
- Legislation should be as neutral as possible, basic education excluded, in the sense that it would be the same independent of whether the provider is a municipality, federation of municipalities, a registered community or fund.

415. The amended Acts also led to certain substantive reforms. One of them is a statutory option granted for the parents or legal guardians of children of statutory school age to apply for a place of education in other than the nearest school appointed by the municipality. Other reforms include the abolition of the distinction between the lower and upper stages of comprehensive school, amendments related to the provisions concerning private schools that give basic education, transfer of the education provided in community homes to the administration of the education service, amendment of the provisions concerning the teaching of minority languages, obligation of the providers of secondary level education to cooperate, abolition of provisions related to the working time of students in other educational institution than a school that provides statutory education, a provision concerning an opportunity to acquire educational services from communities and funds that have not been awarded a permit to organize education, amendment of provisions related to teachers, and provisions incorporated in the legislation concerning the assessment of education with a view to ensuring the quality of education that is provided.

416. Between 1993 and 1995, as part of the measures to scale down public expenditure, cuts were made in the unit prices on which the Government transfers for education and culture are based. These cuts, which were made in percentage terms, were targeted at the Government grants payable to the financiers of the institutions and they consequently reduced the financial obligation of the municipality concerned. Since 1997, the responsibility of a municipality for the financing of expenses arising from education has been based on the number of local residents, and the provision according to which each municipality used to contribute to education per number of pupil was abolished.

417. Between 1996 and 1998, cuts in the public expenditure on education were targeted solely at municipalities and the municipal economy. Unit prices were not lowered any more but new savings targeted local residents. Funds for municipalities were raised by a total of about 109 euros (650 Finnish marks) per local resident. On account of the higher share of municipal funding, the statutory Government transfers of 57 per cent to education dropped to slightly less than half of the expenses that belong into the sphere of Government transfers.

418. The cuts in the unit prices led to operational savings also in municipalities, which was one of the ideas behind the lowering of unit prices. In the recent years, however, the unit prices of different functions have risen, in tandem with the overall economic recovery of municipalities. Based on data from 1999, the unit prices in basic education, upper secondary education and vocational education and polytechnics were lower than the actual unit prices by 12 per cent, 9 per cent and 14 per cent respectively. The aforementioned activities' unit prices were underestimated by an average of 12 per cent. Unit prices for adult education centres, for basic art education to be funded based on the number of class hours, and for libraries were underestimated by 11 per cent, 12 per cent and 7 per cent respectively.

419. From the point of view of the structure and foundations of the financing of educational and cultural services, the average inadequacy of the unit price amounts has been a problem. The calculated system is founded on an assumption that the financier of the function obtains the benefit from expenses that are lower than the calculated unit price and, correspondingly, has to take on the share of expenses that are higher than the calculated unit price. The excess burden caused by the average inadequacy of the unit prices has not been taken into account when the system was created. The development has led not only to lower expenses but also to pressures to pay separate municipal reimbursements, which from the system's point of view are otherwise unnecessary. The situation is problematic also because the different groups that are in charge do not necessarily receive similar treatment. Of the providers of education only municipalities can compensate for the inadequacies by means of such measures as general Government transfers to local government or tax revenue, and, on the other hand, there is reason to keep the opportunities for collecting income by means of proceeds from fees a very limited education political option.

420. The Act on the amendment of the Act on the Financing of Educational and Cultural Provision (1389/2001), linked with the budget of 2002, repealed the cuts on unit prices. Since the beginning of 2002, unit prices have been based on the real expenditure in the education to which the financing is based on the planned expenses. Unit prices were raised also at the beginning of 2001 in accordance with the Act on the amendment of the Act on the Financing of Educational and Cultural Provision (1146/2000) by not only the amount due to a higher level of expenses but also by an additional 5 per cent on the previous year. However, the increases in the municipal financing made from 1996 to 1998 are still valid.

421. It is too early to give any estimate of the possible impacts of the removal of the inadequacies in the unit prices on the organization of education. The recent deterioration of municipal finances and their insecure future prospects, including the major differences between the municipalities as regards their financial situation, play a role when decisions that concern education and its development are made by local authorities. The Ministry of the Interior anticipates that the overall improvement of the municipal finances will continue up to 2004. The Ministry also expects that the regional developmental differences will level out during the same period of time. In the next few years, problems related to inadequate financing will affect the most small municipalities with less than 6,000 residents.

422. A survey has been conducted among providers of education and, according to the responses, 37 per cent of providers of basic education, 29 per cent of providers of upper secondary level education, 60 per cent of providers of vocational education, and 23 per cent of providers of adult education centre services intend to increase their share of financing.

423. In accordance with the Constitution of Finland, everyone has the right to basic education free of charge. Provisions on the duty to receive education are laid down by law. According to the Constitution, the public authorities shall, as is provided in more detail by a law, guarantee for everyone an equal opportunity to receive other educational services in accordance with their ability and special needs, and an opportunity to develop themselves without being prevented by economic hardship. This provision, which is enacted in section 16, subsection 2, of the Constitution, gives individual citizens the right to lifelong education. The right is not guaranteed as a subjective right in the way basic education is guaranteed, but the provision

implies that the public authorities are under an obligation to make the practical arrangements required to ensure that a variety of educational services are available in the country. Reference to an equal opportunity to receive educational services corresponding to one's ability means, among other things, that everyone should be granted these opportunities irrespective of place of residence. Fundamental cultural rights apply to all persons residing in Finland, independent of the person's age and nationality. The term "public authorities" refers not only to the State but also to local authorities. Section 121 of the Constitution provides that municipal administration must be based on the self-government of local residents. Municipalities can only be assigned duties that are laid down by a law.

424. According to the Act on Basic Education, a child who attends class shall have a statutory right to receive education and counselling based on the curriculum on working days. The education shall be arranged so that it corresponds to the child's age and capabilities. The educational institution shall keep in contact with the child's home. The providers of education are of the opinion that, as concerns general education, the right of the child to receive education that is based on the curriculum apparently materializes very well. Teachers' lay-offs for economic reasons have become less common during the new legislation.

425. *PISA survey.* Finnish children succeeded admirably in the OECD Programme for International Student Assessment (PISA) survey, the widest and most versatile survey of educational achievement conducted in the OECD countries. All the 28 OECD countries and 4 non-member countries participated in PISA. The survey targeted 15-year-olds, in Finland mainly children in ninth grade of comprehensive school. Nearly 4,900 schoolchildren and 156 schools were involved in Finland. PISA tested the children's literacy in reading, mathematics and science in situations that were as close as possible to real future needs. The survey's principal domain of interest was literacy in reading. Finnish children's performance was the best in the reading literacy test. They proved to be among the elite by international comparison, also when mathematical and scientific literacy was tested.

426. The survey revealed that 50 per cent of Finnish children are excellent readers, while the average percentage in the OECD countries was 32 per cent. As concerns the different dimensions of reading, the Finns seem to be especially good in retrieval of information and understanding and interpretation of texts. Only 7 per cent of Finnish children proved to be poor readers, as compared to OECD average of 18 per cent.

427. The outcome of the survey revealed that girls in all the 32 countries under review were better readers than boys. The difference between girls and boys was the widest in Finland. Based on the survey as a whole, Finnish girls proved to outperform all others. Finnish boys were the best among boys in the OECD countries. As concerns mathematic literacy, boys did better than girls in almost every country, but the differences were mainly rather small. In Finland, boys and girls were equally good in mathematic literacy. Boys and girls were equally competent in scientific literacy, both in Finland and in the majority of the other countries that were tested.

428. The survey also indicated that as concerns school achievement in different schools, the differences between schools were the smallest in Finland. As a rule, Finnish urban and rural schools produce equally good results, but boys in rural schools tend to remain clearly below the



average national school performance. The socio-economic background of the parents appears to have an explicit link with school performance. In all participating countries, children of parents with the highest socio-economic background performed better than others. In Finland the distinction is also clear but remains below the OECD average.

## **B. Aims of education (art. 29)**

429. *Education and upbringing to respect for human rights.* Teaching at all levels of education is based on the grounds set in the national curriculum adopted by the National Board of Education, specifying such important aspects of the statutory school education as education to respect for human rights, knowledge of and respect for different cultures, promotion of multiculturalism and tolerance. Education to respect for human rights has been carried out, inter alia, by arranging events and projects to combat racism and intolerance in schools.

430. In connection with the overall reform of the legislation pertaining to education, educational institutions were accorded significantly greater freedom as concerns curricula, which allows them more latitude than before in covering such areas of interest as issues related to human rights. Human rights has been a theme also in continuing education courses for teachers.

431. Education to respect for human rights is carried out in Finland through permanent networks and UNESCO schools. At the moment, 60 UNESCO schools and educational institutions are active in Finland (comprehensive schools, special schools, upper secondary schools, vocational schools and teacher education units). The governing ideas in these schools include peace, human rights, democracy and sustainable development.

432. *Prevention of social exclusion in education.* The senior adviser *Elsi Veijola* has studied the prevention of social exclusion of young people in the field of education by order of the Ministry of Education.<sup>57</sup> The study was completed in spring 2003 and it states that education is an important tool in efforts to prevent social exclusion because unemployment, which is one of the principal reasons for social exclusion, is more prevalent among those with less education.

433. Prevention of social exclusion should start as early as possible (early intervention). Pupils with poor school performance are at risk of social exclusion after they have completed comprehensive school. The ones who do not manage to get a school-leaving certificate or who pass with poor grades “out of mercy by the teacher” face the greatest risk of exclusion. There is only a small likelihood that these students continue any further education. Accurate statistical data on social exclusion are not available, but it has been estimated for example that of the 61,000 children who finished comprehensive school in spring 2003, approximately 3,000 were socially excluded or at risk of becoming marginalized.

434. Good results have been obtained from the so-called “*oma ura*” classes (“creating one’s own career”) designed to serve the needs of young people at risk of exclusion. The first classes were founded at the beginning of the 1990s on the initiative of the Mannerheim League for Child Welfare. At the moment, 30 classes are active. “*Oma ura*” classes integrate school attendance with practical training at a workplace that meets the interests of the young person, and learning takes place mainly in other places than the school.

435. Ms. Veijola's study puts forward 18 urgent measures to prevent social exclusion. The measures include, for example, more effective pupil counselling, making the "*oma ura*" model an established element of education at the municipal level, monitoring of studies after comprehensive school, and development of the education of immigrant children. Carrying out the proposed measures would require both legislative amendments and additional economic resources.

436. *Children with disabilities and bullying.* The Finnish Disability Forum has brought to light the question of bullying of schoolchildren with disabilities. Education to tolerance in schools should cover also information about disabilities. Children with disabilities are targets of bullying but also children of parents with disabilities are bullied because of their parents. Children with disabilities must be secured the right to attend school without becoming bullied and to feel safe in their school communities.

### **C. Leisure, recreation and cultural life (art. 31)**

437. *Youth work and youth activities.* Finland's second periodic report submitted in 1998 includes an overall account of the systems related to the administration, financing and development of Finnish youth work and activities.

438. Based on the Youth Work Act (235/1995), the Ministry of Education is in charge of the general administration and development of youth work in Finland. For the purposes of the Act, youth work means promotion of non-governmental activities and improvement of the living conditions of children and young people. The Advisory Council for Youth Affairs, operating under the administration of the Ministry of Education, is an important authority in issues related to young people.

439. The Ministry of Education finances cultural, sports and other activities targeted at children and young people. The funds are channelled to municipal youth work, support for national youth associations, development of workshops for young persons, support for national youth centres, international cooperation, promotion of youth research and youth culture, support for youth information and information services, educational and other development projects related to youth work, activities of the Advisory Council for Youth Affairs and of the committee submitting proposals to the Ministry of Education concerning annual grants, and the provincial youth work services. A new target of support and form of youth work is to combat intoxicants and drug abuse. In 2003, the Ministry of Education granted a total of 22.4 million euros to youth work and related activities.

440. *Youth work at the local level.* The Government supports municipal youth and sports activities by an amount that is calculated per resident (10.8 euros per resident were channelled to municipalities, and 12.3 euros per resident under 29 years of age to youth work in 2003). In accordance with the Youth Work Act, youth work is one of the duties of municipalities, and the municipalities may decide how to make appropriate use of the transfer assigned for the purpose to the benefit of youth work. In 2002, municipalities spent about 140 million euros for youth work, of which the Government transfer covered about 4.3 per cent (6 million euros). Together with other Government transfers targeted at youth work (including youth workshops, afternoon activities for schoolchildren, combat against abuse of intoxicants and drugs), the Government's share of expenses in financing of municipal youth work is of around 6 per cent. The location and

size of municipalities have an impact on the carrying out of youth work. The general idea is that municipalities create the preconditions for the activities of youth associations, maintain the premises for youth activities, and make arrangements that enable maintenance of youth cafés and different recreational activities.

441. The regional administration of youth work is carried out under the administration of five State Provincial Offices, which are part of the central Government. The youth service of the State Provincial Offices is mainly responsible for the distribution of funding for youth workshops obtained from national sources and the European Social Fund, support for afternoon activities for schoolchildren, assessment of the basic services for municipal youth work, provision of topical courses and consultation services to municipalities that are related to various youth projects.

442. *Workshops and youth centres.* The activities pursued in workshops have been further developed. Youth unemployment is still high in Finland, although it has eased down as much as to a third of the 100,000 recorded in the years of recession in the early 1990s. Workshops have served as a tool to alleviate the adverse effects of youth unemployment and its impacts at the local level. The idea of the activities is to motivate and encourage young people to enrol in training and take on employment and to improve young people's life management skills. There are some 220 workshops of which over 90 per cent are municipal property. Each year, approximately 8,000 young people between 17 and 24 years of age find employment for a period of six months in the workshops.

443. The Ministry of Education subsidizes 10 national youth centres based on the provisions of the Youth Work Act. The centres seek to make arrangements enabling the organization of camps and nature schools, courses and camps for youth associations and young people active at the local level and travel services for young people throughout the year. They are also centres for social youth work and places where related methodologies are developed. These centres produced a total of 140,000 youth work days in 2002.

444. *Grants for youth associations* are made available based on outcomes. The grounds for assessing the outcome of planned or completed activities include the quality, extent and economy of the activity. Among the subsidized groups are associations for young adolescents, which organize activities for children. When the annual subsidies are granted, particular attention is paid to the expansion and development of the content of afternoon activities for schoolchildren. In addition to the afternoon activities for schoolchildren, these associations offer different kinds of camp, club and adventure activities mainly for children under 15 years of age. In 2003, the total value of the general grants by the Ministry of Education to associations for young adolescents amounted to nearly €3 million.

445. *Afternoon activities for schoolchildren.* In accordance with the Government programme, special attention is directed to the afternoon activities for schoolchildren, because children 7 or 8 years old who attend first or second grade of comprehensive school often need supervised after-school activities before the parents come home from work. Some children would also need supervision in the mornings before school. Furthermore, it has been noted that older schoolchildren would benefit from regular hobbies after school at least once a week.

Afternoon activities organized by local authorities, schools or NGOs are available in many places. There is no statutory provision obliging any party to arrange for afternoon activities, and participation in them is not a subjective right. Afternoon activities aim at the provision of opportunities for equal access to hobbies and other recreation and at the prevention of social exclusion of children and young people. The Government supports afternoon activities by channelling funds to it from a number of appropriations. A working group set by the Ministry of Education and the Ministry of Social Affairs and Health and complemented by representatives of local authorities, has been planning a reorganization of the activities. In the summer of 2002, the working group suggested that arrangements be made with a view to introducing morning and afternoon activities. These activities have been continued based on the original suggestion. The viewpoints of NGOs have also been taken into account.

446. *Physical exercise of children and young people.* The objective of the Sports Act (1054/1998) is to promote sports and exercise as well as to support children's and young people's development by means of physical exercise. The Ministry of Education is responsible for the general administration and development of physical education and its integration in the State administration.

447. Nearly all Finnish children and young people practise some sport. Boys tend to be somewhat more physically active than girls. The most active sports enthusiasts are found in the north of Finland, and the most popular sports are football, cycling, swimming, skiing and floorball. About 40 per cent of Finnish children and young people practise sports within the framework of a sports association. The majority of sports associations are non-governmental organizations, which operate on the basis of voluntary work. Nuori Suomi ry (Young Finland Association) is an independent organization active in the promotion of various sports activities for children and young people at the local level by, for example, supporting the ethical and educational work done in the context of different sports.

448. The Ministry of Education granted €85.8 million to sports in 2003. The transfer will be used to support, for example, national and regional sports associations with an emphasis on the physical exercise of children and young people; building of sports facilities and especially the improvement of the preconditions for exercise of sports by children and young people; a three-year sports programme for children and young people; and training and research. The three-year programme consists of project grants to supervised extra-curricular afternoon activities for children age 6 to 12 years, and national and local projects to encourage children and young people to take an interest in sports and physical exercise.

449. The regional functions that are related to sports and physical exercise are administered by the five provincial authorities of Finland. The provinces take responsibility for such tasks as building sports fields and arranging for sports for schoolchildren who take part in organized afternoon activities.

450. The majority of the 30,000 sports fields and other places where physical exercise can be practiced are owned and maintained by local authorities. During the past few years, priority has been given to building sports facilities in the vicinity of residential areas. The Government supports the construction work by allocating budgetary resources for that purpose.

Municipalities also create preconditions for local exercise of sports, especially for the operation of sports associations, and organize sports events taking into account the needs of special groups. A government transfer of €10.80 per resident (based on a certain calculation) is granted to municipalities to be used for the promotion of sports and physical exercise.

451. There are 11 national and 3 regional sports institutes in Finland. They provide not only training, education and coaching services, but also facilities for a variety of hobbies and interests for persons of all ages. Children and young people are the most active users of these services.

452. *Programme against racism in sports.* Since 1998, the Ministry of Education has been carrying out a programme against racism, together with the Finnish Sports Federation (an umbrella organization of Finnish sports) and individual sports associations. The Ministry has for example financed local, regional and national sports projects that encourage people to tolerance. In addition to the financial support of projects, the programme has included dissemination of information about issues related to immigrants and multiculturalism, training and international cooperation and research on matters linked to the theme. Based on research, participation in sports activities significantly contributes to the integration of immigrants into Finnish society.

453. *Promotion of children's cultural activities.* In Finland, the promotion of children's cultural activities falls mainly under the administration of the Ministry of Education. Key actors are the National Board of Education and the Arts Council of Finland at the national level, and local authorities and regional arts councils at the municipal level. In practice, numerous private associations, organizations and other institutions active in that field play a key role, and they often receive assistance from the Government or municipalities. Of the 57 theatres that receive government transfers, 9 have children as their main target group, and of the 25 orchestras that are sponsored, 1 specializes in children's music.

454. Children's culture is a broad concept. It incorporates *culture for children*, which means all manifestations of culture targeted at children from pedagogical and cultural institutions to NGOs and commercial provision of culture. On the other hand, it is primarily *children's own culture*; culture created by children themselves through play and narration, taking on influences from the adults, but largely based on laws of its own.

455. Children's culture has been an established concept in the cultural policy of Finland since the 1970s. In the Government's administration of arts, there has been a specific appropriation for children's culture for about two decades already, and the Arts Council of Finland has a Children's Culture Division since 1987.

456. Children's culture is one of the priority areas of interest of the Ministry of Education in 2003. The operating and financial plan of the Ministry for the years 2004-2007 also lays emphasis on children's culture and has identified it as one of the areas of development. This has also shown in the form of concrete measures. *Taikalamppu* ("a magic lamp"), a network of centres for children's culture, launched its first term (2003-2005) at the beginning of this year. The network, which functions in all parts of the country, has been granted €406,000 for the year 2003. It is assigned to support and develop existing children's culture centres and to

stimulate an interest in the setting up of centres in places that still lack one. The activities include development of know-how pertaining to the different fields of art, and all kinds of knowledge related to children's culture (exhibitions, presentations, art education, events, research).

457. In 2003, an allocation of €370,000 was channelled to special subsidies and grants, which promote children's culture and, above all, encourage interaction between the artist and the child in art education, focus on the presence of art in the living community of the child, and support projects designed to prevent social exclusion (art in children's institutions). The appropriation has been increased by 132 per cent compared to 1997.

458. The Ministry of Education is also preparing a children's cultural policy programme for the whole administration, based on a proposal entitled *Kulttuuri kasvaa lapsissa* ("culture grows in children"), submitted by the Arts Council of Finland. The programme will consist of such elements as suggestions for the basic objectives of children's cultural policy, and a range of extensive and detailed measures in the various fields of children's culture, from the operation of art institutions to art education, from the traditional media to the new media and children's culture centres, and municipal and governmental responsibility for children's culture and its promotion. The programme also relies on the Art and Artist Policy Programme adopted by the Government, which is premised on the idea that everyone has the right to enjoy art and that the preconditions for creativity and innovation are based on children's culture and art education.

459. Youth circus plays an increasingly important role in the promotion of culture for children and young people. The Ministry of Education has supported the Finnish Youth Circus Association with a view to promoting circus activities throughout the country and also active local circus groups. Youth circus represents both an activity for the young, a cultural activity and a physical exercise, and the Ministry of Education has devoted much attention to it.

460. *Children's movies.* Children's movies and children's movie culture have become one of the priority areas of cultural policy in the recent years. The Ministry of Education has commissioned a development programme to improve children's movies, which includes suggestions for measures in the years 2002-2005. A plan of action was also made in the film industry in 2002, which for its part supports the development of children's movies. The plan of action illustrates the policy line of the film industry as regards the development of public support in the next few years.

461. The suggestions made in the aforementioned development programme were very ambitious and covered suggestions concerning the production, dissemination and distribution of children's movies, including television programmes.

462. Based on the suggestions made in the development programme, films have already been presented in cooperation with schools. In addition, producers of children's movies have been offered professional continuing training. Thanks to this development programme, attention has also been paid to the improvement of the preconditions of the production of children's movies, and public subsidies channelled to children's movies have been partly earmarked for this purpose.

463. The idea is that the year 2004 will be a children's movie theme year, when special attention would be directed to the visibility and promotion of the position of children's movies. A number of actors in the film industry are engaged in the project. In Finland, one annual film festival specializes in children's movies.

464. Further measures and provision of funds would be required to help increase the provision of Sami radio and TV programmes and other cultural activities (including magazines, literature, music, theatre, video, puppet shows) for children and young people.

## VIII. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency

#### 1. Refugee children (art. 22)

465. During the period under review, significant legislative amendments have been made in Finland. The Aliens Act now includes both procedural and substantive rules on family reunification (537/1999). Prior to the enforcement of this amendment, these issues were regulated through instructions given by the Ministry of the Interior. A new Act on the Integration of Immigrants and Reception of Asylum-Seekers (493/1999, as amended 118/2002, 1292/2002) took effect in 1999.

466. *Unaccompanied children seeking asylum.* In 2001, 34 unaccompanied children seeking asylum, also referred to as "unaccompanied minor asylum-seekers", arrived in Finland. In 2002, there were 66. The numbers seem to follow the general trend in the number of asylum-seekers; the total number of asylum-seekers in 2002 was nearly double over the preceding year. In 2001, unaccompanied minor asylum-seekers arrived in Finland from as many as 14 different countries, the majority of them from Somalia and Angola. In 2002, unaccompanied minor asylum-seekers were from 18 different countries, the majority from Somalia, Iraq, the Democratic Republic of the Congo and Angola. Most of the unaccompanied minor asylum-seekers were over 15 years old, but in 2002 a few of the arrivals were born in the late 1990s. Very young asylum-seekers seldom arrive in Finland alone.

467. In Finland, asylum-seekers are accommodated in reception centres situated in various parts of the country. Families with children are placed, as far as possible, in centres located in an environment that is suitable for children.

468. Reception units (group homes) set up for the care and education of minors are often located in conjunction with the reception centres for asylum-seekers. Both reception centres and units for minors are maintained by the Government, a municipality or an organization. Units that are meant to serve as a group home for unaccompanied minor asylum-seekers are very often established under the same roof as family group homes for unaccompanied children who have already received a residence permit. This prevents any unnecessary transfers from one institution to another. One of these units is now maintained by the Government; five are run by local authorities.

469. Persons who claim asylum by definition take responsibility for the well-being of their children. The reception centres organize club activities for children under statutory school age for the time that their parents participate in workshops and educational activities. Schoolchildren are entitled to attend the local primary or comprehensive school. In the summer, supervised summer camps are arranged. The situation of children who have attained post-comprehensive school age has been facilitated by means of various projects related to studies and workshops.

470. *Treatment of claims for asylum submitted by unaccompanied children seeking asylum.* It very rarely happens that an unaccompanied child seeking asylum is considered a refugee. Eligibility for refugee status requires that the individual has been personally threatened with persecution. Many minor children are often considered to be in need of international protection, mainly because of the conditions in his or her home country and a clarification of a threat of an individual human rights violation is not required. Some unaccompanied minor asylum-seekers are admitted to Finland based on the so-called principle of equity or a family tie, while some are denied asylum and the residence permit is refused.

471. In 2002, the Directorate of Immigration decided on the treatment of 58 unaccompanied minor asylum-seekers. Of them, 27 were considered to be in need of international protection, 10 were granted asylum in Finland based on the so-called principle of equity, and 3 based on a family tie. Of the unaccompanied minors, 12 were refused asylum and a residence permit, and 6 applications were considered to have expired. The ones that were refused asylum and residence permit were mainly nearly-adult applicants who had not presented any such grounds for their application as would have led to granting them an asylum or a residence permit. In some cases, the applicant had first accompanied the parents who had sought asylum in Finland and, having been denied entry, left the country and returned later alone in the hope of getting asylum.

472. *Decisions by the Parliamentary Ombudsman.* The Deputy Parliamentary Ombudsman, Riitta-Leena Paunio, started to investigate, on her own initiative, the issue of the rights of unaccompanied minor asylum-seekers and of children who had been granted a residence permit based on an application for asylum (referred to below as unaccompanied refugee children). The Deputy Parliamentary Ombudsman examined many of the group and family group homes that are meant to accommodate these children.

473. In her decisions (29 December 2000, Register No. 2822/2/99), the Deputy Parliamentary Ombudsman drew attention to the fact that the processing of children's applications for asylum took very long (up to two years), and to the adverse effects of the so-called residence permit based on the principle of equity, especially from the point of view of family reunification and of placement after a residence permit has been granted. The Deputy Parliamentary Ombudsman criticized the so-called residence permits based on the principle of equity especially for the fact that, as concerns children who are granted the A4 status, family reunification in Finland becomes in practice impossible. The Deputy Parliamentary Ombudsman stated that contact with family members, especially the parents, is one of the principal human rights of the child. The decision also calls attention to the fact that arrangements have not been made for the provision of after-care to unaccompanied refugee children arriving in Finland, comparable to section 34 of the Child Welfare Act. The Deputy Parliamentary Ombudsman also paid attention to the position of persons who had arrived in Finland alone when they were children and



turned 18 years of age in Finland. In the decision, the Deputy Parliamentary Ombudsman asked the Ministry of the Interior and the Ministry of Labour to find out, for example, about the average processing times of asylum applications concerning unaccompanied children seeking asylum, and how the processing times could be shortened.

474. In its answer submitted in June 2001, the Ministry of the Interior gave an account of the measures that the Ministry had taken in order to shorten the processing times of applications of unaccompanied children seeking asylum and to improve the position of children in the hearings relating to asylum. In February 2001, the Ministry of Labour gave an update of a Government bill that it has been preparing. A subsequent amendment (Act on the Amendment of the Act on the Integration of Immigrants and Reception of Asylum-Seekers 118/2002) remedied some of the defects that the so-called residence permit based on the principle of equity can cause to a child. However, the residence permit based on the principle of equity even now does not make family reunification possible in Finland.

475. In 2002, the Parliamentary Ombudsman, Riitta-Leena Paunio, took the initiative and submitted the issue of the rights of unaccompanied refugee children under reconsideration. The Ministry of the Interior gave its account of the issue to the Parliamentary Ombudsman in December 2002. According to the Ministry, the average processing times of asylum applications submitted by unaccompanied children have become shorter. As concerns pending proceedings, the Parliamentary Ombudsman intends to specifically assess the processing times in cases involving family reunification, the mental services available for unaccompanied refugee children and the materialization of their fundamental right to receive basic education, as guaranteed by the Constitution.

476. In the light of the new account, the Parliamentary Ombudsman has noted that the processing time of the asylum applications of unaccompanied refugee children has become significantly shorter. However, problems still exist in the processing concerning family reunification. In a recent decision,<sup>58</sup> the Deputy Parliamentary Ombudsman Ilkka Rautio states that the processing of an application concerning family reunification in the Directorate of Immigration has lasted an unduly long time. The decision makes reference to article 10 of the Convention on the Rights of the Child, according to which applications by a child or his or her parents to enter or leave a State party for the purpose of family reunification must be dealt with by States parties in a positive, humane and expeditious manner.

477. *Criticism by NGOs.* NGOs have criticized the residence permits granted to unaccompanied children seeking asylum based on the principle of equity. These are granted because refusal would have shown evidence of lack of equity. When granted, a child receives an immigrant's residence permit status (A4), according to which family reunification, for example, involves less exclusive rights than are granted to refugees and persons in need of international protection. The reunification of the child's family is made conditional upon guaranteed means of support, which in many cases is an insurmountable barrier for the child. NGOs have suggested that the requirement of guaranteed means of support be formulated in a less rigid manner and that this requirement not be applied to children at all. In addition, NGOs have said that the right to family reunification is problematic also in that according to the Aliens Act, a minor sibling is not defined as a family member. In case the only living relatives of the child are his or her minor siblings, the children effectively form a family that has the right to live together.

478. The Government proposal to Parliament concerning a new aliens act is discussed in chapter V, section D, above. The proposal contains improvements that would make family reunification easier than it is today.

479. *The best interests of the child.* In its decisions concerning the refusal of entry of a foreigner, the Supreme Court<sup>59</sup> has laid special emphasis on the need to address such aspects as the best interests of the child and the child's development and health, whenever a refusal of entry is considered.

480. *Prioritizing claims by unaccompanied children seeking asylum.* The instructions on asylum matters issued by the Ministry of the Interior<sup>60</sup> state that applications for asylum made by unaccompanied minors call for urgent processing. The authorities that are involved in the asylum process (the Police Service, the Frontier Guard and the Directorate of Immigration) are trained to meet unaccompanied children seeking asylum in the course of the process and to ensure the materialization of their best interests. Processing of applications received from unaccompanied minor asylum-seekers is given priority by all the authorities involved.

481. The Refugee and Asylum Division of the Directorate of Immigration set up a Child Affairs Unit in August 2001 to deal with asylum applications submitted by unaccompanied children. The members of the Unit take responsibility for the interviews of unaccompanied minor asylum-seekers and for the decisions concerning residence permits, made on the basis of asylum applications and family ties. The Unit has also sought to contribute to the materialization of the best interests of the child by organizing meetings with interested parties and by participating in training and other events.

482. At present, the Directorate of Immigration is dealing with and making decisions on only such applications as have been taken under consideration in 2002 and 2003. In 2002, a total of 66 applications were pending, and by the end of the year, a decision had been taken in 22 cases. The average processing time was about five months.

483. *Transfer of responsibility for asylum investigation and training of the staff of the Directorate of Immigration.* The Committee has recommended that Finland ensure adequate resources for the training of the officials who receive refugee children. It also encourages Finland to consider measures through which children seeking asylum and refugee children can be granted equal access to the same standard of services, in particular education, irrespective of who they are and where they live (*recommendation No. 52*).

484. Since the responsibility for the investigation of the grounds for asylum have been gradually transferred from the Police Service to the Directorate of Immigration, the latter has been in charge of asylum investigations concerning unaccompanied minor asylum-seekers, since 2002. The police are still responsible for finding out details related to the identity, route of travel and entry in the country of the applicant. The Directorate of Immigration hears the child about the reasons of persecution. If possible, the police and the Directorate of Immigration try to arrange their hearings one after the other on the same day. The Directorate of Immigration makes arrangements to carry out the hearings in close cooperation with not only the police but also with the staff of the group or family group home and the representative of the child. During the hearings, the representative of the child is accompanied by an interpreter and, as a rule, also by a legal adviser from the Refugee Advice Centre.

485. Unlike adult asylum-seekers, unaccompanied children seeking asylum are heard, as a rule, in the group or family group home where they have been accommodated. The hearings take place in an environment that is friendly to the child, and the child has an opportunity to have a meal and, if required, also rest during breaks.

486. The asylum investigation of unaccompanied minor asylum-seekers is carried out in the Child Affairs Unit, which specializes in minors and possesses the required expertise. It is important from the point of view of the decision-making that an official from the Directorate of Immigration meets the child. This helps better appreciate the applicant's individual situation and level of development, there is less need for requests for further information, and the assessment of the credibility of the applicant's statement is more well-grounded than it would be on the basis of written evidence only.

487. Before the practice of hearings was introduced, the Directorate of Immigration participated in a project entitled *Children First - Minors in the Asylum Process: A training Programme for Officials* (2001-2002), financed by the EU *Odysseus Programme*, which aimed at developing the reception of minor asylum-seekers. In addition to Finland, Ireland, Poland and Lithuania also took part in the project. Other participants from Finland were the Ministry of Labour, the Perniö reception centre, the police of the city of Salo, the Finnish Red Cross, the International Organization for Migration (IOM) and the Refugee Advice Centre. The responsible authorities were the Ministry of Labour and the Directorate of Immigration.

488. The project was carried out in 2000 and 2001, and it was targeted at the authorities, aiming at finding out how to encounter a child in the asylum process and how to assess the child's best interests in the best possible manner. In the context of the project, the Directorate of Immigration worked out guidelines for interviewing unaccompanied children seeking asylum (referred to as "separated minors" in the guidelines) and a form for interviews (a copy of the material is enclosed). The guidelines are exhaustive and provide a thorough account of the issue, and are also used by the regional offices of the United Nations High Commissioner for Refugees. A separate section is devoted to the question of how to meet and interview traumatized children. Meeting a traumatized child has also been discussed in the training courses organized for the staff of the Directorate of Immigration.

489. The Ministry of Labour focused on the development of the working methods used in the reception units and called attention to such questions as strengthening of the official networks of persons working with children, consultations with the immediate family, and psychosocial interviews and plans concerning the process of voluntary return. The central material of the project is available on a CD and in a publication in English, produced by IOM.<sup>61</sup>

490. What was said above also responds to the Committee's *recommendation No. 54*, where it advises Finland to ensure that every effort be made to identify children who require special support upon their arrival in the State party, as well as consider providing adequate psychological assistance to them and their parents.

491. *Representatives.* The Act on the Integration of Immigrants and Reception of Asylum-Seekers (493/1999) lays down that a representative may be assigned to a refugee child or a child applying for a residence permit or seeking asylum who is in Finland without a parent or legal guardian or any other legal representative. The representative shall protect the best interests of the child, taking into account his or her ethnic, linguistic, religious and educational background.

492. The system of representatives was developed under an EU project financing before the entry into force of the Act on the Integration of Immigrants and Reception of Asylum-Seekers. During its validity, the act has been developed under ERF (European Refugee Fund) financing in a project entitled *Lapsen edun mukainen vastaanotto* (Reception in accordance with the best interests of the child). Two organizations, the Central Union for Child Welfare and the Refugee Advice Centre, have taken responsibility for the project. During the project cycle, representatives have received training and a brochure on the reception and representation of unaccompanied children seeking asylum has been prepared for immigrants. The brochure is available in all the main immigrant languages.<sup>62</sup> A separate handbook on the work of the representatives is under preparation.

493. *Multicultural care work.* In 2000, all employees in the group and family group homes who work with children were offered the possibility to attend a tailor-made training course entitled "Multicultural care work". The training was organized by the University of Tampere Institute for Extension Studies. Employees working with children can also take part in a two-day training session organized annually and tailored to suit the needs and interests of the participants. They can also take part in such other training in their own field, at the employer's expense, as they consider important. Individual and group job counselling is also available for employees.

494. *Integration of immigrants and reception of asylum-seekers.* The Act on the Integration of Immigrants and Reception of Asylum-Seekers (493/1999, as amended 118/2002, 1292/2002) took effect in May 1999. The Act covers immigrants who have a place of residence in Finland. Residence in Finland is provided for in the Municipality of Residence Act (201/1994) and also calls for a residence permit granted by virtue of the Aliens Act (378/1991).

495. The Act on the Integration of Immigrants and Reception of Asylum-Seekers requires that local authorities prepare an integration programme for the immigrants they receive. This programme is worked out also for individual immigrants. An integration programme is made in collaboration with the job centre or with the local authorities for working age immigrants and those who are outside the labour force, respectively. Integration plans are made for individual families. There is no separate programme for children. Children are integrated mainly through day care and the comprehensive school.

496. The Act on the Integration of Immigrants and Reception of Asylum-Seekers was complemented in 2002 (118/2002) by provisions on the establishment of group homes in conjunction with the reception centres to facilitate the reception of unaccompanied children seeking asylum and children in need of temporary protection. The operation of the group homes is governed by a provision of the Child Welfare Decree (1010/1983) on the maximum number of children and young people in one unit of accommodation, the maximum number of children in the same set of buildings, and the minimum number of staff members in charge of care and education.

497. When services are organized for minors or victims of torture, rape or other physical or sexual violence or persons who are otherwise disadvantaged, the special needs arising from their situation are taken into account. Children who are seeking asylum and whose parents suffer from mental problems or are for some other reason incapable of assuming responsibility for sufficient care of their children are entitled to either municipal day-care or subsidised family assistance.

498. *The Government report on the implementation of the Act on the Integration of Immigrants and Reception of Asylum-Seekers.* At the time when Parliament adopted the Act on the Integration of Immigrants and Reception of Asylum-Seekers, it requested that Government submit a report on the amendment three years after the entry into force of the Act. The Government report<sup>63</sup> was submitted to Parliament in May 2002. It brought up problems and offered suggestions for development concerning, inter alia, the integration of children and young people, reception of unaccompanied children seeking asylum and the duties of the representative. In its reply, Parliament called attention to the need to improve the position of children seeking asylum and refugee children. Accordingly, the Government will submit its proposal for amendments to the Act on the Integration of Immigrants and Reception of Asylum-Seekers to Parliament in 2004, taking note of the suggestions for improvements included in the parliamentary reply.

499. Some of the suggested improvements have already been carried out. The Ministry of Labour and the Ministry of Education have jointly launched a project that aims at the creation of a model for early recognition of problems among young immigrants and at the development of multidisciplinary working methods to help prevent and intervene in problems. The University of Tampere is now collecting material for the project, in cooperation with the City of Tampere. Financing is obtained from the two ministries.

500. *Materialization of the right to basic education of immigrant children.* In 2002, the Education Department of the City of Helsinki requested the Ombudsman for Minorities to find out about immigrant pupils and their admission to school. The inquiry was based on cases found in schools where some immigrant children starting preparatory class or basic education did not have a residence permit. In the instructions to schools, it has remained unclear whether immigrant children can or must be required to possess a valid residence permit or not. The enquiry dealt with the need of common principles, and the Ombudsman for Minorities was requested to inform about the issue at the national level.

501. The Ombudsman for Minorities stated that, as provided for in section 16 of the Constitution of Finland, everyone has the right to basic education free of charge. However, section 25 of the Act on Basic Education provides that *statutory education* applies only to *children with a permanent residence in Finland*. According to the statement, decision on a permanent residence shall be based on the Municipality of Residence Act. Thus an immigrant child can be considered to be under the obligation to attend school if he or she, based on the provisions of the Municipality of Residence Act, has a permanent residence in Finland.

502. Confusion obviously arises in respect of immigrant children from the content of section 4 of the Act on Basic Education, according to which the local authorities shall be responsible for the organization of basic education and pre-school education for children of statutory school age

with a residence in the municipality. In his statement, the Ombudsman for Minorities noted that a child could be considered to have a residence in the territory of a municipality if his or her stay in the municipality is based not on a visit but on some other reason. In that case, residence is based on a residence permit and can be for a fixed period of time or continuous. Accordingly, a temporary visit based on a visa or visa-free entry would not, by definition, meet the preconditions of residence.

503. However, arrival in Finland with the intention to stay and live in the country is possible either with a visa or based on the visa-free regime. Children who have arrived in the country without a residence permit and who are waiting for a decision about one cannot be considered to be under an obligation to attend school. In practice, however, they have settled down in some municipality and can, therefore, be considered to be entitled to receive basic education free of charge.

504. Provided that the majority of the amendments to the Aliens Act enter into force, it is obvious that cases where a person can arrive in the country without a residence permit and obtain one in Finland will increase. It is common knowledge that processing of residence permits may take long, and it is hard to predict the length of time that the applicant needs to wait for his or her permit. It would be unfair towards the children involved to be denied access to school while waiting for a residence permit.

505. According to the statement of the Ombudsman for Minorities, schools have not been specifically assigned to assess if a pupil has a residence permit or not or if the preconditions are met. But the school can ask immigrant children to provide the information that is normally requested when a child enrolls in school, such as personal details, home address, etc. The purpose of the child's stay in the country can also be clarified. Other aspects related to the arrangement of teaching can also be investigated, such as whether the child seeks asylum or whether he or she belongs to the refugee population. In the context of the reception services available to refugees and asylum-seekers, the school can, for example, make arrangements to obtain interpretation free of charge at parent-teacher meetings.

506. A statement given to the Education Department of the City of Helsinki was sent for information to the Ministry of Education and the National Board of Education, and the competent authorities were requested to take the necessary measures to implement the right to basic education of immigrant children.

507. *Statements based on the Aliens Act.* The Ombudsman for Minorities has also duties provided for in the Aliens Act, that is, he has to submit statements concerning applications for asylum and the deportation of aliens from the country. Considering the field of responsibility of the Ombudsman, the statements typically focus on finding out if it is possible to arrive at a favourable decision on asylum and on whether the preconditions required to make a decision on deportation are met.

508. When the Directorate of Immigration asks the Ombudsman for Minorities to provide a statement on an asylum issue, the Ombudsman submits a statement with reasons, if considered necessary based on reasons related to the application or its processing. Otherwise, the

Ombudsman for Minorities states that the material concerning the applicant's refugee issue, available at the time of the statement, did not produce any evidence that would call for a more detailed statement by the Ombudsman.

509. In 2002, the Ombudsman for Minorities submitted a total of 644 statements concerning asylum on the basis of the Aliens Act. Of these, 33 statements dealt with unaccompanied children who had arrived in Finland. Requests for statements concerning unaccompanied children seeking asylum have been considered to be urgent, and statements have been submitted as soon as possible.

510. As concerns deportation, the Ombudsman for Minorities submitted a total of 117 statements in 2002, of which 15 were related to unaccompanied children who had arrived in Finland either as unaccompanied minor asylum-seekers or with their families, based on Finnish origin or after one of the parents had married a Finnish citizen. While in Finland, these young people had got involved with crime and some of them had also become substance abusers.

511. In both asylum and deportation issues, the Ombudsman for Minorities has taken into account the different situation of the child as compared to that of adults. For example, the time spent in Finland and the ties that have developed in the country are different. The problems young immigrants encounter in Finland cannot be solved by means of denying their problems and getting them out of sight. We require an active and broad-based integration policy, where all the phases of the integration process are open to adjustment.

512. *The Ombudsman for Minorities' action related to the status of immigrant families and children.* In 2002, the Office of the Ombudsman for Minorities took part in the work of a group that planned, financed and published a brochure for immigrants, entitled *Tasa-arvoisena Suomessa - tietoa maahanmuuttajaiselle ja -miehelle* (Equality in Finland - Information for Immigrants). The brochure gives basic information about such issues as marriage and cohabitation, upbringing and education of children, studies, job seeking, and difficulties in family life and solving problems. The brochure has been published in the publication series of the Ministry of Labour. It has been printed in 8 languages and is available in 13 languages on the web site of the Ministry of Labour.<sup>64</sup>

513. The Ombudsman for Minorities has, in cooperation with other actors, also organized seminars on equality, equal opportunities and multiculturalism for immigrants and persons working with immigrants.

514. *Aliens in detention.* The Act on the Treatment of Aliens and Detention Units (116/2002) took effect on 1 March 2002. The Act provides for the treatment of aliens who have been taken into detention by virtue of the Aliens Act, especially in the detention unit that has been specifically reserved for this purpose. Arrangements are made to ensure that they have accommodation, full board and access to interpretation services, and that their other basic needs are met in the detention unit. Their rights must not be restricted more than the purpose and security of the detention and the maintenance of security and order require.

515. In accordance with the Aliens Act, persons under the age of 18 may not be placed in detention without first hearing the social welfare authorities or the Ombudsman for Minorities. As an exception to this provision, an alien in detention can be placed in the detention facilities of the police if all detention units are temporarily engaged, or the alien is taken into detention far from the nearest detention unit, in which case the detention may last a maximum of four days. A person under 18 years of age can be placed in the detention facilities of the police only together with his or her family or legal guardian.

516. *DNA tests.* In 2000, a provision was added to the Aliens Act concerning DNA tests (114/2000). Provided that a family member residing in Finland cannot otherwise prove that his or her family ties are based on a biological relationship, the family tie can be ascertained by means of conducting a DNA test financed by the Government. The test calls for the consent of the person to be examined.

## **2. Children in armed conflicts (art. 38) and promotion of their recovery and social integration**

517. *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.* The Optional Protocol took effect in Finland on 10 May 2002 (Treaty Series 31/2002). The Protocol concerns armed conflicts, for which Finland is prepared by means of compulsory military service. By virtue of the Conscription Act (452/1950), all Finnish men are liable for military service to be able to defend their country and the legal social order. The Act on Women's Voluntary Military Service (194/1995) lays down provisions on the preconditions under which a woman can be accepted to do voluntary military service.

518. The minimum age of conscripts was lowered by an Act (364/2000) in May 2000. According to the amendment, a person is allowed to start also voluntary military service only after he or she has attained 18 years of age. A corresponding amendment has been made to the Act on Women's Voluntary Military Service (365/2000). Consequently, persons who have not reached 18 years of age are not recruited to combat.

519. When the ratification instrument to the Protocol was deposited, Finland submitted a statement based on article 3, paragraph 2, of the Protocol that Finland requires that all persons recruited to serve in the national armed forces are at least 18 years of age and that the minimum age requirement applies to both men's compulsory military service and women's voluntary military service. Finland will submit its initial report on the implementation of the provisions of the Protocol in May 2004.

520. The Government of Finland has channelled funds from the appropriations for international development cooperation to support the work of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict. Development cooperation funds have also been used to support the activities of the Coalition to Stop the Use of Child Soldiers, created by international NGOs to stop the use of child soldiers.



## B. Children and criminal law

### 1. Criminal liability (art. 40)

521. *Minimum age for criminal liability.* In Finland, the minimum age for criminal liability is 15 years. A child younger than that cannot be arrested or imprisoned, but measures based on child welfare can be applied. Liability for damages caused by crime covers also young people under 15 years of age. A young offender refers to a person between 15 and 20 years of age. Based on the provisions of the Penal Code, a less severe penal scale is applied to young offenders (613/1974). A separate law, the Young Offenders Act (262/1940), has been enacted to provide for them.

522. Based on statistical information compiled by the police, the number of homicides committed by young people is on the rise but, in a long-term perspective, the total number of offences committed by young people has not risen. When all the offences investigated by the police in 2000 are reviewed, the suspect was under 15 years of age in only 2.1 per cent of the cases.

523. Number of persons under 20 years of age who were suspected of having committed homicide or an attempt of one in the years 1997 to 2002.

| Age of suspect | 1997 | 1998   | 1999    | 2000    | 2001    | Jan.-June 2002 |
|----------------|------|--------|---------|---------|---------|----------------|
| Under 15       | 0    | 0      | 2       | 2       | 5       | 5              |
| 15-17          | 17   | 20     | 19      | 34      | 41      | 12             |
| 18-20          | 24   | 18     | 38      | 48      | 67      | 35             |
| Total          | 41   | 38     | 59      | 84      | 113     | 52             |
| Change         |      | -7.30% | +55.30% | +42.40% | +34.50% |                |

*Source:* Police data. Häkkänen & Hagelstam. Young homicide offenders: recent developments and their background. Crime investigation 2002. National Bureau of Investigation. Helsinki 2003.

524. During the past years, a few exceptionally brutal offences committed by young people have led to much public discussion. There has been debate about whether the minimum age for criminal liability should be lowered in order to make young offenders (some of the young offenders were very young) take responsibility for their acts. In its report, the Committee on Juvenile Crime,<sup>65</sup> which has been in charge of the reform of the punishment system, has not seen it appropriate to lower the minimum age for criminal liability from the present 15 years of age.

525. Organizations promoting the rights of the child have opposed lowering the minimum age for criminal liability, noting that children and young people possibly know more than before, but there is no evidence of their becoming mentally mature earlier than before. On the contrary, it takes children and young people longer than before to reach the capacities required by an adult. Children and young people whose behaviour is disturbing have in most cases received inadequate care and upbringing. Such defects cannot be remedied by means that are available in the framework of the system of criminal sanctions.

526. *Juvenile punishment.* The Juvenile Punishment Experiment Act (1058/1996) complemented by a Juvenile Punishment Experiment Decree (1066/1996) took effect in 1997. A trial phase, which involves tests in conjunction with criminal cases in seven different district courts, will end in 2004. A young offender who is 15 to 17 years of age can be sentenced to juvenile punishment in case a fine is considered an inadequate punishment, but there are weighty reasons against the use of punishment to an unconditional sentence of imprisonment. Juvenile punishment consists of youth service, which can be 10 to 60 hours of service, and means regular, unpaid work done under supervision and guided duties that enhance the offender's social capacities. A young offender's supervision may last from a minimum of four months up to a maximum of one year. A plan of implementation of the juvenile punishment provides for how frequently and in what ways the offender needs to be in contact with the supervisor, lays down a timetable for the youth service and describes how the service is carried out. The Probation Service takes responsibility for the implementation of juvenile punishments. Based on statistics compiled by the Probation Service, 50 juvenile punishments were imposed in 2001. During the trial period from 1997 to 2001, as many as 133 completed juvenile punishments were recorded, and courts of law had interrupted 80 juvenile punishments.<sup>66</sup>

527. In spring 2003, the Committee on Juvenile Crime<sup>67</sup> proposed that the experimented juvenile punishment be introduced in the whole country after some changes had been made based on the experience gained during the trial phase. For example, the juvenile punishment should be applied more often in cases where the young offender has committed an offence for which a conditional sentence would not be sufficiently severe and effective. The scope of application of the juvenile punishment should also be expanded to cover offences committed by persons 18 to 20 years old. A major change to the present system would be an amendment according to which a juvenile punishment could be imposed wholly or partly in the form of obliging the offender to receive mental health care or intoxicant abuse treatment, as a rule complemented by the core functions of the juvenile punishment. This idea is grounded on the experience that juvenile offenders tend to have problems in these areas.

528. *Supervision.* To intensify a conditional imprisonment, offenders who are under 21 years of age can be sentenced also to be under supervision. The provisions on supervision are included in the Young Offenders Act (262/1940) and the Decree on Young Offenders (1001/1942). The idea of supervision is to prevent the sentenced offender from committing another crime. Prior to the start of supervision, the young person's life situation is charted and a personal history report is made. The impacts of the various alternative forms of punishment on the young person's situation are then evaluated based on the report. Persons under 18 years of age are sentenced to an unconditional imprisonment only for very weighty reasons. A special supervision plan is made to determine the objectives of and means to be used during the period of supervision. At the beginning of 2002, approximately 1,600 young offenders who had been sentenced to a conditional punishment were under supervision.<sup>68</sup>

529. *Arbitration.* Offences committed by young people and also acts of misdemeanour by persons under 15 years of age can be subject to arbitration. Impartial arbitrators with a special training for this purpose help the parties arrive at reconciliation and decide about compensation. Both the victim of the offence, the offender, the parents of a minor offender, the police, the

prosecutor or a social welfare officer can make an initiative to start arbitration. Provided that the parties arrive at an understanding, an agreement is made. Arbitration is voluntary and free of charge. Suggestions have been made to make the voluntary arbitration system a statutory practice.

530. In spring 2003, an advisory committee on criminal matters was set up under the administration of the Ministry of Social Affairs and Health. The Committee functions as a criminal policy discussion forum, which deals with matters related to the management of crime investigation. The Committee follows and evaluates the arbitration of criminal matters and makes suggestions for development.

## **2. Deprivation of liberty, arrest, imprisonment and involuntary treatment (art. 37, subparas. (b) to (d))**

531. In Finland, a child or young person may be subjected to deprivation of liberty on grounds provided by law in the following situations:

- When a person who has attained the age of 15 is arrested, imprisoned or given a custodial sentence or found guilty of a criminal act;
- When a minor is subject to child welfare measures against his or her own will or against the parents' will;
- When a minor is taken into psychiatric care against his or her own will or against the parents' will.

532. *Sentences of imprisonment.* In Finland, relatively few prisoners and remand prisoners are younger than 18 years of age. This is partly because of a provision in the Penal Code (520/2001) according to which a person may not be sentenced to an unconditional imprisonment if he or she was under 18 years of age at the time when the offence was committed, unless it is called for by weighty reasons. Prisoners under 21 years of age on 1 January 2003 were as follows:

|             | Remand prisoners |       | Convicted prisoners |       | Total |
|-------------|------------------|-------|---------------------|-------|-------|
|             | Men              | Women | Men                 | Women |       |
| 15-17 years | 7                | 0     | 5                   | 0     | 12    |
| 18-20 years | 42               | 1     | 62                  | 2     | 107   |
| Total       | 49               | 1     | 67                  | 2     | 119   |

*Source:* The Criminal Sanctions Agency, 1 January 2003.<sup>69</sup>

533. *Treatment of prisoners.* According to the Enforcement of Sentences Act,<sup>70</sup> prisoners shall be entitled to a fair treatment and respect for their human dignity. The prohibition of discrimination is applied to prisoners, and they must not be placed in an unequal position with respect to one another for such reasons as age. However, when a sentence is imposed on a young offender, special attention shall be paid to the special needs arising from his or her age and maturity.

534. The Prison Administration Department of the Ministry of Justice has issued instructions (No. 2/011/96) concerning the treatment of young offenders in prison. The content of the instructions was explained in more detail in the second periodic report.

535. *Treatment against the patient's will.* The Mental Health Act (1116/1990) lays down provisions concerning the treatment of minors (954/1992). A minor can be ordered treatment in a psychiatric hospital against his or her will if he or she needs treatment and other mental health services are inadequate or inappropriate. A minor psychiatric patient shall always be placed in a ward that is specifically designed for child or adolescent psychiatric patients. Minors shall be treated separately from adult patients, unless it is considered that it is in the best interests of the child to act otherwise. As concerns ordering a minor to treatment, the medical criteria are of paramount importance and the order does not call for the consent of the parent or legal guardian.

### **3. Prohibition of capital punishment and life imprisonment (art. 37, subpara. (a))**

536. Capital punishment during peacetime was abolished from the Finnish penal system in 1949 and entirely in 1972.

537. Finland is a State party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Treaty Series 49/1991) and to Protocol No. 6 to the European Convention on Human Rights, concerning the abolition of the death penalty (Treaty Series 63/1999; as amended by Protocol No. 11). In May 2002, Finland signed Protocol No. 13 to the European Convention on Human Rights, concerning the abolition of the death penalty in all circumstances. The Protocols will be ratified in late 2003.

538. Life imprisonment may not be imposed for an offence committed by a person under 18 years of age (Penal Code 3:2; 613/1974).

### **4. Physical and psychological recovery and social reintegration (art. 39)**

539. In Finland, cases that fall within the scope of application of this article are mainly related to neglect or abuse at home. The Finnish Child Welfare Act also covers after-care that the social welfare authorities are always responsible to arrange for a child or young person at the termination of extra-familial care. The purpose of after-care is to provide support for the child and his or her parents. The duty to arrange after-care ends when the young person attains the age of 21.

### **C. Children in situations of exploitation, and promotion of their physical and psychological recovery and social reintegration**

#### **1. Economic exploitation, including child labour (art. 32)**

540. As a rule, cases of exploitation of child labour referred to in article 32 of the Convention on the Rights of the Child do not occur in Finland.

541. *Young workers.* The Young Workers Act has been amended by an Act (754/1998), and the amended provisions took effect at the beginning of 1999. The most significant amendments are as follows:

- Children of statutory school age, who have attained 14 years of age or will be 14 years old during the said calendar year, can go to work for half of their school holidays and at the most two thirds of their holidays. The amendment has been made due to the supervision practice of the European Social Charter of the Council of Europe (Treaty Series 44/1991);
- The regular hours of work and training of an apprentice may not exceed 8 hours a day, and 40 hours a week;
- In addition, the provision on emergency work was revised so that a person who has attained 15 years of age can, as provided for in section 21 of the Hours of Work Act (605/1996), be engaged in emergency work only if an 18 year old or older person is not available. If adults are not available at the workplace or there are not enough of them, a 15 year old can be assigned to do emergency work;
- The provision of daily rest periods was revised to apply to all young workers, that is, to persons who are under 18 years of age. When the daily hours of work of a young person are longer than four and a half hours, he or she has to be allowed to have at least one rest period of a minimum of 30 minutes.

542. Employment as a member of a ship's crew is not covered by the provisions of the Young Workers Act. Young persons working on board a Finnish ship are covered by the provisions concerning young workers contained in the Seamen's Act (423/1978) and Seamen's Hours of Work Act (296/1976).

543. A decree of the Ministry of Social Affairs and Health on a Non-exhaustive List of Tasks Dangerous for Young Workers (128/2002) took effect at the beginning of March 2002. Hazardous tasks listed in the decree may not be assigned at all to persons who are under 16 years of age. The tasks may be assigned to persons who have attained 16 years of age if adequate precautions have been taken. In that case, the employer also has to notify the Occupational Safety and Health District of the assignment. This decree repealed the Decision of the Ministry of Labour concerning Work which is considered Dangerous to Young Persons of 23 October 1996 (756/1996).

544. *Participation in international work against child labour.* Finland supports the International Programme on the Elimination of Child Labour (IPEC) related to ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Finland's grant in 2000 was of €589,000 (3.5 million Finnish marks) and €336,000 (2.0 million Finnish marks) in 2001.

545. In 2000-2003, Finland has been involved in a three-year project to put an end to the exploitation of child labour in gold mines in Camarines Norte (Philippines), in the framework of ILO/IPEC. Finland's role in the project ended in summer 2003.

546. Finland has also allocated funds from regional appropriations to three projects carried out by ILO/IPEC in the Russian Federation:

- Street Children in St Petersburg: From Exploitation to Education (2000-2003);
- Working Street Children in the Leningrad Region: Initial Action to Fight the Worst Forms of Child Labour (2003-2004);
- Russian translation of the ILO/IPU handbook for parliamentarians *Eliminating the worst forms of child labour. A practical guide to ILO Convention No. 182.*

## **2. Drug abuse (art. 33)**

547. In Finland, the use and possession of narcotic drugs and psychotropic substances are punishable acts. The production, sale, importation and transport of narcotic drugs and psychotropic substances are also punishable.

548. *Recommendation.* The Committee has noted with appreciation the Decision-in-Principle on Drug Policy of 1999 and encourages Finland to empower positive culture changes and to pursue its awareness-raising and preventive measures, including drug education in schools. It has further recommended that Finland allocate more resources to the child welfare service system for treatment therapies and rehabilitation services specifically tailored for children (*recommendation No. 56*).

549. *Prevention of drug abuse.* In Finland, drug abuse has been less common than in the rest of Europe. Drug abuse became more common in the 1990s, but levelled off in the early 2000. More resources have been channelled to the prevention of drug abuse among young people. The Ministry of Education, for example, has allocated separate funds directly to preventive work and to the enhancement of the skills and capabilities of persons who work with young people, such as teachers and youth workers, and persons who participate in non-governmental activities who need to be equipped with responses to challenges arising from drug abuse. The funding has been premised on the belief that support to effective and fruitful youth work and youth activities can lead to real alternatives to drugs and other intoxicants. Preventive work is carried out in collaboration with the youth and education sector, the social welfare and health-care administration, the police, and the legal authorities at both governmental and local levels.

550. The future enlargement of the EU and the removal of border controls will pose additional challenges to those engaged in the prevention of drug abuse, including pressures to set higher taxes on alcoholic beverages and to remove import restrictions. It is important that developments in this area be followed especially from the point of view of the prevention of the adverse effects of drug abuse and the development of rehabilitation.

551. *Materialization of some of the fundamental rights of children placed in community homes.* The Parliamentary Ombudsman Riitta-Leena Paunio took independent initiative in 2002 and, at her request, a survey was made on the materialization of the rights of the child in all community homes run by the Government. In her statement (31 December 2002, Register No. 3170/2/01), the Parliamentary Ombudsman drew attention to such issues as treatment of

child addicts, and especially to the fact that drug tests are run in community homes without a legislative foundation. She also paid attention to the compliance with fundamental and human rights provisions in cases where the child is in need of particularly intensive care. Compliance with the fundamental and human rights of the child is particularly demanding during the care period, for example, the restriction of contacts between the child and the parents and limitation of the freedom of movement of the child. A more detailed account of the decision is given in chapter VI, Section B, above.

552. *Drug abuse prevention in workshops.* In May 2003, the Ministry of Social Affairs and Health and the Ministry of Education set up a Board of Senior Officials to plan and implement training courses on the prevention of drug abuse, targeted at youth workers who should be equipped to deal with clients with a drug problem. One of the main objectives the Government of Prime Minister Matti Vanhanen is to find out more effective ways to prevent the social exclusion of young people and to enhance their social skills. The Government will draft a resolution and a programme on combating the harmful effects of alcohol and draw up an action plan on drug abuse.

553. Provision of workshops has proved to be an effective way to attend to young people who have not managed to establish proper links with society and the labour market. In accordance with the Government programme, workshops for young people will become an established form of youth work during the Government's term in office. The general objectives of the project are to improve the skills of the workshop staff to encounter and deal with drug issues and to prepare proposals and recommendations to help reduce the adverse effects of the abuse of narcotic drugs and psychotropic substances and their consequences. Every workshop will observe the same rules concerning drugs.

554. *Narcotic drugs as a threat in the future.* In a survey conducted in 2002 by the local and district offices of the Mannerheim League for Child Welfare,<sup>71</sup> drug abuse was considered to represent the greatest threat factor in the future. It is alarming to note that parents do not have the strength to step in or do not care about their children's drug abuse. The combat of drug abuse should target, above all, at the values held by adults, because children do not live in a vacuum but in the world of values of the adults. The Mannerheim League and other child welfare organizations have expressed their deep concern about the recent views in the public discussion that have been in favour of drugs.

### **3. Sexual exploitation and sexual abuse of children (art. 34)**

555. *Recommendation.* The Committee on the Rights of the Child urged Finland to undertake adequate measures to combat the sexual exploitation and sexual abuse of children and to pursue international cooperation for the investigation and the prosecution of sexual abuse and exploitation of children by Finnish citizens abroad (*recommendation No. 58*).

556. The sexual abuse of children has been much discussed both in public and among professionals. The general opinion on the sexual abuse of children and on attempts to commit such acts is strictly disapproving. The authorities have started several measures to protect children from sexual exploitation and abuse.

557. *National Action Plan.* The National Action Plan on Combating the Commercial Sexual Exploitation of Children (*Lasten kaupallisen seksuaalisen hyväksikäytön vastaiset toimet*), prepared by the Government of Finland, was completed at the beginning of 2000. Measures that were suggested in the Action Plan have been implemented in 2000-2002, in cooperation between the authorities and NGOs. Both preventive and rectifying measures have been taken. In accordance with the Action Plan, information about the sexual abuse of children will be an element of the basic and continuing education of persons working with children, such as staff members of day-care centres, teachers, social welfare and health-care staff and the police. Community and Youth Police, who visit day-care centres and schools, will give children information about how they can avoid becoming victims of sexual abuse. The police and the prosecutor will be provided with clear instructions and explicit rules of procedure for possible cases involving sexual abuse of a child or purchase of sexual services from a minor abroad by a Finnish citizen. Information will also be disseminated about the hotline and e-mail address of the National Bureau of Investigation, where citizens can inform about any child pornographic material that they may have found on the Internet. Information is also given to the public about the fact that possession of child pornography is a crime and that the prohibition of possession covers also material obtained via the Internet.

558. *Sexual offences against the child.* The provisions of the Penal Code that pertain to sexual offences against children (563/1998) took effect at the beginning of 1999. A person who has sexual intercourse with a child younger than 16 years of age or otherwise performs a sexual act with a child younger than 16 years of age can be sentenced for sexual abuse of a child to imprisonment for a maximum of four years. Attempted abuse is also punishable.

559. If the victim of a sexual abuse is a child whose age or stage of development is such that the offence is conducive to causing special injury to him/her, is committed in an especially humiliating manner, or conducive to causing special injury to the child owing to the special trust he/she has put in the offender or the special dependence of the child on the offender, the offender can be sentenced for aggravated sexual abuse of a child to imprisonment for at least 1 year and at most 10 years. An attempt is also punishable.

560. The purchase of sexual services from a young person, that is, a person who is younger than 18 years of age is a punishable act. Procurement is also punishable in case it involves a person under the age of 18.

561. The production, possession and dissemination of obscene pictures of a child, that is, child pornographic material, are punishable acts since the beginning of 1999. These provisions are included in the Offences against Public Order, criminalized in the Penal Code (563/1998).

562. *Abolition of dual criminality.* If a Finnish citizen is found guilty of a sexual abuse of a child, purchase of sexual services from a person who is younger than 18 years of age, procurement involving a person under 18 years of age, or production, dissemination or possession of child pornography and the offence was committed abroad, he/she can be punished in Finland. As concerns these offences, dual criminality was abandoned. This means that the act need not be punishable based on the legislation valid in the country where the offence took place (*lex loci delicti*). The Finnish police actively cooperate with foreign counterparts, especially with the police of the neighbouring areas in Estonia and the Russian Federation to prevent these phenomena.



563. In 2001, judgement was delivered to one person in Finland for the purchase of sexual services in the Russian Federation from a person under 18 years of age, and in 2002, and to another one for the sexual exploitation of a child in the same country. These cases were dealt with very extensively in the media, which may have increased awareness of the illicit character of such acts. On account of the nature of these offences, investigation was rather difficult, but in spite of that, cooperation with the Russian authorities was very successful. The fact that the purchase of sexual services from a young person is a crime even when the act takes place abroad was discussed in Finland also during a campaign against trafficking in women, conducted in Finland in 2002.

564. The Ministry of Justice has had a liaison prosecutor in Tallinn since the beginning of 2001 to work as a link between Finnish and Estonian legal authorities and to facilitate and enhance the cooperation carried out by the authorities. The liaison prosecutor can, as required, also step up the investigation and prosecution of offences related to the sexual exploitation of children. The Ministry of Justice intends to post another liaison prosecutor to work in the Russian Federation.

565. An Act took effect at the beginning of 2003 (1313/2002), according to which cooperation can also be enhanced by establishing a joint board of investigation, composed by official representatives of Finland and a foreign country, to carry out the preliminary investigation.

566. *Nordic-Baltic campaign against trafficking in women in Finland in 2002.* The information campaign built up knowledge and showed that prostitution and trafficking in human beings are interlinked. The objective of trafficking in humans is, in most cases, sexual exploitation or prostitution. Sexual service advertisements, pornography, sex phones and sex bars, intimate massage services, escort services, sex tourism, trafficking in women and children, and prostitution are all part of the sex industry that has today developed into a modern form of slavery worldwide.

567. *Checking the criminal background of persons working with children.* The Act on Checking the Criminal Background of Persons Working with Children (504/2002) took effect at the beginning of 2003. The purpose of the Act is to protect the personal integrity of minors and to promote their personal security. The Act contains provisions on the procedure for obtaining the criminal record of persons appointed to work with minors, that is, with persons under 18 years of age. The new procedure improves the protection of the child from all forms of sexual exploitation and sexual abuse, called for in article 34 of the Convention on the Rights of the Child.

568. The procedure of checking an employee's criminal background applies both to work performed in private law relationships and to civil service employments which involve, on a permanent basis and to a material degree and in the legal guardian's absence, raising, teaching or caring for or looking after a minor or other work in personal contact with a minor. A private individual can obtain information about his/her criminal record free of charge if he or she seeks employment to work with children.

569. The procedure of checking the criminal background applies, under the aforementioned preconditions, also in the following cases:

- Work service carried out by a person in non-military service;
- Work performed at a workplace by a person being coached for working life, or during a trainee or trial period;
- Family care in the carer's private home (Act 312/1992);
- Work carried out by private social welfare and health-care providers.

The employer or other person who is responsible for checking the criminal background of an applicant asks him or her to submit an extract of his or her criminal record, referred to in section 6, subsection 2, of the Criminal Record Act. The extract shows whether the person has, based on the Penal Code, been sentenced to punishment for a sexual offence, violent offence or drug offence. The procedure of investigating applicants' criminal background is part of the applicability testing for the work in question. An entry in the criminal record does not prevent employment or granting of a licence, but the applicant's suitability for the work in question is ultimately decided upon by the employer or an authority. The procedure does not apply to work or service lasting for a maximum of three months.

570. *Recommendations for social welfare professionals on the sexual and physical abuse of children.* The Parliamentary Ombudsman Riitta-Leena Paunio took independent initiative in 2001 and started to look into the question of what procedures are used by the social welfare and health-care authorities when suspected cases of sexual exploitation of a child are investigated. The Ministry of Social Affairs and Health, for example, was asked to find out if the bodies that operate under its administration possess enough information about the penal and procedural principles to be able to conduct legal proceedings without jeopardizing the legal protection of the parties. The Ministry set up a working group in September 2001 to clarify and address cases related to the sexual and physical abuse of children

571. As a result of this work, Stakes published, in spring 2003, a set of recommendations for the social welfare and health-care staff and the police to help them recognize and investigate cases of sexual and physical abuse of children.<sup>72</sup> These recommendations differ markedly from the instructions issued earlier in that they recommend the involvement of the police in the investigation at an early phase. Related concepts and the appropriate provisions of the Penal Code are specified. In addition, concrete instructions are given to help resolve suspected cases of sexual and physical abuse of children. The theme will be dealt with in detail in different educational events, and the media has taken much interest in broadcasting material focusing on the issue.

572. *The Northern Hotline.* Save the Children Finland maintains a child welfare hotline on the Internet, entitled the *Northern Hotline*. The purpose of the hotline is to eliminate child pornography from the Internet and protect young people from harmful and illegal uses of the Internet. Messages to the hotline are dealt with in confidence and laying an emphasis on the child's point of view. The Northern Hotline observes the principles of INHOPE (The Association of Internet Hotline Providers in Europe) and, whenever illegal material is

identified on the Internet, forwards the material either to the hotline in the country where the material was located, to the corresponding teleoperator and/or the National Bureau of Investigation. The hotline works in close cooperation with the lawmakers, the guardians of law and order, and representatives of education, health and social welfare, and the authorities and private service providers on the Internet. The operation of the hotline is financed by the European Union, the Finnish Slot Machine Association (RAY) and private donors.

#### **4. Sale of and traffic in children and child abduction (art. 35)**

573. In Finland, cases of child abduction mainly relate to disputes between divorcing or divorced parents and concern the custody, place of residence, and right of access of the child. Child abduction was dealt with in more detail in chapter V, section E, above.

574. It is extremely unusual in Finland that anyone becomes guilty of child abduction or deprivation of the liberty of a child with a view to obtaining economic benefit. The provisions concerning offences of deprivation of liberty, such as abduction, deprivation of liberty, and taking of a hostage, are laid down in the Penal Code (chap. 25; 578/1995). Arbitrary taking of a child as hostage is also an offence of deprivation of liberty.

575. In accordance with Finnish legislation, adoption against payment is prohibited. Adoption cannot be confirmed if a payment is involved. Providers of intercountry adoptions can charge a fee for their services.

576. *Preparation of penal provisions related to trafficking in persons.* The Ministry of Justice set up a working group in November 2002 to prepare a plan for new penal provisions related to trafficking in persons. Amendment of the provisions is necessary mainly because of the international conventions signed by Finland and the framework decisions concluded by the EU. Provisions on trafficking in persons are included in the Protocol to the United Nations Convention against Transnational Organized Crime (Palermo Convention) to prevent, suppress and punish trafficking in persons, especially in women and children. Provisions related to trafficking in persons that are binding on Finland are also recorded in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the EU Framework Decision on combating trafficking in human beings. The valid legislation in Finland does not expressly cover trafficking in persons even though many acts that are generally related to it are punishable offences.

577. The working group submitted its first report on 3 July 2003. It proposes that the purchase of sexual services be enacted punishable. An attempt to buy sexual services would also be subject to punishment. According to the report, the maximum punishment for the purchase of sexual services from persons under 18 years of age would also be made more severe. The maximum punishment would be one year's imprisonment instead of the present six months. The report proposes that marketing of sexual services (such as advertisements in newspapers and on the Internet) be made punishable. In addition, the new provisions would cover gross procurement, trafficking in persons, and gross trafficking in persons. The working group's assignment lasts until the end of 2003 and also includes preparation of amendments concerning illegal entry into Finland and child pornography.

578. Finland signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in September 2000. The Protocol will be ratified in connection with the preparation of the penal provisions concerning trafficking in persons and child pornography.

579. Finland signed the United Nations Convention against Transnational Organized Crime (Palermo Convention) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, in December 2000. The ratification of the Convention and Protocol is part of the preparation of legislation, carried out in Finland, concerning trafficking in persons.

580. *Trade in human organs.* The provisions on the medical use of human organs and tissues are laid down in the Act on the Medical Use of Human Organs and Tissues (101/2001), according to which no donor or assignee of a donor may be promised or paid a fee for the removal and use of an organ or tissue. The penal provisions related to assault offences might be applied to trafficking in persons with the intention of removing human organs.

#### **D. Children belonging to a minority or an indigenous group (art. 30)**

581. *The Sami.* The Sami are an indigenous people who live in the territories of Finland, Sweden, Norway and the Russian Federation. There are some 75,000-100,000 Sami living in an area which stretches from central Norway and central Sweden across the northern parts of Finland to the Kola Peninsula in Russia. The Sami have their own language, culture, life style and identity, and in the various regions that they inhabit, they are united by common history, traditions, habits and communities. The material foundation of the Sami form of culture lies in their traditional livelihoods, such as reindeer husbandry, hunting and fishing.

582. Based on data collected by the Sami Parliament, about 7,500 Sami lived in Finland in 1999. Of them, 3,842 lived in the Sami Homeland in the north of Finland (Enontekiö, Inari and Utsjoki municipalities and the Lappi reindeer owners' association in Sodankylä). An estimated 3,000 Sami live outside the Sami Homeland and the rest live abroad. The Sami thus constitute about a third of the entire population of the Sami Homeland.

583. In accordance with the Constitution of Finland, the Sami as an indigenous people have the right to maintain and develop their own language and culture in the Sami Homeland and, as is provided for by a separate law, linguistic and cultural self-government. The right of the Sami to use the Sami language before the authorities is provided for by a law (516/1991). A new Government Bill on the use of Sami will be submitted in autumn 2003.

584. *Day care, pre-school education and school education.* It is essential from the point of view of the maintenance of the linguistic and cultural identity of the Sami population that the position of the Sami language be strengthened in children's day care, pre-school education and school education. In accordance with the Act on Children's Day Care (36/1973, as amended 875/1981), municipalities shall take care that children have access to day care where their mother tongue is used, be it Finnish, Swedish or Sami. However, day care in Sami is available to very few children, because the municipalities of the Sami Homeland have not had the economic resources to arrange for Sami day care.

585. According to the Basic Education Act (628/1998), Sami pupils in the Sami Homeland are entitled to receive most of the statutory education in the Sami language. The Act on Upper Secondary Schools (629/1998) and the Act on Vocational Education (630/1998) provide for education in Sami. In the basic education, upper secondary education and vocational education, the Government reimburses the expenses arising from the employment of Sami-speaking teachers and teachers of Sami to the municipalities and education providers out of a separate appropriation (Act on the Financing of Educational and Cultural Provision 635/1998).

586. In practice, Sami education is available the most in the lower comprehensive level, while less education in Sami is arranged in the upper comprehensive. The upper secondary schools do not provide education in Sami, because the school-leaving examination is taken in Finnish or Swedish. The mother tongue test of the school-leaving examination can be taken in Sami or Sami can be taken as an optional language. The other subjects of the school-leaving examination cannot be taken in Sami.

587. *Support for culture.* The cultural needs of minorities have been taken into account in the policy on transfers of the Ministry of Education. The general forms of support for culture are available to the minorities on the basis of equality, but the Ministry of Education also grants discretionary government transfers, on an annual basis, to projects that are designed to promote the protection and development of minority cultures. Support has been given, for example, to the cultural pursuits of immigrants and the Roma. In 1998-2002, projects targeted at children have been addressed by supporting, inter alia, fairy tales, animation films and educational materials in native minority languages.

588. In addition to the above, the Government has reserved a separate transfer in the budget for the promotion of Sami culture and Sami organizations. Based on the cultural self-government of the Sami, the Sami Parliament takes responsibility for the distribution of the transfer to different ends. The Board for Culture of the Sami Parliament has suggested that the year 2004 be named the year of children and young people, with a special emphasis on support for child and youth culture. The theme year would help increase activities that stimulate the interest of young people, including workshops based on the Sami culture, and organization of such events for children and young people as would build up the Sami cultural identity. During the theme year, child and youth culture measures would be in focus. The Sami Parliament has also emphasized that Sami parents need both information and support to help promote their children's linguistic and cultural identity.

589. *Basic services in the Sami Homeland.* The materialization of the rights of Sami children and young people is linked to the economic, cultural and linguistic position of the families in the Sami Homeland, on the one hand, and to the services targeted at the children and young on the other. The financial difficulties of the municipalities of the Sami Homeland and the high rate of unemployment in the region, for example, have deteriorated the level of municipal services. The Sami Parliament has noted with concern that the low income gained from the traditional Sami occupation of reindeer husbandry aggravates the financial straits and other problems of Sami families with children. On account of the insecure prospects of reindeer husbandry and the poor economic position of those engaged in this occupation, Sami children do not dare to continue in that line of occupation, which leads to their linguistic and cultural marginalization.

590. *The Roma.* There are about 10,000 Roma people in Finland. The figure is an estimate because the Finnish Act on Data Protection prohibits recording of such sensitive personal data as are meant to refer to race or ethnic origin.<sup>73</sup> In Sweden, there are about 3,000 Finnish Roma. Roma people live in all parts of the country, but the majority of them live in the big cities of the south of Finland. The Finnish Roma speak the Kàlo dialect of Romani. The older Roma speak Romani the best and the most. In their daily contacts, middle-aged and young adults use mainly Finnish but they are passive speakers of Romani and understand the spoken language.

591. *Recommendation.* The Committee reiterated its concern about the high dropout rate of Roma schoolchildren. The Committee also calls attention to the measures taken by Finland to develop special education and prevent social exclusion, such as efforts to strengthen the status of Romani in schoolteaching, to develop educational material in Romani, and train teachers, and requests Finland to put these measures into action (*recommendations Nos. 59 and 60*).

592. *Statement by the Constitutional Law Committee of Parliament.* In its statement No. 9/2002 on the Government Bill for a new Language Act and related legislation, given in early 2003, the Constitutional Law Committee of Parliament noted that the school legislation makes it possible to teach Romani and Roma culture, but in the school year 2000/01 only 5.26 per cent of the children in the schools where there were Roma children received education of Romani. Less than 100 out of the total of 900 children were taught Romani. In addition, Roma children are placed in special classes or adjusted teaching for linguistic or cultural reasons. The Constitutional Law Committee of Parliament drew the attention of the Government to this defect and was of the opinion that the Government should take legislative measures to improve the position of Romani and Roma culture.

593. *Education in Romani.* Roma children belong to the sphere of statutory education. However, their school attendance involves difficulties that are not even today addressed adequately. One of the main problems is their high dropout rate in basic education, which, for its part, limits their chances of access to further studies. The dropout rate is high for a variety of reasons, such as cultural differences, teachers' poor knowledge of the Roma culture, defective support from schools, and insufficient cooperation between the school and the home of the child. Defects have also been identified in the children's poor command of both Romani and Finnish/Swedish, which has made school difficult from the start.

594. It is estimated that some 1,700 of the about 10,000 Roma children of statutory school age are in comprehensive school. Official information about the number of Roma children in school is not available because Finnish citizens are not registered by ethnic origin. Of the estimated 1,700 Roma children, about 250 are taught Romani in 10 locations in different parts of the country. In the metropolitan areas of Finland, arrangements for the teaching of Romani are effective and appropriate. Elsewhere in the country, the number of pupils is small and one study group is formed from pupils from different schools, which is why the teaching does not necessarily take place in the school that is the nearest to the child. Furthermore, in most cases the classes are held outside the school hours.

595. Relatively few Roma children go to day care and attend pre-school education. However, pre-school education, in particular, significantly helps the child develop the skills needed in school. The very start of school may turn out to be difficult if the Roma child has not attended pre-school and if the parents do not possess enough education to be able to support the child. Day-care centres and pre-schools should recruit staff with a Roma background who could take the Roma culture and Romani into account.

596. The Ministry of Education shares the Committee's concern for the relatively high dropout rate of Roma schoolchildren, and has taken measures in order to offer Roma children better opportunities for education. The dropout rate varies between 10-20 per cent. The most common obstacle to the provision of teaching is the fact that the Roma live in different parts of the country and it is therefore difficult to form study groups. Secondly, there is a lack of teachers who know the language of the Roma. Persons who are competent in Romani, however, often have a poor basic education and poor language skills. This is largely due to the fact that Roma people, who used to lead a nomadic way of life in the past, have not had possibilities for school education. The cultural differences between the Roma and the majority population have also led to marginalization from the working life.

597. *Production of studying material.* The National Board of Education has produced studying materials to meet the needs of the Roma population for years already. The majority of the materials prepared today are for teaching of Romani as the mother tongue or as the second language. The publication programme is based on the new curricular guidelines for the teaching of Romani. The long-term objective is to prepare a series of studying materials for both children who attend comprehensive school and upper secondary students who study Romani as the mother tongue or as the second language. The main problem has been the fact that there is only a limited number of persons who could be assigned to do the task, because very few teachers are competent enough in the Romani language. The textbook authors are also met by exceptionally great demands because of the non-established character of the language and the incompleteness of the vocabulary. The pedagogical problems also differ, partly to a marked extent, from the problems encountered in connection with other language studies.

598. Since 1999, there have been three new textbook projects, which form the foundation of a new series of studying material. A total of €29,461 has been reserved for the purpose. The National Board of Education would be able to invest even more to the project but is prevented from doing so because of a lack of authors of Romani textbooks. Thanks to an initiative made by Finland, the Council of Europe is starting cooperation with a view to coordinating the work of publishers of Romani textbooks in various countries.

599. *Teacher training.* The Ministry of Education has paid attention to the teacher training of Romani students. In the context of a preliminary survey of teachers' basic and continuing education in the future, the situation of Romani education and the needs of Romani teachers in Finland were also examined. The primary objective of the training of Romani-speaking teachers is to support Roma children and young Roma to attend school by strengthening their cultural identity. Roma children are also encouraged to continue their studies in the upper secondary school. Encouraging reports have been received from many municipalities that have employed

Roma people to serve in duties related to the Roma language and culture, assistance of Roma children with learning difficulties (special-needs assistants), and cooperation between Roma families and schools.

600. The Romani Education Unit of the National Board of Education has, in cooperation with different parties, organized additional training for teachers. A course package for native-speaking teachers of the first language of different linguistic and cultural minorities has been carried out. In addition to this, speakers of Romani have been offered short- and long-term training with an emphasis on studies of the language and culture. Training of special-needs assistants has been arranged as a form of labour market training, and the Savonlinna Teacher Education Department has been involved in arrangements enabling first-year university studies of education (*approbatur*).

601. The Ministry of Education is examining various alternatives to start Romani teacher training, paying particular attention to the constraints arising from the potential students' basic education. One option is to arrange a 15 to 35-credit module of Romani and Roma culture, which would lead to a separate grade or form a part of a degree or a vocational qualification. The first 15 credits of the module would be studies of Romani and Roma culture for all students, and the remaining 20 credits would comprise studies of Romani, basic information about international Romani, language study methodologies, pedagogics or studies focusing on the subjects taught at school. The module would be targeted at persons who are well versed in Romani, and the training could be considered to be part of the student's minor subject studies.

602. New methods have been sought to prevent the social exclusion and discrimination of Roma children in school communities by means of development project. The Ministry of Labour is coordinating a project, sponsored by an EU Community Action Programme to combat discrimination. The project is carried out in cooperation with Germany and Ireland, and Roma organizations (Rom und Cinti Union and Romano Missio). Persons representing the organizations have been hired by the project to do fieldwork against discrimination and social exclusion.<sup>74</sup>

603. *Ombudsman for Minorities*. The Act on the Ombudsman for Minorities (660/2001) took effect on 1 September 2001, and as of the same date the office of the Ombudsman for Aliens was discontinued. The mission of the Ombudsman for Minorities<sup>75</sup> is to promote good ethnic relations in society, to follow and improve the position and rights of foreigners and ethnic minorities, to report on the materialization of equality in respect of the different ethnic groups and on the circumstances and position of various ethnic groups in society, to take initiative to help remove any manifestations of discrimination and social evils, to disseminate information about legislation related to ethnic origin and the position of ethnic minorities and foreigners and about the application of this legislation. The Ombudsman for Minorities, together with other authorities, also takes responsibility for monitoring that people are treated equitably regardless of ethnic origin.



604. Whenever the Ombudsman for Minorities detects discrimination, he seeks by means of instructions and advice to stop the manifestation of discrimination or its recurrence. The Ombudsman for Minorities can make initiatives and give recommendations and advice to improve good ethnic relations and to promote the position of ethnic minorities.

605. Anyone can initiate an issue related to ethnic discrimination through the Ombudsman for Minorities. Provided that the Ombudsman has the consent of the initiator, he is entitled to forward or notify the question related to ethnic discrimination for treatment by the competent authorities. The Ombudsman can append his own statement about the issue for information to the competent authorities. The latter must inform the Ombudsman about the measures that they have taken in the matter. The Ombudsman for Minorities can assist or assign an official to assist a person who has become an object of ethnic discrimination to safeguard the rights of this person. As required, the Ombudsman or the official can seek and provide legal assistance to help the discriminated person, if he considers that the issue is of major significance from the point of view of ethnic discrimination.

606. In accordance with the Aliens Act, the Ombudsman for Minorities shall:

- Be reserved an opportunity to express his opinion in the course of the processing of an application for asylum, unless it is evidently unnecessary;
- Be always reserved an opportunity to express his opinion on an issue concerning the deportation of an alien.

607. The Ombudsman for Minorities is an independent authority. The Office of the Ombudsman for Minorities operates under the administration of the Ministry of Labour. The current Ombudsman since 1 January 2002 is Mikko Puumalainen.

608. The functions of the Ombudsman and his Office can be considered as falling into three categories: counselling and assistance of clients; good ethnic relations, and general measures related to the position of aliens and ethnic minorities; and tasks provided for in the Aliens Act, especially statements to be issued on asylum applications and on proposed cases of deportation of aliens.

609. Children and young people who belong to ethnic minorities have been on the agenda of the Ombudsman for Minorities in a number of ways. The Ombudsman has been an active opinion leader, giving several interviews and keynote speeches, and taking part in discussion forums dealing with children and young people of an ethnic minority origin. One of the main themes of these forums has been education and school.

610. In 2003, certain adjustments were made in the internal division of labour in the Office of the Ombudsman for Minorities. Today one of the officials is in charge of monitoring the position of so-called vulnerable groups insofar as the issues fall in the sphere of administration of the Office. This effectively means women, children, young people, the elderly and persons with disabilities who belong to minorities.

### Notes

- <sup>1</sup> Committee report on decision-making concerning the legal position of the child. Ministry of Social Affairs and Health, 1995-12.
- <sup>2</sup> See Decision by Parliamentary Ombudsman Riitta-Leena Paunio on the materialization of the fundamental rights of children placed in community homes, dated 31 December 2002 (Register No. 3170/2/01). See also chapters VI, section B, and VIII, section C.
- <sup>3</sup> Leena Kartovaara and Hannele Sauli, Children in Finland. Population 2001:7. Statistics Finland 2000.
- <sup>4</sup> Leena Kartovaara and Hannele Sauli, Children in Finland. Population 2001:9. Statistics Finland 2001.
- <sup>5</sup> Oppilaitostilastot 2002. OSF Education 2002:8. Statistics Finland.
- <sup>6</sup> Pääkkönen - Niemi. Time use changes in Finland through the 1990s. Statistics Finland. Culture and the Media 2002:2.
- <sup>7</sup> Heiskanen - Aromaa - Niemi - Sirén. Tapaturmat, väkivalta, rikollisuuden pelko. The National Research Institute of Legal Policy, Publication 171; OSF Justice 2000:1. Statistics Finland.
- <sup>8</sup> Oppilaitostilastot 2002. OSF Education 2002:8. Statistics Finland.
- <sup>9</sup> Mikä lapsiamme uhkaa? Stakes, 2001. Suomalaisten hyvinvointi 2002. Stakes 2002.
- <sup>10</sup> Oikeustilastot, OSF Justice, Statistics Finland.
- <sup>11</sup> The most recent one is "Ulkomaalaiset ja siirtolaisuus 2001" (Foreigners and migration in 2001). Population 2002:8. Statistics Finland.
- <sup>12</sup> Statistics on population structure, OSF Population. Statistics Finland. See also Kartovaara and Sauli: Suomalainen lapsi, pp. 17-28. Population 2000:7. Statistics Finland.
- <sup>13</sup> Children: our future - The Rights of the Child in Development Cooperation. Ministry for Foreign Affairs, Department for Development Cooperation 2002.
- <sup>14</sup> Government Bill to Parliament 309/1993.
- <sup>15</sup> <http://www.mol.fi/migration/etnoraen.pdf>.
- <sup>16</sup> The Supreme Administrative Court, 3 May 2000/805.
- <sup>17</sup> Helsinki Administrative Court, 10 October 2002; No. 02/1236/7.

- <sup>18</sup> Decision by the Deputy Parliamentary Ombudsman, 13 October 2000, Nos. 779/2/98 and 189/4/98.
- <sup>19</sup> Working Group memorandum. Ministry of Social Affairs and Health, 2001:29.
- <sup>20</sup> 31 December 2002, Register No. 3170/2/01.
- <sup>21</sup> Government Bill to Parliament 309/1993, p. 24.
- <sup>22</sup> Government Decision-in-Principle, Ministry of Social Affairs and Health publication 2002:9.
- <sup>23</sup> <http://www.valtikka.net>.
- <sup>24</sup> Sirpa Taskinen, Lapsen etu erotilanteissa, Opas sosiaalitoimelle, Stakes 2001.
- <sup>25</sup> The Status and Rights of Social Welfare Clients. Helsinki 2001. Ministry of Social Affairs and Health, 2001:11.
- <sup>26</sup> Stakes and the Finnish Federation for Social Welfare and Health, FinSoc Reports 1/2003.
- <sup>27</sup> Decision 10 October 2001, Register No. 931/4/99.
- <sup>28</sup> Decision 31 December 2001, Register No. 931/4/99.
- <sup>29</sup> Government Bill to Parliament 54/2002.
- <sup>30</sup> <http://194.89.205.3/suom/osallisuus/eng/index.html>.
- <sup>31</sup> Committee Report 2001:1. Ministry of Education 2001.
- <sup>32</sup> Government Bill to Parliament 309/1993.
- <sup>33</sup> <http://www.mol.fi/english/working/dataprotection.html>.
- <sup>34</sup> Statistics Finland. <http://www.tilastokeskus.fi>.
- <sup>35</sup> <http://www.kirjastot.fi> - <http://www.biblioteken.fi> - <http://www.libraries.fi>.
- <sup>36</sup> Buttiako Liin 1. Romanikielisen aapisen työkirja ensimmäiselle luokalle (“first reader workbook”). Miranda Vuolasranta, Armas Hagert, Päivi Majaniemi ja Henna Huttu (former Murtomäki). Romanikielisen aapisen ja sen työkirjan opettajan aineisto (“teacher’s material”). Päivi Majaniemi, Henna Huttu (former Murtomäki), Miranda Vuolasranta ja Armas Hagert.
- <sup>37</sup> 31 December 2002, Register No. 3170/2/01.
- <sup>38</sup> Government Bill to Parliament 265/2002.

- <sup>39</sup> Government Bill to Parliament 28/2003.
- <sup>40</sup> *K. and T. v. Finland* (25702/94), European Court of Human Rights, Grand Chamber, 27 April 2000.
- <sup>41</sup> *K.A. v. Finland* (27751/95), European Court of Human Rights, 14 January 2003, final 14 April 2003.
- <sup>42</sup> <http://www.om.fi/9604.htm>.
- <sup>43</sup> <http://formin.finland.fi/doc/fin/palvelut/konsuli/lapsikaappaus.html#kv>.
- <sup>44</sup> Lapsen elatus ja huolto 2002 - Tilastotiedote 10/2002. Stakes. <http://www.stakes.fi>.
- <sup>45</sup> <http://www.hel.fi/sosv/palvelut/adoptio/adop3.htm>.
- <sup>46</sup> <http://www.pela.fi/kansainvaliset-adoptiot.htm>.
- <sup>47</sup> <http://www.interpedia.fi/suomi/adoptiotoiminnasta.html>.
- <sup>48</sup> <http://www.adoptiokuraattori.fi>.
- <sup>49</sup> Markku Heiskanen and Minna Piispa. Usko, toivo, hakkaus. Kyselytutkimus miesten naisille tekemästä väkivallasta. Statistics Finland and the Council for Equality. 1998:12.
- <sup>50</sup> Väkivallan hinta - Naisiin kohdistuvan väkivallan kustannukset Suomessa. The Council for Equality and Statistics Finland 2000.
- <sup>51</sup> 14 May 2002, Register No. 1846/4/00 and 12 December 2002, Register No. 1812/4/00.
- <sup>52</sup> School health care 2002. Ministry of Social Affairs and Health and Stakes, 2002.
- <sup>53</sup> 31 December 2002, Register No. 3170/2/01.
- <sup>54</sup> Committee Report 1997/8.
- <sup>55</sup> <http://www.ktl.fi/sytty>.
- <sup>56</sup> Government report to Parliament. Ministry of Social Affairs and Health 2002:12. 11 April 2002.
- <sup>57</sup> *Elsi Veijola*: School Experiment to Support Young People at Risk of Social Exclusion. Ministry of Education. <http://www.minedu.fi/julkaisut/koulutus/index.html>.
- <sup>58</sup> 24 March 2003, Register No. 3133/4/01.

<sup>59</sup> Judgment of the Supreme Administrative Court of 3 May 2000 (KHO 2000:805): “Section 38 (1) of the Aliens Act (537/1999) provides that when refusal of an alien’s entry is considered, all the relevant matters and circumstances shall be taken into account in their entirety. Furthermore, under section 1c (1) of the same Act, special attention shall be paid to the interests of the child and to matters relating to his development and health. As concerns the case under review and the four-year stay of the asylum-seeker and his two children in Finland, the school attendance of one of the two children, the Finnish of the family members and their integration into Finnish society, the health of the other child, and the family members’ other ties in Finland, such as the fact that the asylum-seeker has a sister in the country, there was no reason to deport the family and issue a prohibition of entry upon them.”

<sup>60</sup> SM-2003-124/Ka-23.

<sup>61</sup> <http://www.iom.fi/projects/indexrqa.htm>.

<sup>62</sup> <http://www.mol.fi/migration/edustaen.pdf>.

<sup>63</sup> VSN 5/2002. <http://www.mol.fi/migration/govrep.pdf>.

<sup>64</sup> <http://www.mol.fi/migration/tasaeng.pdf>.

<sup>65</sup> Committee Report, 2003:2, Ministry of Justice, <http://www.om.fi/18410.htm>.

<sup>66</sup> <http://www.kriminaalihuolto.fi/15137.htm>.

<sup>67</sup> Committee Report, 2003:2, Ministry of Justice, <http://www.om.fi/18410.htm>.

<sup>68</sup> <http://www.kriminaalihuolto.fi/15136.htm>.

<sup>69</sup> <http://www.rikosseuraamus.fi/17006.htm>.

<sup>70</sup> Amendments to the Enforcement of Sentences Act 128/1995.

<sup>71</sup> Tuija Sivonen ja Sirpa Sulku. Toimiiko perhe, pyörivätkö palvelut? Yhdistys - ja piirikysely 2002. Mannerheim League for Child Welfare 2002.

<sup>72</sup> Sirpa Taskinen (ed.). Special Advisers’ recommendations to social welfare and health-care staff. Stakes 2003.

<sup>73</sup> Personal Data Act, section 11 (523/1999). However, the prohibition is not absolute, because sensitive information may be collected to the personal data register subject to the conditions laid down by law or decree. Separate provisions have been enacted concerning the publicity of sensitive personal data.

<sup>74</sup> Further information at <http://www.join.fi>.

<sup>75</sup> <http://www.mol.fi/vahemmistovaltuutettu/ombudsmaneng.html>.

### **List of annexes available in the files of the secretariat**

#### **Legislation**

- The Constitution of Finland (731/1999).

#### **Reports**

- Human Rights and Finland's Foreign Policy. Report by Minister for Foreign Affairs Erkki Tuomioja to the Foreign Affairs Committee of Parliament on the Human Rights Policy of the Finnish Government, 29 November 2000. Publications of the Ministry for Foreign Affairs 2/2001, Helsinki, 2001.
- Children in Finland. Leena Kartovaara and Hannele Sauli. Statistics Finland. Population 2001:9, Helsinki, 2001.

#### **Plans of Action**

- Towards Ethnic Equality and Diversity - Government Action Plan to combat ethnic discrimination and racism. Ministry of Labour. Publication No. 286, Helsinki, 2001.

#### **Instructions**

- Guidelines for Interviewing (Separated) Minors. Directorate of Immigration Finland, March 2002.

#### **Brochures**

- Children: our future. The Rights of the Child in Development Cooperation. Ministry for Foreign Affairs, 2002.
- International Child Abduction. Ministry for Foreign Affairs, Ministry of Justice and Ministry of Social Affairs and Health, 2001.
- Data protection in working life. Ministry of Labour, 2001.
- Child welfare. The Central Union for Child Welfare with financial support from the Finnish Slot Machine Association (RAY) and the Ministry of Labour, 2000.

#### **Other**

- Ota oikeus ("Take the Right") - Playing Cards. The Mannerheim League for Child Welfare, Plan International Finland and the Finnish Children and Youth Foundation with the support of the Ministry for Foreign Affairs and *Helsingin Sanomat*.

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