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# NATIONAL INTEGRITY SYSTEM

## FINLAND

### Basic Report

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## CONTENTS

1. NATIONAL INTEGRITY SYSTEM ASSESSMENT .....	1
2. EXECUTIVE SUMMARY.....	5
3. COUNTRY PROFILE .....	12
4. FINLAND'S CORRUPTION PROFILE.....	20
5. ANTI-CORRUPTION ACTIVITIES .....	23
6. PILLARS OF THE NATIONAL INTEGRITY SYSTEM.....	27
6.1. LEGISLATURE.....	27
6.2. EXECUTIVE .....	40
6.3. JUDICIARY.....	54
6.4. THE PUBLIC SECTOR .....	68
6.5. LAW ENFORCEMENT AGENCIES .....	86
6.5 ELECTORAL MANAGEMENT BODY .....	104
6.7 THE OMBUDSMAN .....	119
6.8 SUPREME AUDIT INSTITUTION.....	137
6.9 ANTI-CORRUPTION AGENCIES .....	152
6.10. POLITICAL PARTIES .....	165
6.11 MEDIA – not yet translated .....	176
6.12 CIVIL SOCIETY - not yet translated .....	187
6.13. BUSINESS.....	198
7. CONCLUSION.....	217
ANNEXES .....	221
Annex 1. The Interviewees. ....	221
Annex 2. Summary of pillar scores.....	224
Annex 3. Concepts referred to in the report.....	227
BIBLIOGRAPHY .....	229

## 1. NATIONAL INTEGRITY SYSTEM ASSESSMENT

The effects of corruption and preventing corruption have become central themes in mapping reforms to the political-administrative system. From the viewpoint of scientific research, different forms and effects of corruption are difficult to measure and assess, though there exists a common understanding of the negative effects of corruption. Several corruption incidents in the private and public sectors have made it necessary to assess the anti-corruption integrity mechanisms of European countries. Corruption erodes the principles of good administration, diminishes the citizens' trust, leads to inequality and injustice, and hinders the operations of both governments and markets. The negative effects of corruption stretch all the way through the public sector to business and individual citizens. Lack of trust can undermine the legitimacy of the entire system. This is why it is vitally important to safeguard and improve national integrity. Nearly 80% of European citizens surveyed for a 2009 EU Eurobarometer believed that corruption was a serious problem in their country.

This Finnish national integrity system assessment is part of a research project coordinated by Transparency International and funded by the European Union. Similar assessments are being carried out in 26 European countries. The objective is to systematically assess Finland's integrity system, identify potential weaknesses, and suggest improvements for strengthening the system.

The NIS assessment focuses on mapping 13 different social institutions or sectors with the help of a systematic assessment method that was developed by Transparency International. The tables below outline the areas or "pillars" of the national integrity system and the themes that are being assessed.

The Finnish integrity system assessment assesses the most important government institutions that participate in preventing corruption and improving integrity. These institutions can be roughly divided into thirteen pillars which are named in the table below.

Table. Pillars of Finland's integrity system.

Legislature	Ombudsman	Media
Judiciary	Law Enforcement Agencies	Political Parties

Executive	Supreme Audit Institution	Business
Public Sector	Electoral Management Body	Civil Society
	Anti-Corruption Agency	

First, each pillar's capacity, governance, and role in the battle against corruption are assessed, as seen in the next table. Then the pillars are approached from the viewpoints of legislation and practice. Whenever possible, the assessment takes into consideration certain contextual factors such as the country's political, social, economic, and cultural situation and conditions. The holistic nature of the assessment is highlighted by the fact that each institution is assessed as a whole. Connections between pillars are referenced when appropriate.

Table. Indicators by pillar.

Capacity	Governance	Role in anti-corruption work
Resources	Transparency	Pillar-specific indicators
Independence	Accountability	
	Integrity Mechanisms	

There are two main stages to compiling and processing data. The first stage involves collecting information from legislation, research studies, expert interviews, and other sources. The research is carried out by a lead researcher or a research group. Next, the pillars and their parts are scored, giving the existing data a numerical form and assessment. The original numerical assessment scale includes five ratings: 0, 25, 50, 75, and 100. The score of each dimension (capacity, governance, and role) is an average of the numerical assessments of its component parts. The total score of a pillar is calculated by averaging the scores of the three dimensions. The final score of a pillar and the scores of its dimensions offer a general outline of the pillar as a part of the integrity system. The report on each institution includes a graph showing the averages of its parts.

The following table presents an adapted verbal assessment scale which is based on the previously mentioned numerical assessment scale. Each pillar is later scored by using a scale ranging from excellent through mediocre or weak.

Table. Assessment scale.

Excellent	100 (81-100)
Very good	75 (61-80)
Good	50 (41-60)
Satisfactory	25 (21-40)
Mediocre	0 (0-21)

The good performance of an individual pillar improves the overall score of the national integrity system. Similarly a weak performance will lower the overall score. This assessment provides benchmarks that can be used to measure progress in the long term, compare the performance of different institutions, and find the best and worst practices within and between different institutions.

Finland's NIS assessment was carried out by a research group from the Public Management unit of the University of Vaasa, with Professor Ari Salminen as lead researcher. The other members of the research team were Post-Doctoral Researcher Rinna Ikola-Norrbacka and Researcher Venla Mäntysalo. The advisory group consisted of 8 members from various areas of government, civil society, and the trade union movement. The role of the advisory group was to observe the project's progress, comment on the pillars, and validate the indicator scores. The advisory group first convened in March 2011.

Research was begun in February 2011 with data collection and selecting the interview subjects. There were two experts interviewed for each pillar. The interviewees were chosen so that one represented 1) internal expertise, i.e. a person who had worked for a significant period within the institution, and the other represented 2) external expertise, i.e. a person who had monitored or studied the activities of the institution in question. The interviews were carried out between May and September 2011. The interviewees are listed in Appendix 1.

## **2. EXECUTIVE SUMMARY**

### **2.1. Overview**

Finland's National Integrity System Assessment describes the relationship between legislation and practice from the points of view of thirteen national institutions or pillars. The specific strengths and weaknesses of each pillar are pinpointed in order to see what needs to be improved. This integrity system assessment is the first of its kind in Finland.

The research methodology is based on Transparency International's NIS assessment. The research progressed in stages from desk-review of the pillars and expert interviews to data analysis, finalising the assessment, and giving recommendations for improvements. The assessment was validated by Transparency International Secretariat, the project's advisory group, and an external expert.

### **2.2. Observations and Recommendations for Improvements**

Based on the assessment, there is a group of subject areas containing the key issues and challenges. These are briefly discussed below. The suggestions for improvements pertain to Finland's legalistic tradition, transparency and accountability, use of resources, cooperation between officials, and the relationship between the citizens and the government.

#### *Legalistic Tradition*

Finland's administrative culture, which leans heavily on legalistic tradition, has long guaranteed the functioning of the administrative system and the legal handling of matters. In accordance with this tradition, Finnish society functions in a formal-rational manner. For the integrity system, this means that if there is legislation on a subject, it usually also works in practice. The law must be sufficiently specific so that an equitable solution can be guaranteed in various situations, since the Finnish administrative tradition appeals to the law. This often leads to less attention being paid to other kinds of ethical deliberation. In practice, staring at legal articles leads to officials rarely resigning

from public positions or offices when abuse occurs, since juridically minor offences do not create external pressure to resign.

From the viewpoint of the integrity system, one weakness of the legalistic tradition is that modern society needs matters to be handled flexibly and often also quickly. It is vital to react dynamically, since later corrective measures are not equally effective. As active citizenship and participation increase, so does the importance of following first and foremost the spirit of the law as the citizens understand and experience it.

Finland has an Administrative Act and principles of good administration which all officials and office-holders must follow when carrying out official duties and using public authority. The Administrative Act and the principles of good administration partially make up for the lack of separate ethical codes for the public sector. Of course, legislation cannot completely replace ethical codes.

The assessment highlighted the fact that incapacity regulations need to be made more clear and detailed. There should be no room for interpretation in any situation. In addition, there need to be significant sanctions if incapacity regulations are violated. The Parliament, for example, needs both special ethical codes and more precise incapacity regulations.

### *Transparency and Accountability*

The Act on the Openness of Government Activities and its stipulations legally guarantee transparency in administration and political activity. The practice is more problematic, which was demonstrated during the assessment of several pillars.

Information is available, but it is a different matter just how accessible the information is in practice, in other words how well the information reaches the citizens and interested parties. Matters are handled and decisions are made within processes that do not “open” to ordinary citizens. In these cases decisions are justified by referencing legislation. Intelligibility is not always equal for citizens and for administrative experts.



People are used to documents being openly available and to having matters discussed openly. In government activities there is openness within agreed boundaries. This is explained by the regulations of privacy protection and confidential information. Even though various reports and financial statements are publicly available, decision-making processes often remain unfamiliar to citizens and receive little public notice. One might ask whether this is adequate for openness and transparency.

Finnish culture and political decision-making are characterised by a certain indifference towards strengthening integrity. There have been no particularly great efforts towards anti-corruption work.

Nevertheless, regulations pertaining to reforms to election funding and to the Act on a Candidate's Election Funding have been made more strict and clear, and they now conform better to GRECO's requirements. One purpose of the new regulations is to improve transparency and accountability. However, it is too early to assess how well the new regulations work in practice and whether the changes are sufficient.

Especially when it came to improving accountability, the assessment gave rise to a critical view of the parliamentary auditors' ostensible role. External auditing of the Parliament would increase trust and improve oversight of accountability. In addition, ties between business and municipal decision-makers should be investigated more thoroughly by demanding more wide-scale transparency.

Finnish exchange-listed companies are committed to following corporate governance recommendations. Finnish businesses that operate internationally require more education on and awareness of how to operate in countries where corruption and other unethical traits are commonplace.

### *Resources and Their Use*

The public and private sectors are constantly working to evaluate real needs and available resources.

The judiciary is strained by lack of resources, which has led to some unreasonably long processing times in the courts. Longer processing times frequently break the principles of good administration. The processing of the Court of Appeal is being reformed so that some of the so-called minor cases of the lower courts will no longer have the right to appeal to the higher court, which would presumably ease the backlog of cases in the Court of Appeal and decrease processing times.

Lack of resources causes problems in special cases or suddenly arising situations. A good example would be the actions of the electoral management body in a special case where they must organise early elections. Are the current resources adequate for preparing for unusual situations? There will undoubtedly be problems, but this does not necessarily mean that integrity would be endangered.

For example, the budget of the National Audit Office seems insufficient in relation to the workload. This also affects preparedness for surprising situations, as was seen when problems arose with election funding. Merely obeying the law is not enough to guarantee morally acceptable operations. There is cause to wonder whether the National Audit Office has adequate resources. Increasing the NAO's resources – like other Nordic countries have done – would secure more effective oversight of the state's finances and improve the Office's investigative authorities.

Similarly, so many complaints are filed with the Parliamentary Ombudsman institution that the adequacy of resources comes into question. New legislation gives the Ombudsman more authority to decide which cases to pursue. This in turn undermines the tradition that anyone can file a complaint and always have their complaint handled. On the other hand, there is no denying that severely limited resources lead to prioritisations.

When assessing the adequacy of resources, one must also assess other factors such as leadership skills, the ability to reorganise tasks and implement new methods, and the serious issues that arise from a dated operational culture.

### *Cooperation between Officials and Other Coordination*

As official matters and their handling become more complex, officials are putting more and more effort into cooperation and sharing information. However, successful cooperation requires openness

between actors and existing legislation that enables and supports cooperation. In this aspect legislation somewhat lags behind. For example, cooperation and information exchange between the police and Tax Administration remains incomplete precisely due to limitations arising from legislation.

In business, one pain spot of corruption is black or underground economy. Lately there have been significant efforts to prevent black economy. This goal is also included in the Government Programme. Improving transparency of activities and cooperation between officials would lead to better results in the effective prevention of the abuses connected to black economy.

Although Finland has no special anti-corruption agency, there is a special project within the National Bureau of Investigation with an information exchange network. This is a question that needs to be asked in public and political discourse; does Finland need a new, separate anti-corruption agency?

The assessment shows that the integrity system functions well for the most part, though some flaws do exist. Establishing a new agency would require additional resources, with no guarantees of effectiveness. The current system is adequate, assuming that these activities receive more resources and that cooperation between officials is further improved. Even though cases are confidential, it would be important to commit others than just agencies and officials into cooperation. Giving the anti-corruption project within the National Bureau of Investigation better resources could increase its usefulness exponentially.

Finnish citizens have a great deal of trust in the police. Since the police are constantly cooperating with different organisations, it is clear that expertise in corruption issues is a central part of the police's purview. This is why police education should include more material on corruption issues.

### *Citizens and Administration*

The relationship between citizens and administration is on the one hand about the values that are important to the citizens, and on the other hand about the importance of civil society as a protector of integrity.

From the citizens' point of view, the realisation of justice and equality creates a strong foundation for a national integrity system. Honesty, openness, and responsible action are emphasised in a political-administrative system. The cornerstones of good administration include transparency, responsibility, accountability, and integrity. It is important to citizens that they can to some extent oversee integrity. There may be a need for new informing mechanisms with which citizens can inform the authorities of unfair treatment or abuse. Municipal and business administration as well as the media should invest in developing informing mechanisms.

Civil society has long held the role of “watchdog” of the state and municipalities, and the media plays a central role in revealing corruption cases. However, there is room for improvement in the area of investigative journalism. Despite the fact that media can function freely in Finland, there is very little investigative journalism.

Due to lack of resources, small local newspapers, for example, have very limited abilities to support investigative journalism. Another problem is that in small municipalities everybody knows one another. This can make it quite difficult for reporters of local newspapers to write impartially and critically about local issues. Regional newspapers also put very little into developing investigative journalism. As for large newspaper houses, unilateral ownership and in some cases excessive pursuit of scandals pose some difficulties. Nevertheless, developing real investigative journalism would support wide-scale freedom of speech and open society.

Media self-regulation is another issue. Is there need for a media ombudsman? One may ask whether it is sensible to put resources into a new organisation if we agree that the Council for Mass Media in Finland, for example, has had very little impact in this aspect. Setting up a media register is another development viewpoint. The register would show how much advertisers have spent each year, which would make it possible to investigate excessive ties between the media and business.

The third sector plays a vital role in the citizens' everyday lives. From an international perspective, Finns are quite active when it comes to civil society organisations (CSOs). The majority of Finns belong to more than one association in the course of their life. According to a study in 2004, 75% of the population belonged to at least one association. Some CSOs operate in the leisure sector while others operate in welfare services. This assessment has demonstrated that especially when it comes to welfare services, activities are often too authority-centric. CSOs are dependent on the financial

resources they receive, which leads to the development of activities being largely tied to where the state and municipalities want to direct their funding. New requirements about competition have also made things difficult for some CSOs.

The role of civil society is at a turning point. On the one hand, there are reasons to strengthen the role of CSOs in producing welfare services. On the other hand, funding and current legislation pose considerable challenges to non-profit service activities. Many CSOs have not traditionally been active or shown initiative in anti-corruption activities.

### 3. COUNTRY PROFILE

*a) To what extent are the political institutions in the country supportive to an effective national integrity system?*

Assessment: 100 (Excellent)

Finland's political institutions are, in relation to the national integrity system, characterised by three central development traits: 1) legalistic and parliamentary state tradition, 2) the Nordic model of the welfare state, and 3) integration into Europe and the global markets. All these traits affect the activities of political institutions.

Finland is a member state of the European Union and has a relatively long tradition of parliamentary form of government. Finland is emphatically a constitutional state, where use of political authority leans on a strong legalistic tradition. The country has moved past the politically restless era of the 1930s and the period from the end of the Second World War to the collapse of the Soviet Union which was characterised by a special foreign-policy relationship with the Soviet Union that gained some politically unusual aspects.

At present, Finland takes part in most of the central international democratic organisations and is an active participant in the United Nations.

Finland's socio-political stability is perhaps best understood with the development of the welfare state and wide-scale social security. The strong development of the welfare state reigned from the 1950s to the 1980s and still has a significant impact on the value foundations of Finnish society. Only in the past few decades have globalisation, world markets, and international competition called into question the state-funded welfare model and its benefits, which are guaranteed to all citizens regardless of financial situation or place of residence. Adapting to a more market-driven and stripped public welfare model has not happened without concerned reactions from citizens or occasionally intense disagreements between political parties.

In the early years of independence, Finland's Constitution was based on a relatively strong executive authority of the highest government bodies when it came to division of power. The Parliament was the highest government body, but the president held significant powers over not only foreign policy but over domestic policy as well. The president played a central role in forming or dissolving governments and in several other domestic policy matters such as using naming powers.

Since the 1980s, the Constitution has been modernised in a more parliamentary direction, which has emphasised the role of the Parliament as the leading government body. Due to so-called majority parliamentarism, a political majority government has a strong position in socio-political decision-making. Joining the EU has led to reforms in the positions of the highest government bodies. One of the greatest changes has been shifting the task of maintaining relations with the EU from the president to the prime minister.

All political parties are on the same starting line when a political majority government is being put together after general elections. No political party with parliamentary seats is automatically excluded from government negotiations and consequently excluded from government responsibility.

It is also very typical for Finland that government coalitions nowadays are multiparty governments which cross the boundaries of the traditional divide into the left and the right. Since the late 1980s, governments have sat for the entire parliamentary period of office which is four years. This has promoted a certain predictability and stability in socio-political decision-making.

The central rights and freedoms of citizenship are secured in the Constitution. Government interference in the life of citizens is strictly regulated. Legislation ensures that citizens have the right to file complaints on decisions of officials. There have not been any great political scandals in the past few decades to shake the political-administrative system or significantly weaken its legitimacy. According to a Freedom House assessment in 2010, Finland is a free country and the civil and political rights of its citizens are well protected. The Heritage Foundation Index of Economic Freedom ranked Finland in place 17 and as the eighth freest country in Europe.

Based on the World Bank Governance Indicators<sup>1</sup>, Finland's political-administrative system is stable and fulfils the requirements of good administration and the quality of governance is quite high when compared with other countries. Finland ranked in the 90<sup>th</sup>-100<sup>th</sup> percentile with each indicator.

Strong street protests or movements are relatively rare in Finland. There have been occasional threats of a general strike in order to speed up labour negotiations between unions and employers. Otherwise the right to strike is often used in attempt to gain benefits or speed up agreements between the two sides.

Despite the facts that voting activity has somewhat decreased in the past few decades and that for example young people have little interest in politics or the actions of political parties, Finnish citizens continue to trust social institutions and consider public services important.

*b) To what extent are the relationships among social groups and between social groups and the political system in the country supportive to an effective national integrity system?*

Assessment: (75 )Good

Generally speaking, Finland is considered to be a democratic welfare state with small class divisions. However, there is still a danger that the citizens are being divided into so-called class A and class B citizens, in other words the well-off and the not so well-off citizens. In the present day, discussion about social classes is dominated more by the great wealth of certain professional groups

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<sup>1</sup> 1) Voice and Accountability  
2) Political Stability and Absence of Violence  
3) Government Effectiveness  
4) Regulatory Quality  
5) Rule of Law  
6) Control of Corruption



rather than the poverty of the working class. This, however, also increases the inequality between social classes in 21<sup>st</sup> century Finland.<sup>2</sup>

If the realisation of democracy in Finland is assessed through international comparisons and different democracy indicators, it can be stated that Finnish democracy functions on a high level and supports the citizens' participation and ability to influence things.<sup>3</sup> However, the citizens' trust in democracy has been weakened, and they feel that politicians have become estranged from ordinary citizens. Many feel that election results do not have enough impact on the direction of politics. Voting activity has remained at approximately 70%. Even though political participation and influencing matters through party activities have been in decline, the citizens have utilised new methods of participation, such as appeals and boycotts.<sup>4</sup>

A research project named *Eettinen hallinto ja kansalaiset* (Ethical Governance and Citizens, 2008-2010) delved into the ethicalness of the political-administrative system from the citizens' point of view. According to the citizens' assessment, injustice in Finnish society will increase in the future. The citizens had fairly low levels of trust in politics.<sup>5</sup>

While the citizens have quite a lot of trust in the judiciary, the Parliament and the political parties are not considered very trustworthy. In fact, almost 40% of citizens felt that political parties are the most corrupt political institution in Finland. Finns place a lot of trust in institutions connected to security such as the police, the defence forces, and the judiciary.<sup>6</sup>

Finnish welfare society is strongly supportive of gender equality, and there are efforts towards an even more equal society. Nevertheless, women still earn less on average than men, which is a serious problem for equality.

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<sup>2</sup> Erola, Jani (2010). Luokaton Suomi: Yhteiskuntaluokat 2000-luvun Suomessa. (Classless Finland. Social classes in the 21st century Finland.)

<sup>3</sup> Norris, Pippa (2011). *Democratic Deficit*. Cambridge University Press.

<sup>4</sup> Borg, Sami (2006). Suomen demokratiaindikaattorit. (Finnish democracy indicators)

<sup>5</sup> Salminen & Ikola-Norrbacka (2009). Kuullaanko meitä? *Eettinen hallinto ja kansalaiset*. (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288, Administrative Sciences 37.

<sup>6</sup> Global Corruption Barometer (2010).

There is also room for improvement in the equality between immigrants and the original population. According to a study by the Ministry of Education, immigrants are more often in danger of being left outside of post-graduate education.

The results of the spring 2011 Parliamentary elections reflect the dissatisfaction of the Finnish people in current policies and the state of social conditions. The rise of the True Finns (Perussuomalaiset) to the position of the third-largest party indicates that the citizens view for example EU policy and immigrant policy as key issues that need to be addressed.

*c) To what extent is the socio-economic situation of the country supportive of an effective national integrity system?*

Assessment: 75 (Good)

The uncertain condition of the public economy and the economy in general poses a challenge for the functioning of the national integrity system. Even though Finland's current socio-economic situation creates a good foundation for an integrity system, it is possible that the rapidly increasing economic inequality will weaken the citizens' trust in basic social institutions.

Financial growth is predicted to slow down in Finland following the general European trend. The economic growth forecast for 2012 has decreased significantly. Slower economic growth will also have a notable negative impact on employment. Consumers' trust in the economy, for example, was significantly weaker in 2011 than the year before.<sup>7</sup>

Income disparities have increased considerably in Finland in the 21<sup>st</sup> century. Even though income disparities in Finland are still fairly small compared to the OECD countries, the disparities are characterised by increasingly rapid growth.<sup>8</sup>

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<sup>7</sup> The data is based on Statistics Finland's consumer barometer for which 1446 persons living in Finland were interviewed between August 1 and August 19.

<sup>8</sup> OECD 2010.

Unemployment has remained at a fairly reasonable level despite the problems caused by the economic crisis of 2008. In July 2011, unemployment was at 6.9 per cent, which is 0.6 percentage units less than the previous year. Male unemployment was at 7.2 per cent and female unemployment was at 6.6 per cent. At the same time, the unemployment of young people aged 15 to 24 was at 13.7 per cent.<sup>9</sup> This indicates that Finland's employment rate is below European average, but youth unemployment and consequently young adults' prospects for the future are a cause for concern.

The government's plans to merge more municipalities due to the financial situation have faced strong resistance from the municipal sector due to fears that the plans might lead to forced consolidations. Some municipalities have organised resistance against the planned reforms and in a way rebelled against the plans. Generally speaking, municipalities have meagre resources, and in the future there will be even more cause to worry about retaining the ability to provide quality services equally for all citizens.

*d) To what extent are the prevailing ethics, norms and values in society supportive to an effective national integrity system?*

Score: 75 (Excellent)

A society with enough common and shared values creates a good foundation for an integrity system. Avoiding conflicts of interest is essential for strengthening the system.

The results of Sami Borg's study *Suomalaiset World Values -tutkimuksissa*<sup>10</sup> (Finnish people in the surveys of World Values, from the 1980s to the early 21st century) indicate that the values of Finnish citizens have shifted in an increasingly individualistic direction. The results of the citizen survey also show that perception of justice depends significantly on the rights and freedoms of the

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<sup>9</sup> Statistics Finland 2011.

<sup>10</sup> Borg, Sami (2007). Uskonto, arvot ja instituutiot. Suomalaiset World Values-tutkimuksissa 2001-2005. (Religion, values and institutions : Finnish people in the surveys of World Values, 2001-2005.)

individual. Finns continue to have a great deal of trust in the central social institutions. The greatest trust is placed in the police, the defence forces, and the judiciary. The church is the fourth most trusted institution together with the United Nations and the Finnish Government. According to the survey, 63 per cent of Finns trusted the church, which was the highest percentage in twenty-five years. The section of the population who trust the church increased by six percentage units in five years.

Finns value honesty and legality, and indeed honesty and scrupulousness are often considered to be a part of the Finnish national character. Citizens have traditionally had great amounts of trust in institutions and public organisations. It can be said that in general, the current societal values create a strong foundation for a national integrity system in Finland.

The *Kansalaiset ensin* (Citizens first) project of the University of Vaasa (funded by the Academy of Finland in 2008-2010) mapped the citizens' views on ethical governance. One of the key results of the citizen survey<sup>11</sup> (with a total of 2010 respondents) was the citizens' worry of increasing injustice in Finnish society. Despite the fact that the citizens trust public organisations, the survey responses highlighted the importance of continuing investment in openness and transparency and the need for politicians to take more responsibility for the decisions they make.

A study by Taloustutkimus, a private market research company, highlighted a similar worry of increasing inequality. Respondents were also concerned about bureaucracy, unemployment, and the uncertainty of future prospects. These results demonstrate that the citizens are very worried about the future of the welfare state.

It is justified to conclude that if feelings of inequality and injustice significantly grow within a society, this will lead to decreased trust and weaken the system's integrity. If the citizens feel that their financial status affects the services they receive and defines their ability to have an impact on social or local matters, it is likely that their assessment of integrity will weaken as they gradually lose their trust in public institutions and services.

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<sup>11</sup> Salminen & Ikola-Norrbacka (2009). Kuullaanko meitä? Eettinen hallinto ja kansalaiset. (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.



#### 4. FINLAND'S CORRUPTION PROFILE

Corruption has its national characteristics, and the process of defining corruptive traits is always tied to a time and place<sup>12</sup>. Forms of corruption that are typical to Finland include the old boy network, politicians' and officials' excessive ties to business, and different aspects of bad governance<sup>13</sup>. The old boy network is considered particularly problematic, especially in municipal politics.

Financial crimes and different forms of black economy are estimated to cause considerable financial losses to society as well as to business and private consumers. The construction industry and the restaurant industry in particular are seen as problematic fields when it comes to preventing dealing in receipts and black economy. The construction industry is also a target of interest for organised crime. On the other hand, there have been decisive efforts to increase and improve oversight of the construction industry.<sup>14</sup>

Bribery of officials that has come into police attention has traditionally been one of the key areas of corruption. However, corruption cases are rarely clear-cut and often cross sector boundaries.<sup>15</sup> A total of 680 instances of corruption crime came into police attention between the years 2000 and 2008.<sup>16</sup> The overwhelmingly most common corruption crimes are abuse of authority and gross abuse of authority. There have been over 500 of these cases between 2000 and 2008. Almost 80 cases of bribery (or gross bribery) came into police attention during the years in question.

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<sup>12</sup> Isaksson, Paavo (1997): *Korruptio ja julkinen valta*. (Corruption and public authority) Tampere: University of Tampere

<sup>13</sup> Salminen, Ari & Rinna Ikola-Norrbacka (2009). *Kuullaanko meitä? Eettinen hallinto ja kansalaiset*. (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.

<sup>14</sup> Kankaanranta, Terhi & Vesa Muttilainen (2010). *Kuittikauppa rakennusalan talousrikollisuutena*. (Dealing in receipts as an economic crime in the construction industry) Reports of the Police College of Finland 86/2010.

<sup>15</sup> Juslén, Jenni & Vesa Muttilainen (2009). *Korruption ydinalueet 2000-luvun Suomessa: Havaintoja sääntelystä, piilorikollisuudesta ja poliisin tietoon tulleista rikoksista*. (Key areas of corruption in the 21st century Finland: Observations on regulation, hidden crime, and crimes that have come into police attention.) Reports of the Police College of Finland 84. Tampere: Police College.

<sup>16</sup> Viuhko, Minna & Martti Lehti (2009). *Corruption on the Finnish-Russian Border: Experiences and observations of Finnish and Russian officials and businesspersons on corruption between Finland and Russia*.

<http://www.heuni.fi/text/Etusivu/Publications/1247667407829>

Despite the small total number of corruption incidents, 21<sup>st</sup> century Finland has seen corruption cases and corruption offences, crimes, and suspicions that have been classed as severe. Cases (indictments) have been connected to fraud or tax evasion, abuse of authority, accepting or giving bribes, embezzlement, and neglect of duty. Cases have come to light in universities, local government, civil society, and public business.<sup>17</sup>

In the corruption index published annually by Transparency International, Finland has long been among the least corrupt countries. In 2009, Finland was ranked in sixth place<sup>18</sup>. The rarity of corruption in the public sector has strengthened the reputation of the service society in the eyes of citizens. Finnish Business and Policy Forum EVA's 2009 report *Global Scenarios – Playing Fields of the Future* presented a goal of returning Finland back in its former position as the least corrupt country in the world.

The old boy network appears to be the most widespread form of unethical activity in Finland.<sup>19</sup> In the old boy network, services are not paid for with money. These networks operate through strong personal and informal connections. In a questionnaire study by the Public Management unit of the University of Vaasa, citizens estimated Finnish old boy networks to be a widespread and pervasive problem. The old boy network was seen to be the elite's way of conducting business. The overwhelmingly most worrying assessments involved the old boy network, nepotism, and conflicts of interest in business.<sup>20</sup>

All in all, 60% of citizens felt that the old boy network is a very typical form of corruption in Finland. This is a very large percentage. Even though networking and maximising the advantages of

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<sup>17</sup> Salminen, Ari & Rinna Ikola-Norrbacka (2010). (Corruption as an ethical problem in the political-administrative system.) *Hallinnon tutkimus* 29: 3, 195–207.

<sup>18</sup> Transparency International (2009a). Corruption Perceptions Index. Saatavissa: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://www.transparency.org/policy_research/surveys_indices/cpi/2009), 3.12.2009.

<sup>19</sup> Korruptiotilannekuva (2008). Korruptiotilannekuva. (Report on the Corruption Situation 2008) National Bureau of Investigation. Jenni Klemola. URL: [http://poliisi.fi/poliisi/krp/home.nsf/files/Korruptiotilannekuva%20PDF%202008/\\$file/Korruptiotilannekuva%20PDF%202008.pdf](http://poliisi.fi/poliisi/krp/home.nsf/files/Korruptiotilannekuva%20PDF%202008/$file/Korruptiotilannekuva%20PDF%202008.pdf) (In Finnish)

<sup>20</sup> Salminen, Ari & Rinna Ikola-Norrbacka (2009). Kuullaanko meitä? Eettinen hallinto ja kansalaiset. (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.

networking has been a central idea behind the reforms of the political system and administration, this result speaks of something entirely different: a twisted type of networking in Finnish society.<sup>21</sup>

Furthermore, 45% of the respondents felt that there were too many ties to business. Poor and indifferent treatment of citizens was an issue that divided the respondents' opinions. Approximately one in four respondents felt that this kind of treatment occurred often. However, an equal number of respondents felt that this type of treatment was rare. Approximately half of the respondents felt that it occurred occasionally. In any case, excessively close ties to business create an appearance of unreliability and may endanger impartial decision-making. Excessive ties to business often signal to citizens that activities may be dishonest.<sup>22</sup>

However, one must keep in mind that networking and connections are not always a sign of corruption. They may be indicative of a system that functions well and cooperates across sectors.

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<sup>21</sup>ibid.

<sup>22</sup> Salminen, Ari & Rinna Ikola-Norrbacka (2009). Kuullaanko meitä? Eettinen hallinto ja kansalaiset. (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.



## 5. ANTI-CORRUPTION ACTIVITIES

Anti-corruption activities refers mainly to practical measures taken to prevent corruption. Even though corruption has not been unambiguously defined in Finnish legislation or preparatory documents, anti-corruption regulations are aimed to safeguard the legality and impartiality of government activities.<sup>23</sup> Especially openness in society must be improved through regulation. It is extremely difficult for structural and severe corruption to develop in a society that is transparent and open.<sup>24</sup> Finland is a member country of GRECO and has ratified the anti-corruption agreements of the UN, the Council of Europe, and the OECD.

### *Anti-Corruption Legislation*

Finnish anti-corruption legislation consist of numerous different laws. Unlike many other countries, Finland does not have only one anti-corruption law.

The Finnish Constitution (731/1999) safeguards the foundations of the system of government, civil rights of citizens, rule of law, and oversight of legality. The most important civil rights include equality before the law, the right to life and human dignity, the principle of legality in criminal cases, and freedom of religion and conscience. These rights form the core of civil rights, which cannot be curtailed even under special conditions. The Constitution counts as civil rights not only the traditional political civil rights (such as freedom of association, assembly, speech, and religion) but also the so-called economic, social, and cultural rights that include the right to receive an education regardless of financial situation, the right to social security, the right to one's own culture, and the right to work. The realisation of all civil rights is safeguarded by the right to have one's case heard by an impartial legal body. This is why citizens have the right to file a complaint on any

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<sup>23</sup> Juslén, Jenni & Vesa Muttilainen (2009). Korruption ydinalueet 2000-luvun Suomessa: Havaintoja sääntelystä, piilorikollisuudesta ja poliisin tietoon tulleista rikoksista (Key areas of corruption in the 21st century Finland: Observations on regulation, hidden crime, and crimes that have come into police attention) Reports of the Police College of Finland 84. Tampere: Police College

<sup>24</sup> Salminen, Ari & Rinna Ikola-Norrbacka (2010). Korruptio eettisenä ongelmana poliittis-hallinnollisessa järjestelmässä. (Corruption as an ethical problem in the political-administrative system.) Hallinnon tutkimus 29: 3, 195–207.

official decision connected to their rights or duties. The principles of good administration are included in the Constitution.

The purpose of the Administrative Procedure Act (434/2003) is to implement and promote good administration and legal protection in administrative matters. The law is also meant to enhance the quality and performance of administrative services. The Administrative Procedure Act contains regulations on the principles of good administration and the procedures that are followed in administrative matters. The law applies to government authorities, municipal authorities, independent agencies pertaining to public law, parliamentary offices, and the office of the president of the republic. The law also applies to agencies and offices, independent associations pertaining to public law, and private persons when they are performing official administrative duties.

The State Civil Servants' Act (750/1994) regulates official posts. The purpose of the law is to ensure that state administration is effective and purposeful, that it fulfils the requirements for legal protection, and that officials are guaranteed a fair and equal position in relation to their employer. The Act on Civil Servants in Local Government (304/2003), on the other hand, regulates the posts of municipal officeholders. The activities of the Parliamentary Ombudsman are regulated separately in the Parliamentary Ombudsman Act (197/2002), while the activities of the Chancellor of Justice of the Government are regulated by the Act on the Chancellor of Justice of the Government (193/2000).

The Act on the Openness of Government Activities (621/1999) has a significant role in ensuring an open society. Official documents are public unless decreed otherwise. The law regulates citizens' right to be informed of public official documents, the professional secrecy of officials, the secrecy of documents, and other limitations on the right to receive information that have been put in place to protect both public interests and the interests of private persons. The right to receive information and the duties of officials are meant to support openness and good data administration in official activities. They are meant to give individuals and communities the opportunity to monitor the use of public authority and funds, freely form their opinions, and enable them to influence the use of public authority as well as look after their own rights and interests.

The Criminal Code (39/1889) prescribes punishments for fraud and for giving and accepting bribes. The Act on Preventing and Clearing Money Laundering and Terrorist Financing (503/2008) is

aimed to prevent money laundering and the financing of terrorism. Its purpose is to promote the unmasking and investigation of such activities and to enhance the tracking and confiscation of criminal earnings. The law also regulates the duty to register certain activities and the requirements and oversight of these activities.

The Act on Equality between Women and Men (609/1986) prevents discrimination based on gender, promotes the equality between men and women, and improves the position of women, especially in working life. The Non-Discrimination Act (21/2004) promotes and safeguards equality and enhances the legal protection of victims of discrimination.

The Auditing Act (459/2007) is applied to audits of corporations and foundations that are accountable on the basis of the Accounting Act (1336/1997) or activities which another law or decree holds as belonging to an auditor or for which an auditor needs to give a written statement for the use of an authority or court.

The purpose of the Act on the Protection of Privacy in Working Life (759/2004) is to ensure the protection of privacy and other civil rights that protect privacy in working life. The law regulates the processing of employees' personal data, the details of tests and examinations on employees and their requirements, technical surveillance in the workplace, and retrieving and opening employees' electronic mail messages. The law also applies to civil servants and employees in a civil service relationship or comparable service relationship subject to public law.

#### *Development of Anti-Corruption Activities*

Finland needs public discourse on how anti-corruption activities should be organised in order make them as effective and appropriate for Finland's situation as possible.

There are several Finnish institutions with an obvious connection to anti-corruption work, be it prevention or oversight. These include the Parliamentary Ombudsman and the Chancellor of Justice. Oversight and audit mechanisms also work towards the same goal of preventing abuse and corrupt activities in state administration and business.

Anti-corruption work is not considered a key issue in political decision-making, possibly due to the fact that Finland has long held a high rank on lists of least corrupt countries (including

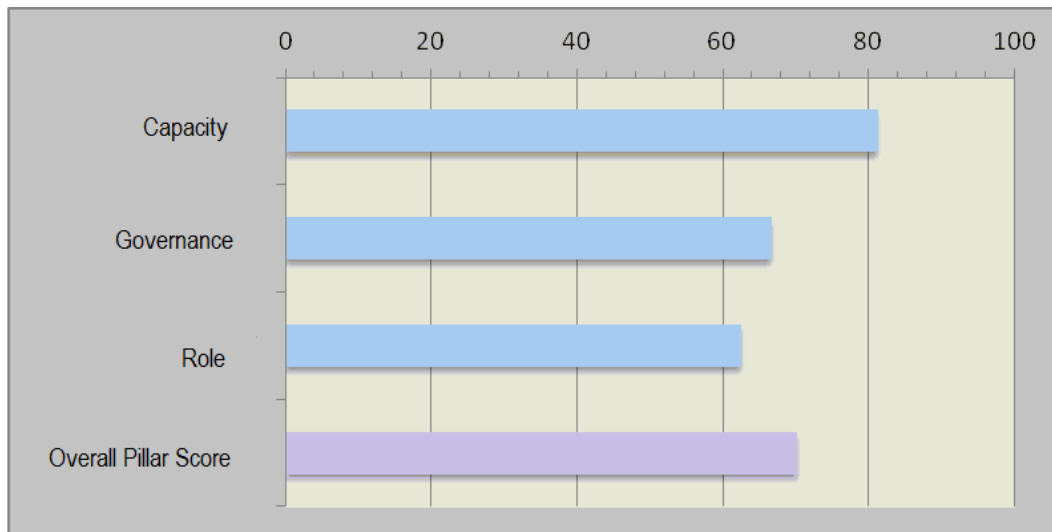
Transparency International's Corruption Perceptions Index) and the fact that there have been relatively few corruption cases in Finland.

Finland has no actual anti-corruption agency that functions as an independent unit, but a rather different arrangement. The National Bureau of Investigation has an affiliated anti-corruption project which investigates select corruption cases. In addition to the NBI's project, many other institutions are working to prevent corruption. At the recommendation of GRECO (Group of States against Corruption), an anti-corruption network was established in Finland. The network is loosely structured, consists of experts, and functions under the coordination and budget of the Ministry of Justice. Members of the network meet a few times a year to hold discussions and share information.

## 6. PILLARS OF THE NATIONAL INTEGRITY SYSTEM

### 6.1. LEGISLATURE

Figure. Overall score of the different parts of legislature.



Capacity = resources, independence; governance = transparency, accountability, integrity mechanisms; role = executive oversight, legal reforms.

#### Summary

The Parliament is the central institution of representative government in Finland, and a lot has been done in the past few decades to strengthen its position. The constitutional reform of 2000 limited the President's executive powers, and for example electing the Prime Minister became the Parliament's responsibility. The position of parliamentary groups has strengthened in respect to party organs. More resources became available to Members of Parliament when they were given personal assistants for their parliamentary work. On the one hand, there have been developments in public administration that have put more power in the hands of public servants and taken some away from the Parliament. On the other hand, there are very many matters to handle, and public servants do vital preparatory work and provide much needed expertise.

The public's confidence in the Parliament has remained on a fairly good level for the entire 2000s despite the fact that there is very little confidence in political parties. The election funding controversy that began in 2008 has damaged the integrity of Members of Parliament, and it will probably take some time before trust can be rebuilt.

The position of political opposition in respect to government parties has weakened in Finland. If the Parliament is to function as a strong part of the national integrity system, the opposition should be guaranteed sufficient resources for effective opposition politics. One might ask whether the Parliament is sufficiently independent from the Government. According to some critical views, the Finnish parliamentary institution serves mainly as the Government's rubber stamp.

Many believe that the Parliament's administrative and management systems are in need of reforms. Although there have been some changes and improvements, it is evident that remaking the traditional institution will meet with strong resistance from the Parliament's own administration as well.

Conflicts of interest connected to the election funding controversy – as well as other integrity violations that have come to light – demonstrate that the Parliament needs better disqualification regulations. Ethical codes could help safeguard integrity. For example, there should be clear rules about lobbying Members of Parliament. Even though there have not been many serious corruption cases where Members of Parliament have broken the law, from an ethical perspective the honour of Members of Parliament has been tarnished in the past few years.

## **Structure and Organisation**

The Parliament is the highest government body in Finland that both uses legislative authority and makes final decisions on central government finances. According to the principles of parliamentarianism, the Government must have the Parliament's confidence. In formal state hierarchy, the Speaker of the Parliament holds the second highest position below the President and above the Prime Minister. This report focuses mainly on the Parliament, but the Parliamentary Office and administration will also be briefly discussed.

The Finnish Parliament is a unicameral legislature consisting of 200 Members of Parliament. Members of Parliament are elected every four years in national, direct, secret, and proportional parliamentary elections.

The Parliament's work is directed by the Speaker's Office, a parliamentary body comprising the Speaker of the Parliament and two Deputy Speakers. The Parliament has three key functions: the plenary session makes final decisions, the committees prepare matters, and the parliamentary groups shape policy. There are 16 standing committees, which are divided as follows based on their themes and the matters they handle: the Grand Committee, the Constitutional Law Committee, the Foreign Affairs Committee, the Finance Committee, the Audit Committee, the Administration Committee, the Legal Affairs Committee, the Transport and Communications Committee, the Agriculture and Forestry Committee, the Defence Committee, the Education and Culture Committee, the Social Affairs and Health Committee, the Commerce Committee, the Committee for the Future, the Employment and Equality Committee, and the Environment Committee. In addition, the Finance Committee is in practice divided into eight sub-committees.

Normally Members of Parliament work in their party's parliamentary group, which decides the group's stance on issues under discussion. The system of parliamentary groups supports fast and smooth decision-making.

The Secretary-General of Parliament is the director of the Parliamentary Office, whose duty is to give the Parliament good conditions to discharge its duties. Members of Parliament also have their own assistants. The Parliamentary Office comprises six departmental units responsible for preparatory work for plenary sessions, committee work, maintaining international relations, parliamentary administration, finances and properties, information and communication, and security.

## **Resources (Law)**

*To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?*

## **Score: 100 (Excellent)**

Legislation provides the Parliament sufficient resources and preconditions to carry out its duties. Instead of having a statutory minimum, the Parliament can independently decide its own budget. According to the Parliament's Rules of Procedure, the Office Commission is responsible for the annual proposed budget of Parliament and for managing and improving Parliamentary administration and finances. The Office Commission comprises the Speaker and Deputy Speakers as well as four Members of Parliament whom the Parliament has chosen from among its number.

The law states that Members of Parliament are entitled to sufficient remuneration<sup>25</sup>. The Parliamentary Remuneration Committee confirms the exact remuneration paid to Members of Parliament. Members of Parliament or parliamentary officials may not be members of the Parliamentary Remuneration Committee. Legislation also defines reimbursement for travel expenses and the per diem allowance for Members of Parliament. The salaries of parliamentary officials are commensurate with the salaries of other public servants, but the Parliament can independently decide its pay system and possible raises. As a whole, Members of Parliament receive good remuneration and reimbursements.

## **Resources (Practice)**

### **Score: 75 (Very Good)**

*To what extent does the legislature have adequate resources to carry out its duties in practice?*

In general, the legislature appears to have sufficient resources, though sometimes there are not enough time resources to discuss and evaluate bills. On the other hand, committees can consult with different experts. The changes that were made to law-drafting methods in the 1990s have speeded

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<sup>25</sup> The Act on the Remuneration of Parliament Members 328/1947.



up the drafting process. In practice, the Parliament rarely makes changes to bills.<sup>26</sup> According to one expert's assessment, the resources of the Finnish Parliament are not competitive internationally.<sup>27</sup>

If the Parliament's resources are judged from the viewpoint of political balance, the opposition's role in relation to the Government has grown weaker with the coming of majority parliamentarianism. Critics say that the position of opposition parties in relation to government parties should be strengthened instead so that multiple viewpoints could be discussed in legislative work and bills could be called to question in accordance with democratic principles.

The Parliament's key duties, legislature and budgetary work, seem to be proceeding on schedule, and resources and requirements are fairly well balanced. On the other hand, there has been a fair amount of discussion about the Parliament's resource conflicts in administration and management. For example, there have been disagreements regarding the salaries and raises of parliamentary officials. A decision was made to postpone raises when the Parliament moved to a new pay system in 2009. Although the Parliament is seen as an "out-of-date" institution, in recent years there have been efforts to make more reforms to parliamentary administration.<sup>28</sup>

### **Independence (Law)**

*To what extent is the legislature independent and free from subordination to external actors by law?*

### **Score: 75 (Very Good)**

The Parliament has sovereign rights to organise its activities. Parliamentary immunity is safeguarded by legislation. With the changes to the Constitution, the President may, at the Prime

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<sup>26</sup> Pakarinen, Auri (2011). Stakeholder Participation in Law-Drafting - Key Interest Groups' Perspectives. National Research Institute of Legal Policy, Research Report 253, Helsinki.

<sup>27</sup> Interview on June 21, 2011.

<sup>28</sup> Parliament employee wellness survey (2009), [www.hs.fi](http://www.hs.fi): Eduskunta kiinnostaa työpaikkana yhä vähemmän (Finns less and less interested in working in Parliament).

Minister's reasoned proposal, dissolve the Parliament and order new elections.<sup>29</sup> According to the Parliament's Rules of Procedure, the Parliament independently decides the composition of the committees and the Office Commission makes the appointment decisions of parliamentary officials.

The Constitution regulates the dismissal of Members of Parliament.<sup>30</sup> A Member of Parliament can be dismissed from office if he or she loses candidate eligibility or essentially and repeatedly neglects his or her duties as a Member of Parliament, and does not command the trust and respect necessary for the office.

Although the recent Constitutional reforms strengthen the Parliament's position in Finland, one might still ask whether the Parliament has sufficient resources to supervise the Government's activities or promote alternative bills.

### **Independence (Practice)**

*To what extent is the legislature free from subordination to external actors in practice?*

### **Score: 75 (Very Good)**

The Parliament can operate in an independent and impartial manner in practice, although the Finnish system of majority parliamentarianism emphasises the role of the Government and government parties in the use of political power. If one evaluates individual Members of Parliament, their actions are influenced by group discipline and party lines. In practice, bills drafted by Members of Parliament rarely make it into law. According to one critical assessment, a politician is never completely independent since lobbying and different interest groups are an essential part of democracy and organisations strive to influence politicians' decision-making.<sup>31</sup>

The election funding controversy of the past few years raised the question of whether power can be bought. There are large quantities of external, private money in the election campaigns of Members

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<sup>29</sup> The Constitution of Finland, Section 26.

<sup>30</sup> The Constitution of Finland, Sections 27 and 28.

<sup>31</sup> Interview on September 5, 2011.

of Parliament. According to one expert, using the Swedish model of list elections would ease the pressure of personal campaigns and fundraising. On the other hand, one could say that election donors are supporting pre-existing views and political values instead of trying to alter the goals of the Members of Parliament to suit their needs.<sup>32</sup>

## **Transparency (Law)**

### **Score: 75 (Very Good)**

*To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?*

Finland has high requirements for openness. The Parliament's decision-making and documents are public. The Constitution and the Act on the Openness of Government Activities sufficiently safeguard the citizens' right to receive information on the Parliament's activities.<sup>33</sup> Parliamentary session documents are freely available in libraries and on the Internet.

Plenary sessions are public and citizens may observe them from the public gallery. The Government question hours in the Parliament are televised. The minutes and discussions are recorded and published, as are legislative proposals and votes.<sup>34</sup>

Committee meetings are not public unless the committee decides otherwise, although the records of committee meetings are available to the public. This means that part of the legislative process is hidden behind closed doors. However, if committee meetings were open and committee discussions public, the entire process might become slower and the committee discussions might be watered down. Increased transparency does not necessarily always lead to purely positive results or

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<sup>32</sup> Interview on September 5, 2011. See Koikkala & Riepula (2009). Näin valta ostetaan. (This is how power is bought)

<sup>33</sup> The Constitution of Finland, Section 50; the Act on the Openness of Government Activities 621/1999.

<sup>34</sup> The Parliament's Rules of Procedure; the Constitution of Finland, Section 50; the Act on the Openness of Government Activities 621/1999.

strengthen democracy. On the other hand, one might ask why this central part of the legislative process is not more transparent.<sup>35</sup>

## **Transparency (Practice)**

### **Score: 75 (Very Good)**

*To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?*

In practice, the citizens can obtain information on the Parliament's activities in various ways. The Internet in particular is a fount of information on the Parliament's decision and discussions. Documents are made available in a timely manner.<sup>36</sup> Outside actual parliamentary work, social media has given Members of Parliament new ways to communicate and stay in touch with voters. Many Members of Parliament keep a blog or have an open Facebook profile. However, social media has its risks and problems when it comes to boundaries between public and private and the expression of views and opinions.<sup>37</sup>

Several other pillars have mentioned the role of the media, and the media's importance is also evident when we assess the public's access to and exchange of information on legislature. On the whole, the media is active in reporting about the Parliament's activities. However, the media would do well to consider how information is used; things should not be simplified in order to create more "newsworthy" stories to sell more papers.<sup>38</sup>

## **Accountability (Law)**

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<sup>35</sup> Interviews on June 21, 2011 and September 5, 2011.

<sup>36</sup> See <http://web.eduskunta.fi/Resource.phx/parliament/index.htm>

<sup>37</sup> E.g. interpreting comments by or status updates of Members of Parliament.

<sup>38</sup> Interview on September 5, 2011. See several other interviews and pillars.

*To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?*

**Score: 75 (Very Good)**

The Constitutional Law Committee supervises the Parliament's legislative work and the basic legality of bills, thus performing advance supervision. The Committee is also responsible for ensuring that bills comply with human rights agreements and Finland's international commitments.<sup>39</sup> There are no complaint mechanisms for the Parliament's decisions or laws.

In accordance with the Parliament's Rules of Procedure, the Parliament elects from among its members three auditors, who are tasked with auditing the Parliament's finances and administration. The auditors give the Parliament an annual report and accounting.<sup>40</sup> Since the Parliamentary Auditors are elected from among the Parliament, there is no actual external audit.<sup>41</sup>

### **Accountability (Practice)**

*To what extent do the legislature and its members report on and answer for their actions in practice?*

**Score: 75 (Very Good)**

The Parliament is politically accountable for its activities, and one might say that the citizens' confidence and election results show how the actions of the Parliament and its Members are assessed. Members of Parliament are accountable to the public, and trust must be earned. If a Member of Parliament or the Parliament as a whole do not fulfil their duties or are unable to keep their promises, voters will withdraw their support.<sup>42</sup>

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<sup>39</sup> <http://web.eduskunta.fi/Resource.phx/parliament/index.htm>

<sup>40</sup> The Parliament's Rules of Procedure.

<sup>41</sup> Interviews on June 21, 2011 and September 5, 2011.

<sup>42</sup> See Salminen & Ikola-Norrbacka (2009). Kuullaanko meitä? Eettinen hallinto ja kansalaiset. (Are we being heard? Ethical governance and citizens.)

After the election funding controversy and the reforms to the Act on a Candidate's Election Funding, it appears that Members of Parliament have been more conscientious about reporting their election funding, and nearly all Members reported their election funding to the National Audit Office before deadline.<sup>43</sup>

### **Integrity Mechanisms (Law)**

*To what extent are there mechanisms in place to ensure the integrity of members of the legislature?*

**Score: 50 (Good)**

The Constitution states that Members of Parliament are disqualified from consideration of and decision-making in any matter that concerns them personally.<sup>44</sup> In addition, a Member of Parliament is disqualified from the consideration in a committee of matters pertaining to the inspection of his or her official duties. The Criminal Code regulates the crimes of bribing Members of Parliament and of receiving bribes.<sup>45</sup> Government Proposal 79/2010 states that the bribery regulations concerning Members of Parliament are similar to the bribery crime regulations concerning public servants' giving and receiving bribes. Except for the Constitution and the Criminal Code, there are no other regulations regarding receiving gifts or conflicts of interest. Government employees are guided by the State Civil Servants' Act and an ethical guidebook *Arvot virkamiehen arjessa* (Values in the daily work of the civil servant).<sup>46</sup>

Finland has no rules or compulsory registers for the interactions between Members of Parliament and lobbyists. Better rules should be developed, both for lobbying and for determining other types of disqualification of Members of Parliament. It would be very useful to have an ethical code for

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<sup>43</sup> See the pillar report on political parties.

<sup>44</sup> The Constitution of Finland, Section 32.

<sup>45</sup> The Criminal Code, Chapter 14, Section 14 and Chapter 40, Section 4.

<sup>46</sup> The State Civil Servants' Act 750/1994, *Arvot virkamiehen arjessa* (Values in the daily work of the civil servant) (2007).

Members of Parliament that included these principles.<sup>47</sup> Experts stress that better disqualification regulations are needed, and for example determining a limit for gifts might improve the system's integrity.<sup>48</sup>

### **Integrity Mechanisms (Practice)**

*To what extent is the integrity of legislators ensured in practice?*

#### **Score: 50 (Good)**

There are only a few examples of serious bribery of Members of Parliament in Finland. Nevertheless, the integrity of Members of Parliament has been brought into question, especially in recent years. The election funding controversy revealed many conflicts of interest and situations where Members of Parliament make decisions about subsidies or contracts in situations where they are essentially disqualified. Since legislation contains very few disqualification regulations for Members of Parliament, many of the cases that have come to light serve to highlight the importance of assessing incorruptness from an ethical perspective when the law does not offer clear answers.

With the changes to the Act on a Candidate's Election Funding and the outcry following the media scandal, it can tentatively be said that Members of Parliament have tried to be more conscientious about reporting their election funding and to consider more carefully how and from whom they accept election funding. In 2011, most Members of Parliament reported their election funding in time.

There was also a great deal of public discussion about hate speech and political correctness in Finland during 2011. People have been forced to seek boundaries for appropriate speech and behaviour. This also applies to the Parliament and discussions held therein. In September 2011, the Speaker's Office gave out instructions that it is not appropriate to call a member of the True Finns (Perussuomalaiset) "persu" or a member of the Centre Party (Suomen Keskusta) "kepu", as these

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<sup>47</sup> Interviews on June 21, 2011 and September 5, 2011.

<sup>48</sup> Interview on June 21, 2011.

forms of address may sound disrespectful or undignified.<sup>49</sup> It seems that political discussion culture in Finland is going through a transitional period, and especially interaction between the media and politicians is searching for a direction.

## **Executive Oversight**

*To what extent does the legislature provide effective oversight of the executive?*

### **Score: 75 (Very Good)**

The Government must have the Parliament's confidence. The experts who were interviewed for this pillar believe that the seamless cooperation between the Finnish Parliament and Government in part leads to the Parliament not exerting enough control over the Government.<sup>50</sup>

In practice, the Parliament or the opposition may submit an interpellation to the Government, who must reply within 15 days. An interpellation must be submitted by at least 20 Members of Parliament. The Audit Committee is responsible for overseeing compliance with the budget.<sup>51</sup>

There has been discussion on the distribution of power in society, particularly about how to shift the power back to the Government and the Parliament. This is explained by the fact that in the Finnish system, interest groups have a strong position in social decision-making.<sup>52</sup>

## **Legal Reforms against Corruption (Law and Practice)**

*To what extent does the legislature prioritise anti-corruption and governance as a concern in the country?*

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<sup>49</sup> [http://yle.fi/uutiset/talous\\_ja\\_politiikka/2011/09/persu\\_ja\\_kepu\\_pannaan\\_eduskunnassa\\_2887269.html](http://yle.fi/uutiset/talous_ja_politiikka/2011/09/persu_ja_kepu_pannaan_eduskunnassa_2887269.html) (in Finnish)

<sup>50</sup> Interviews on June 21, 2011 and September 5, 2011.

<sup>51</sup> The Parliament's Rules of Procedure <http://web.eduskunta.fi/Resource.phx/parliament/index.htm>

<sup>52</sup> Interview on June 21, 2011. <http://www.hs.fi>



## Score: 50 (Good)

Anti-corruption politics and reforms have not been a topic of active discussion in Finland. It was not until the election funding controversy that people began to evaluate what methods could be used to improve the system's integrity. There are no obvious signs that the Parliament used initiative when the election funding system was being reformed. This despite the fact that GRECO has admonished Finland for inadequate legislation regarding election and party funding.<sup>53</sup> However, reforming the election funding legislation in the Parliament was a slow process.<sup>54</sup>

On the other hand, the degree of passivity that Members of Parliament demonstrate in regard to anti-corruption activities in Finland can be explained with the fact that corruption is not considered a serious concern. Finland has a high ranking in e.g. Transparency International's Corruption Perceptions Index and the World Bank Governance Indicators.<sup>55</sup> On the other hand, the election funding controversy has necessitated the re-evaluation and ethical inspection of the entire system. The Government Programme and the Parliament have tried to highlight the importance of preventing black economy for the past few years. Work is underway to find additional resources and enact more practical legislation to help recoup the losses black economy has caused to the Finnish economy and to remove its corruptive traits.<sup>56</sup>

### *Questions to Consider*

*What real chance does political opposition have to influence things in the Parliament during strong majority governments?*

*Is there a need for clearer ethical codes for Members of Parliament, such as instructions for possible conflicts of interest in situations where Members of Parliament hold leading positions in both government politics and local politics at the same time?*

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<sup>53</sup> GRECO (2009): Assessment report Finland

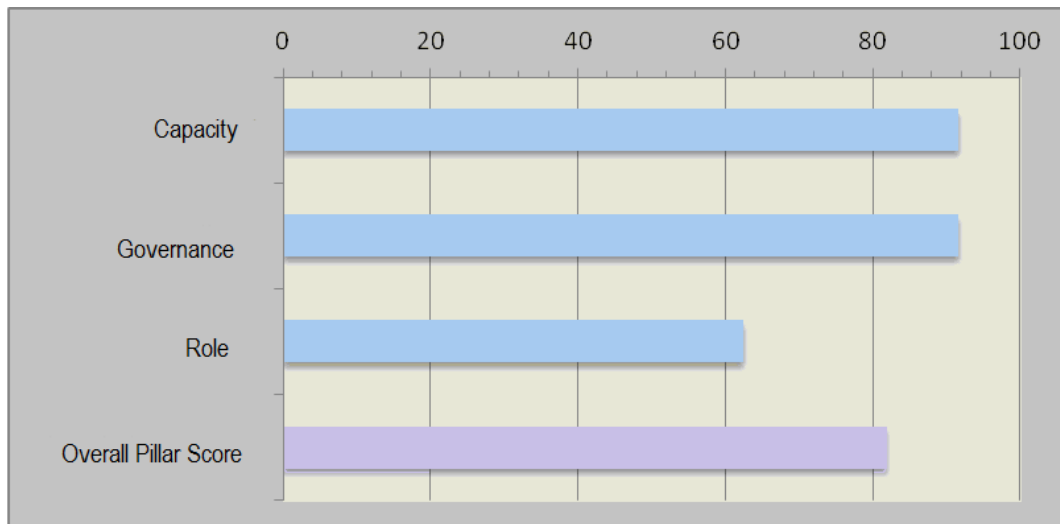
<sup>54</sup> Interviews on June 21, 2011 and September 5, 2011.

<sup>55</sup> Transparency International (2010) Corruption Perception Index, World Bank Governance Indicators (2010).

<sup>56</sup> See e.g. [www.mustatulevaisuus.fi](http://www.mustatulevaisuus.fi) (in Finnish)

## 6.2. EXECUTIVE

Figure. Overall score of the different parts of the executive.



Capacity = resources, independence; governance = transparency, accountability, integrity mechanisms; role = public sector management, legal system.

### Summary

Public sector reforms and cutbacks have led to significant staff reductions also in the executive. However, experts feel that resources are adequate in practice. According to a report by the Ministry of Finance, the balance of the public economy has been weakened. Fixing the situation would require an adaptation plan featuring structural reforms such as reforms in public service production and solutions to extend work careers.

The independence of the executive was deemed sufficient, though lobbying raises discussion. Transparency and accountability were also found to be adequate. The citizens' strong trust in the Finnish Government demonstrates for its part that the political system is generally trusted and accountable. There is still room for improvement in the quality of various reports and statements.

Integrity is secured by law, and principles are generally internalised and applied in practice as well. Administration is being actively improved, though the prevailing lawyer culture puts its own type of frames on development. There is relatively little anti-corruption activity, and more effort is needed in this area.

## **Structure and Organisation**

The most important government body for the executive is the Government. The Government of Finland consists of the Prime Minister and the requisite number of other ministers. In a broader definition it refers to the decision-making body consisting of the Government parliamentary session and the ministries. The Prime Minister is elected by the Parliament and thereafter formally appointed by the President of the Republic. The President appoints the other ministers in accordance with the Prime Minister's proposal. The Constitution states that ministers must be Finnish citizens known for their integrity and ability to serve. Decisions in matters falling within the purview of the Government are made by Government parliamentary sessions or the appropriate ministry. Broad-based issues and important matters of principle are decided in a parliamentary session. The Government sees to preparatory and procedural work on decisions to be made by the President of the Republic.<sup>57</sup>

The executive consists of central administration, regional administration, and local administration. Approximately 84,000 people are employed in state offices and agencies, which are on-budget entities funded entirely or partially from state budget. There are approximately one hundred units. Slightly fewer than 4,500 of the personnel work in the ministries.

Indirect public administration includes independent agencies pertaining to public law, such as the Social Insurance Institution of Finland, the Bank of Finland, the Finnish Institute of Occupational Health, the forestry centres, and the universities. Also included are communities, institutions,

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<sup>57</sup> The Government <http://www.valtioneuvosto.fi/tietoa-valtioneuvostosta/en.jsp>; the Constitution of Finland 731/1999

foundations, and private persons, such as animal welfare inspectors and water bailiffs, when they are using public authority in public tasks based on an act, a decree, or a special regulation.

The evolution of Finnish public administration is founded on a long history of connection, first as part of the Kingdom of Sweden and later as part of the Russian Empire as an autonomous grand duchy. By the time Finland gained independence in 1917, the country had over a century of experience in self-administration and a long connection with Nordic administrative culture.

The development into a proper welfare state dates from the 1960s to the beginning of the 1990s. Public welfare tasks were multiplying rapidly, and new administrative units were established for these new tasks. Municipalities were bearing more and more responsibility for important welfare services. In state administration the tasks were carried out by the ministries and numerous central agencies. In regional administration public tasks were the responsibility of the county administrative boards and the regional officials of different fields.

The structures of the executive were reorganised in the early 1990s, mainly due to the difficult economic depression. The central agency system was abandoned, the number of county administrative boards was reduced, and several agencies were replaced by commercial enterprises and later state enterprises. Staff reductions and other rationalisation actions came later. Compared to the 1970s and 1980s, Finland's current administrative model follows the "small nation ideal".

These administrative reforms gave the municipalities more operational and financial independence, which has also compelled them to streamline their finances and reorganise municipal structures. The year 2010 saw the dawn of the state's new regional administration, which is meant to simplify the tasks, direction, and regional division of regional administration officials.

## **Resources (Practice)**

*To what extent does the executive have adequate resources to effectively carry out its duties?*

Score: 100 (Excellent)

The resources of public administration are in a fairly good state despite the administrative reductions. According to a recent job satisfaction barometer, government personnel feel that the practical resources are adequate, so this assessment at least does not indicate any serious resource issues in the executive.<sup>58</sup> The new productivity programme of the Ministry of Finance has effected large reductions, while tasks and duties have needed to be redefined. This has caused concern over the continuity of certain activities and tasks. However, official duties are being performed well.<sup>59</sup>

According to information published by Statistics Finland, the Government's work productivity and overall productivity both improved slightly in 2010.<sup>60</sup> One of the official aims of the state productivity programme is good personnel policy. The Government's 2011-2014 frame decision involves a staff-reducing productivity programme carried out with a previously determined method so that the state's labour requirements can be reduced by 9,645 full-time equivalents by the year 2011 and an additional 4,800 full-time equivalents by 2015. The Government's frame decision describes new procedures which can be focused to different administrative fields and which are to be carried out by the end of 2015.<sup>61</sup>

The question of adequate resources is basically moot in Finland, since the Government is a body that can gain extra resources when needed. From an international perspective the executive in Finland has very good resources.<sup>62</sup>

A recent report by the Ministry of Finance states that the balance of the public economy has been badly shaken by the financial crisis of the last few years, making the public economy more vulnerable to expense pressures exerted by the aging population and narrowed tax base. The report makes it clear that it will take a decade-long (two election terms) adaptation programme to fix the situation and that the programme should start off with an emphasis on benefits. The balancing also

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<sup>58</sup> Ministry of Finance job satisfaction barometer 2010:

[http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/01\\_julkaisut/06\\_valtion\\_tyomarkkinalaitos/20110525Valtio/Innovatii\\_visuus\\_ja\\_tyoeurien\\_jatkaminen\\_200511.pdf](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/01_julkaisut/06_valtion_tyomarkkinalaitos/20110525Valtio/Innovatii_visuus_ja_tyoeurien_jatkaminen_200511.pdf) (In Finnish)

<sup>59</sup> Interview on June 8, 2011; Ministry of Finance Productivity Programme  
[http://www.vm.fi/vm/fi/05\\_hankkeet/02\\_tuottavuusohjelma/index.jsp](http://www.vm.fi/vm/fi/05_hankkeet/02_tuottavuusohjelma/index.jsp) (In Finnish)

<sup>60</sup> Statistics Finland: State productivity statistics 2010

<sup>61</sup> Ministry of Finance Productivity Programme [http://www.vm.fi/vm/fi/05\\_hankkeet/02\\_tuottavuusohjelma/index.jsp](http://www.vm.fi/vm/fi/05_hankkeet/02_tuottavuusohjelma/index.jsp) (In Finnish)

<sup>62</sup> Interview on May 30, 2011

involves efforts to reform the structures of the public economy, such as reforms of the service system and solutions to extend work careers.<sup>63</sup>

## **Independence (Law)**

*To what extent is the executive independent by law?*

Score: 100 (Excellent)

The structures of Finland's political-administrative system are independent, and independence is highlighted in all government activities. Regulation is directed towards internal structures.<sup>64</sup> The structures of independent distribution of power are secured by the Constitution. The power of the state belongs to the people, who are represented by the Government parliamentary session.<sup>65</sup> The Constitution states that the use of public authority must be based on law. Governmental powers are used by the President of the Republic, who has been elected by direct popular vote, and the Government, whose members must enjoy the trust of the Parliament.<sup>66</sup> The independence of government activities is also safeguarded by the Administrative Procedure Act and the State Civil Servants' Act, and in the municipal sector by the Local Government Act and the Act on Civil Servants in Local Government.<sup>67</sup>

The Government is an independent actor except when it comes to jurisdiction. The Constitution states that the judicial powers are exercised by independent courts of law.<sup>68</sup> There is a strong tradition of the constitutional state in Finland, though this does not limit the Government's

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<sup>63</sup> The Ministry of Finance 2010: Public Finance at Crossroads: Approach to Fiscal Policy in the 2000s  
[http://www.vm.fi/vm/en/04\\_publications\\_and\\_documents/01\\_publications/02\\_economic\\_surveys/20100129Finlan/FiP\\_O\\_enkku.pdf](http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/02_economic_surveys/20100129Finlan/FiP_O_enkku.pdf)

<sup>64</sup> Interview on June 8, 2011; the Constitution of Finland 731/1999

<sup>65</sup> More on the Parliament's role in the pillar report on legislature.

<sup>66</sup> The Constitution of Finland 731/1999

<sup>67</sup> The Administrative Procedure Act 434/2003; the State Civil Servants' Act 750/1994; the Local Government Act 365/1995; the Act on Civil Servants in Local Government 304/2003

<sup>68</sup> More on the duties and position of the courts in the pillar report on the judiciary.

independence. Generally speaking, the Finnish system is a smoothly functioning entity in regard to regulations and principles.<sup>69</sup>

However, the separation of the state and the municipal sector creates difficulties for planning and implementation. The law requires social and cultural services to be produced in the municipalities. How the law is followed in practice can vary greatly from one municipality to the next.

The larger guidance system issue in the background is that the Government cannot directly order municipalities to do things.<sup>70</sup>

### **Independence (Practice)**

*To what extent is the executive independent in practice?*

Score: 75 (Very Good)

The distribution of power, which is based on the parliamentary idea, is sufficiently clear from a practical perspective as well. The Members of Parliament and the ministers are consulted on important issues, but there is no undue interference with their activities. After all, influencing things is the purpose of being a Member of Parliament. However, there is cause to consider where the line between lobbying and undue interference should be drawn, and how formal position can potentially be used in individual cases. Since many decisions are made by civil servants, who can say when and in what context a certain type of interference is undue or inappropriate? It is in part a question of the politician's own activeness. Nevertheless, experts have stated that improper lobbying has decreased in the 2000s.<sup>71</sup>

### **Transparency (Law)**

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<sup>69</sup> Interview on May 30, 2011; the Constitution of Finland 731/1999

<sup>70</sup> Interview on May 30, 2011; This topic is also discussed in the pillar report on the public sector.

<sup>71</sup> Interview on June 8, 2011; interview on May 30, 2011

*To what extent are there regulations in place to ensure transparency in relevant activities of the executive?*

Score: 100 (Excellent)

Transparency is regulated by the Act on the Openness of Government Activities, which is extremely detailed.<sup>72</sup> All documents are public in Finland, with the exception of working documents. All in all, the law safeguards transparency well.<sup>73</sup>

### **Transparency (Practice)**

*To what extent is there transparency in relevant activities of the executive in practice?*

Score: 75 (Very Good)

Strong legislation guarantees transparency in practice as well. Information distribution about official matters has clearly both increased and improved in quality. Basic communication is significantly more open than before also in respect to the citizens. All documents and instructions that have been officially received and confirmed are available to the public either online or on request. Different service channels for citizens have also improved, and organisations, including agencies, strive to keep their web pages current.<sup>74</sup>

However, the publicity of tax information creates situations that are open to interpretation. Income information is public, but other information related to taxation is not. Situations that are open to various interpretations can be problematic since they are usually only applicable to individual cases. Transparency is exactly what the publicity of income information is aimed to achieve. For example,

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<sup>72</sup> The Act on the Openness of Government Activities 621/1999

<sup>73</sup> Interview on May 30, 2011; interview on June 8, 2011

<sup>74</sup> Interview on June 8, 2011.



in small municipalities the publicity of income information ensures that nobody is favoured unduly in their salary.<sup>75</sup>

However, how well transparency works in practice depends largely on the civil servant's attitude. These days civil servants have initiative and an active desire to inform the public. The publicity of the highest level of Finnish politics is highlighted by the fact that there has been a Prime Minister's Question Hour for decades – a radio programme where members of the media ask the Finnish Prime Minister questions about the political situation.

On the other hand, citizens demand information, and in this sense general citizenship skills have improved. The fact that the citizens are demanding more when it comes to information distribution partially guarantees that they can both search for information and demand it when necessary.<sup>76</sup>

Although all documents except working documents are public, one must have the initiative to request or search for the documents. Budget preparations were not always open, but currently the preparations are public on a limited basis. The 2011 government negotiations were closed to the public in order to guarantee peaceful working conditions. There are no separate regulations on the publicity of government negotiations. However, the importance of the issue was highlighted by the fact that for a long time there was very little so-called public information about the negotiations despite the fact that the Government Programme has a large impact on the future of Finnish society.<sup>77</sup>

A citizen questionnaire study by the Public Management unit of the University of Vaasa in 2008 revealed that citizens wish officials would take a more active role in distributing and producing information. Citizens feel that they must often take up the role of active information seekers, which creates difficulties for special groups who may have weaker skills and abilities to acquire information.<sup>78</sup>

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<sup>75</sup> Interview on June 8, 2011; the Act on the Openness of Government Activities 621/1999

<sup>76</sup> Interview on May 30, 2011

<sup>77</sup> Interview on May 30, 2011

<sup>78</sup> Salminen & Ikola-Norrbacka 2009 (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.

## **Accountability (Law)**

*To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?*

Score: 100 (Excellent)

Finland has clear regulations regarding oversight authorities and their duties, which speaks well for accountability. For example, the Parliamentary Ombudsman and the National Audit Office regularly perform audits.<sup>79</sup>

There are both external and internal audits. Accountability is also achieved through performance monitoring. These activities promote accountability in regard to the Ministry of Finance several times a year. The screening is extremely efficient both in activities and towards the citizens. Accountability is also affected by complaints filed by individual citizens and the resulting possible corrective measures, which are taken flexibly if they are needed.<sup>80</sup>

Accountability is highlighted by the reports that are statutory. The reports used to be more formal, but their content and quality have been improved with an eye for better information distribution. Nevertheless, the quality and information content of the reports are still found to be somewhat problematic. One of the experts interviewed for this pillar names the National Audit Office as the primary safeguard of accountability.<sup>81</sup>

In practice, international agreements and country checks also strengthen accountability. In addition, EU auditors monitor how EU funds accumulate in each country.<sup>82</sup>

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<sup>79</sup> Interview on June 8, 2011; the Constitution of Finland 731/1999; the Parliamentary Ombudsman Act 197/2002; The Act on the National Audit Office of Finland 676/2000; The activities of the Ombudsman and the NAO are discussed in more detail in their respective pillar reports.

<sup>80</sup> Interview on June 8, 2011

<sup>81</sup> Interview on May 30, 2011; The NAO is discussed in its pillar report.

<sup>82</sup> Interview on June 8, 2011

## **Accountability (Practice)**

*To what extent is there effective oversight of executive activities in practice?*

Score: 100 (Excellent)

The legislation supporting accountability is strong enough that accountability also works in practice.<sup>83</sup> Since the National Audit Office moved under the auspices of the Parliament, the Parliament's authority has also increased. There are no special committees for accountability in Finland. Accountability is fulfilled in practice through both official reports and the work of a separate Audit Committee.<sup>84</sup>

The practical success of accountability is demonstrated by the fact that according to World Values studies, 64% of Finnish citizens trust the Government either very much or at least to some extent and 61% of the citizens trust state civil servants. The percentage is high, though it is considerably lower than the percentage of the citizens who trust the Police or the Defence Forces.<sup>85</sup>

## **Integrity (Law)**

*To what extent are there mechanisms in place to ensure the integrity of members of the executive?*

Score: 100 (Excellent)

Integrity is secured by criminal law, general legislation on civil servants, and incapacity regulations. The Ministry of Finance has given out guidelines on hospitality, benefits, and gifts. However, an

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<sup>83</sup> Interview on June 8, 2011

<sup>84</sup> Interview on May 30, 2011; The Audit Committee <http://web.eduskunta.fi/Resource.phx/valiokunnat/valiokunta-trv01/index.htm> (In Finnish)

<sup>85</sup> Borg et al. (2007). Uskonto, arvot ja instituutiot. Suomalaiset World Values -tutkimuksissa 2001-2005. (Religion, values and institutions: Finnish people in the surveys of World Values, 2001-2005.) The Finnish Social Science Data Archive (FSD); cf. Salminen & Ikola-Norrbacka 2009 (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288.

OECD country report criticised the fact that the system does not fully protect informants. Since the general idea is to do the right thing, informing and getting involved are considered good things that benefit the system. Informants are not treated like heroes, but rather the goal is to avoid causing informants any difficulties due to their actions.<sup>86</sup> One might ask whether more could be done to protect informants.

Finland is a lawyer-guided justice state, meaning that laws and regulations have a central role. Consequently, ethical codes have not been deemed very necessary in Finland.<sup>87</sup>

### **Integrity (Practice)**

*To what extent is the integrity of members of the executive ensured in practice?*

Score: 75 (Very Good)

Incapacity regulations have always been central to government activities and have been internalised well. In a way, civil servants do not have a position where interference is important. Ethical codes have been almost “brainwashed” into e.g. tax administration officials. Things like the principles of good administration that are derived from legislation, the State Civil Servants’ Act, the requirement of equal treatment of citizens, and the reports by the Ministry of Finance on the values of the work of civil servants can all be considered ethical codes. Value discussions are strongly present in public administration. How actively an organisation promotes ethical codes has always had a strong effect on how well the codes are adopted and utilised.<sup>88</sup>

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<sup>86</sup> Interview on June 8, 2011; the Criminal Code 39/1889; the Administrative Procedure Act 434/2003; the Ministry of Finance [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/)

<sup>87</sup> Interview on May 30, 2011

<sup>88</sup> Interview on June 8, 2011; the Constitution of Finland 731/1999; the Administrative Procedure Act 434/2000; the State Civil Servants’ Act 750/1994; Arvot arjessa: Virkamiehen etiikka (2005). Valtionhallinnon käsikirja. (Everyday values: Ethics of officials. Handbook of state administration.) Helsinki: Ministry of Finance; Arvot virkamiehen arjessa: Selvitys virkamiesetiikan nykytilasta (2007) (Values in the daily work of the civil servant: Analysis of current status of civil service ethics). [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/01\\_julkaisut/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/01_julkaisut/) (In Finnish)

Integrity in practice is also safeguarded by civil service ethics and duty-based ethics. They have very strong traditions in Finland, which is unlikely to change. Civil service ethics has even been included in education. When discussing integrity, one must remember that political conflicts are a natural part of democracy.<sup>89</sup>

However, more specificity may be needed. For example, guidelines for official journeys are not extremely specific, which in turn has led to some conflicts of interest, e.g. in the city of Espoo. The expert feels that there may be a need for more specific guidelines in the form of a set of ethical codes. However, it is difficult to regulate matters regarding integrity when one stops to consider the level at which things are taking place. The expert names as examples small trips or gifts compared to bigger things, such as lobbying.

The law is generally in a good shape in Finland. Similarly the informing institutions exist and work well on paper, which helps things work well in practice as well. On the other hand, these things are more problematic in smaller units of local administration than in larger units.<sup>90</sup>

### **Public Sector Management (Law and Practice)**

*To what extent is the executive committed to and engaged in developing a well-governed public sector?*

Score: 75 (Very Good)

Developing the executive is constantly in the forefront. There have been efforts to lessen the stiff bureaucracy of government activities and to promote citizen viewpoints and client dimensions.<sup>91</sup> One large-scale reform is the Ministry of Finance Productivity Programme. In addition, the hiring

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<sup>89</sup> Interview on May 30, 2011

<sup>90</sup> Interview on May 30, 2011

<sup>91</sup> Interview on May 30, 2011

system has been systematically reformed as part of performance guidance and performance management.<sup>92</sup>

Political management and civil service management in Finland have changed, and managers are mostly younger and better educated than before. The efforts to improve the administration in Finland have been very active and high in quality even when compared internationally. Nevertheless, developing administration is a relatively new phenomenon from a historical perspective. All development is also affected by the jurist culture prevalent in Finland.<sup>93</sup>

## Legal System

*To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?*

Score: 50 (Good)

One of the economic policy development targets in the current Government Programme is enhancing the prevention of black economy.<sup>94</sup> For example, cooperation between Tax Administration and the Police will be further improved, and internal guidelines on corruption-related issues will be made more effective. This is in part connected to the frequency with which corruption-related topics have appeared in the media. There have also been several proposals for action to prevent corruption. There is a demand under works in the Ministry of Finance for civil servants to have a duty to report any bribery they detect. There are also reforms due in the jurisdiction regulations of tax law related to money laundering and bribery crimes. Currently tax officials may not report individual incidents of bribery to the police unless the matter is connected

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<sup>92</sup> Ministry of Finance Productivity Programme [http://www.vm.fi/vm/fi/05\\_hankkeet/02\\_tuottavuusohjelma/index.jsp](http://www.vm.fi/vm/fi/05_hankkeet/02_tuottavuusohjelma/index.jsp) (In Finnish) ; Salminen, Ari (2008): Julkisen toiminnan johtaminen. (Managing public activities.) Helsinki: Edita Publishing Oy; cf. Pollitt, Christopher et al. (1997): Trajectories and Options: An International Perspective on the Implementation of Finnish Public Management Reform. Helsinki: Edita.

<sup>93</sup> Interview on May 30, 2011

<sup>94</sup> The Government Programme of Prime Minister Katainen, 22 June 2011

to taxation. In practice, this is never the case. The legal system may have some issues in a strictly juridical sense, but not in practice.<sup>95</sup>

There are no actual campaigns for anti-corruption activities in Finland. Instead, the emphasis is placed on education, norms, and improving the quality of civil servants. Finnish legal articles regarding corruption are written so that even a suspicion leads to action. However, the hidden politicising of civil servants may cause problems.<sup>96</sup>

*Questions to consider*

*How can we safeguard the performance of public administration while under pressure from reduction and cutback programmes?*

*How can we improve openness in public administration and decision-making?*

*In light of future prospects, how can we modernise the management of public organisations?*

*Can cooperation between officials, especially between Tax Administration and the Police, be improved through more effective communication?*

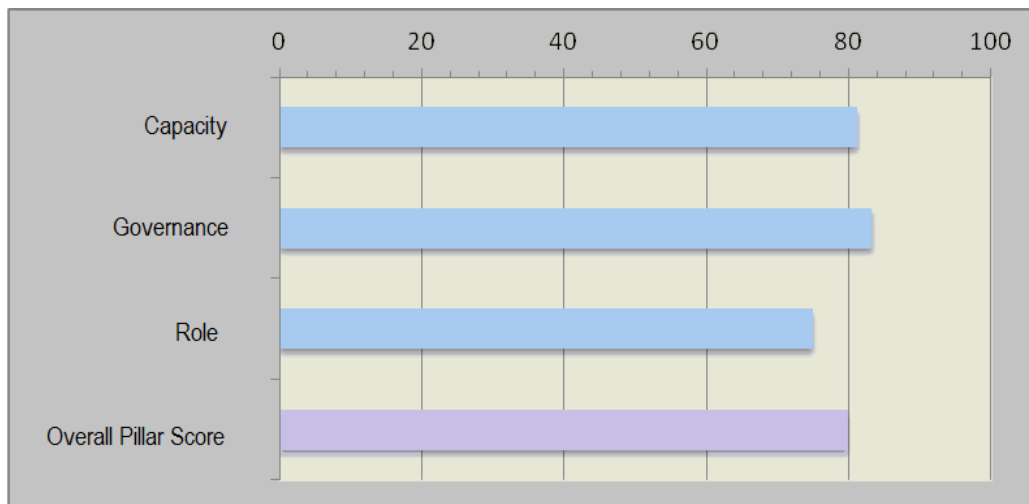
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<sup>95</sup> Interview on May 30, 2011

<sup>96</sup> Interview on May 30, 2011

### 6.3. JUDICIARY

Figure. Overall score of the different parts of the judiciary.



Capacity = resources, independence; governance = transparency, accountability, integrity mechanisms; role = executive oversight, corruption prosecution.

#### Summary

Finland's judicial system is independent and impartial. It fills the criteria of a rule-of-law state. However, the judiciary's position as part of the administrative domain of the Ministry of Justice is seen as problematic. It creates some fundamental problems in regard to the judiciary's independence.

There has emerged a strong understanding within the courts that court administration needs to be reorganised by strengthening the independence of the courts and improving their operating conditions. According to a report published by the Commission to inquire into the development trends of the court system, the problems that have emerged in central administration could be ameliorated through better strategic direction. The activities of the courts are important to society, which makes an efficiently functioning administrative system a necessity. In addition to being



independent, the courts are also answerable for their activities. Many European countries have adopted a system where a separate administrative agency handles the administrative tasks of the court system and all or most of their operational direction.

Generally speaking, the judiciary fulfils its constitutional duty of legal protection.<sup>97</sup> However, there are some issues, such as regional variations in processing times and long overall processing times in single cases.<sup>98</sup>

## **Structure and Organisation**

The Finnish court system consists of general courts, administrative courts, and special courts. This assessment focuses on the court system as part of the judiciary. The other parts, such as the prosecution service and the enforcement authorities, are not included in the assessment.

The general courts include the district courts, the Court of Appeal, and the Supreme Court. There are 27 district courts in Finland. They deal with criminal cases, civil cases and petitionary matters. One can appeal against the decisions of a district court in the Court of Appeal, which also deals with offences in public office and is the first instance in matters of treason and high treason. There are currently six Courts of Appeal in Finland. The most important function of the Supreme Court is to establish judicial precedents in leading cases, thus ensuring uniformity in the administration of justice by the lower courts. The Supreme Court is the highest authority in criminal and civil cases and the overseer of legality in its field of activities.

The administrative courts consider appeals against decisions by authorities. Decisions by the administrative courts can be appealed to the Supreme Administrative Court. There are eight regional administrative courts in Finland.

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<sup>97</sup> Annual reports of courts of law.

<sup>98</sup> Kiesiläinen (2000). Jutun hallinnointi- menetelmä käsittelyaikojen lyhentämiseksi tuomioistuimessa. (A case management method for shorter court processing times.) Lakimies 7-8/2000, 1325-1335.

The special courts include the Market Court<sup>99</sup>, the Labour Court<sup>100</sup>, the Insurance Court<sup>101</sup>, and the High Court of Impeachment<sup>102</sup>.

The prosecutorial organisation is a two-tiered structure that consists of the Office of the Prosecutor-General and 13 local prosecution offices. The Prosecutor-General is appointed by the President of the Republic. The prosecution service is an independent authority.

### **Resources (Law)**

*To what extent are there laws seeking to ensure appropriate tenure policies, salaries and working conditions of the judiciary?*

**Score: 100 (Excellent)**

Judicial salaries are commensurate with other state administration personnel. Judges' salaries are commensurate with other state civil servants, mainly those in the higher salary grades. The Act on the Contractual Terms of the Presidents and Members of the Supreme Court and the Supreme Administrative Courts<sup>103</sup> only applies to the highest-ranked judges. It is aimed at maintaining a

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<sup>99</sup> The Market Court may issue injunctions against illegal restrictions of competition and order monetary penalties. It has duties also in the supervision of mergers and acquisitions. In addition, the Market Court may overturn public procurement decisions, adjust the procurement process and order compensatory payments. The new Market Court has jurisdiction in disputes between the Consumer Ombudsman and businesses as to whether goods or services have been marketed in an unfair manner.

<sup>100</sup> The Labour Court has jurisdiction in disputes on collective agreements and collective civil service agreements. In contrast, disputes on individual employment relationships are heard by the general courts and disputes on individual civil service relationships by the administrative courts.

<sup>101</sup> The Insurance Court has jurisdiction in certain matters of social insurance, such as accident insurance, employment pensions, civil service pensions and national pensions. Before the Insurance Court is seised, an appeal against an insurance decision must normally be lodged with a revision board; the decisions of the boards are actionable in the Insurance Court. With the exception of certain accident insurance cases, the Insurance Court is the final instance, whose decisions cannot be appealed against.

<sup>102</sup> The High Court of Impeachment, which has convened only a few times, is the forum for criminal charges against a Minister, the Chancellor of Justice or a member of the Supreme Court or Supreme Administrative Court for an offence in office. In this event, the prosecution is seen to by the Prosecutor-General, the Chancellor of Justice or the Parliamentary Ombudsman.

<sup>103</sup> The Act on the Contractual Terms of the Presidents and Members of the Supreme Court and the Supreme Administrative Courts 196/1991, and the Act on Collective Agreements for State Civil Servants 664/1970

certain kind of permanence. Otherwise salaries are negotiated and are in the end determined by the collective bargaining agreement. Judges' salaries are equal to the highest salary grades, which are subject to the Public Servants Act (750/1994) and the Act on Collective Agreements for State Civil Servants (664/1970).

The judiciary or the courts do not collectively participate in wage negotiations, and the law does not secure their activities a set minimum percentage of the Budget. The somewhat contract-based wage system is considered problematic. From the viewpoint of independence, salaries that are defined in law might be a better alternative.<sup>104</sup>

### **Resources (Practice)**

*To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?*

### **Score: 50 (Good)**

The judiciary in Finland has fairly limited resources compared to the requirements in practice. However, the salaries of judges are considered high and sufficient enough not to lead to corruption.

The Ministry of Justice is in charge of creating the judiciary's budget, which is confirmed as part of the state budget. The fact that the key requirements for activities do not translate into the budget is a major issue. The connection between actual activities and the requirements is tenuous. The Finnish justice system is generally slow, since the numerous complaint mechanisms and the peculiar "orthodoxy" of the system lead to prolonged processing times of court cases, especially when it comes to long and challenging financial crimes proceedings. It is essential that the practical resources and capacity meet the system's requirements. Long processing times, for example, have become a problem, one for which the European Court of Human Rights has recently reprimanded

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<sup>104</sup> Ministry of Justice report (2003); interview on August 26, 2011

Finland.<sup>105</sup> Balancing the workload and managing the cases through caseload management would help solve the problem of delays.<sup>106</sup>

As part of state administration reforms, the State Productivity Programme affects the operations of the judiciary. The effects are mainly negative, such as staff reductions. Experts criticise the staff reductions, since the workload should be reduced accordingly in order to safeguard activities and the realisation of justice.<sup>107</sup> Finland could use a thorough re-evaluation of the demands that are made of the judiciary's activities in relation with the judiciary's actual capabilities.

## **Independence (Law)**

*To what extent is the judiciary independent by law?*

### **Score: 100 (Excellent)**

The independence of judges is sufficiently secured by the Constitution. From a legal perspective the Parliament is above the Supreme Court and the Supreme Administrative Court, since the Parliament has the authority to change the Constitution. The Constitution safeguards the judiciary's position in accordance with the tripartite separation of powers.<sup>108</sup>

The independence of the courts is also generally supported in regard to appointments. The courts make reasoned recommendations for judges' appointments. The President of the Republic appoints the permanent judges as regulated by law.<sup>109</sup>

The members of the Supreme Court and the Supreme Administrative Court are appointed by the President of the Republic based on proposals from the courts in question. As for other judges, the Judicial Appointments Board prepares a reasoned proposal for appointments for positions in the

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<sup>105</sup> Interview on May 18, 2011

<sup>106</sup> Kiesiläinen (2000). Jutun hallinnointi- menetelmä käsittelyaikojen lyhentämiseksi tuomioistuimessa. (A case management method for shorter court processing times.) Lakimies 7-8/2000, 1325-1335.

<sup>107</sup> Interview on May 18, 2011; interview on August 26, 2011

<sup>108</sup> The Constitution, Section 3

<sup>109</sup> The Act on Judicial Appointments 205/2000

judiciary to the Government, though the President of the Republic makes the final decision. The Judicial Appointments Board also proposes appointments for the offices of the President of the Court of Appeal, Senior Judge of the Court of Appeal, Judge of the Court of Appeal, Chief Judge of the Administrative Court, Judge of the Administrative Court, Chief Judge of the District Court, and District Judge. Proposals for the appointment of judges of the Special Courts also fall under the purview of the Judicial Appointments Board.

The Judicial Appointments Board is appointed by the Government for terms of five years. The twelve members represent the judiciary, the general prosecution service, the lawyer profession, and the study and teaching of legal science. The President of the Judicial Appointments Board is elected by the Supreme Court and the Vice-President by the Supreme Administrative Court.<sup>110</sup>

The Constitution states that a judge cannot be suspended from office except by a judgment of a court of law.<sup>111</sup> According to the Public Servants Act, Presidents and members of the Supreme Court and the Supreme Administrative Court can be suspended by the court they serve.<sup>112</sup>

Judges may arbitrate disputes. However, from a critical viewpoint arbitration may create ties of loyalty that raise questions regarding the independence and impartiality of individual judges.<sup>113</sup>

### **Independence (Practice)**

*To what extent does the judiciary operate without interference from the Government or other actors?*

### **Score: 75 (Very Good)**

It is justified to state that the judiciary operates freely without external, undue interference. The independence that is safeguarded by law reflects into practice, though there have been some critical

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<sup>110</sup> The Act on Judicial Appointments 205/2000, <http://www.oikeus.fi/8108.htm>.

<sup>111</sup> The Constitution, Section 103

<sup>112</sup> The Public Servants Act 755/1986, Section 46 (3)

<sup>113</sup> Majanen, Merja (2009). Tuomari virkamiehenä. (Judges as civil servants.) Faculty of Law Licentiate thesis. University of Helsinki; the Arbitration Act 967/1992.

assessments of the relationship between the judiciary and the Ministry of Justice. The key challenge is due the fact that instead of being financially independent, the judiciary is under the strategic direction of the Ministry of Justice.

The constitutional independence of judicial activities from legislative authority and executive authority causes problems for managing the court system and the individual courts and for stabilising their performance guidance system. Similar problems do not occur anywhere else in state administration.<sup>114</sup>

According to several experts and reports, one solution would be the administrative separation of the judiciary and the Ministry of Justice, which would better safeguard the judiciary's independence and efficiency.<sup>115</sup> Reforms to the judiciary's administrative position could also help improve strategic planning in respect to practical requirements. In Denmark and Sweden, for example, the judiciary has been separated from the Ministry, with a separate judicial agency carrying out the administrative tasks.<sup>116</sup>

A separate and independent judicial agency would improve the judiciary's position and reduce the problems that have occurred in Finland in the judiciary's relationship with the executive. Even though there have been relatively few examples of Government interference with the judiciary's activities, there have been situations where the Ministry has expressed its views on ongoing cases, for example in the media.<sup>117</sup>

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<sup>114</sup> Tuomioistuinelaitoksen keskushallinnon uudistaminen (Reforming the central administration of the court system) (2009).

<sup>115</sup> Tuomioistuinelaitoksen keskushallinnon uudistaminen (Reforming the central administration of the court system) (2009); President of the Supreme Court, interview on August 26, 2011.

<sup>116</sup> Tuomioistuinelaitoksen keskushallinnon uudistaminen (Reforming the central administration of the court system) (2009).

<sup>117</sup> Tuori, Kaarlo (2006). Asiantuntijaselvitys korkeimmalle oikeudelle (Expert report for the Supreme Court); interview on August 26, 2011.

Judges' arbitration of disputes can also be considered another challenge for independence and impartiality. Arbitration is a fairly common method of solving disputes, especially in the business sector.<sup>118</sup>

## **Transparency (Law)**

*To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?*

### **Score: 75 (Very Good)**

According to the principle of publicity, official documents and other recordings are public in Finland unless their publication has been specifically restricted by an Act for compelling reasons.<sup>119</sup> Everyone has the right to access public documents and recordings. Even though publicity is the rule when it comes to recordings, occasionally exceptions are made due to important interests such as privacy protection, business secrets, and national security concerns. Publicity has also been restricted in the preparatory stages. The exact regulations are included in the Act on the Openness of Government Activities<sup>120</sup>.

In a legal sense the transparency of the courts is generally well regulated. The only problem lies in defining what information will be restricted. In theory, almost any information can be restricted, for example on grounds of national security.

The publicity of proceedings, the right to be heard, the right to receive a reasoned decision, and the right of appeal as well as other guarantees of a fair trial and good practice are laid down in an Act.<sup>121</sup>

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<sup>118</sup> Turunen, Santtu (2005) Välimiehen riippumattomuus ja puolueettomuus. (The arbitrator's independence and impartiality.) Edilex; Majanen, Merja (2009). Tuomari virkamiehenä. (Judges as Civil Servants.) Faculty of Law Licentiate thesis. University of Helsinki; the Arbitration Act 967/1992.

<sup>119</sup> The Constitution, Section 12 (2)

<sup>120</sup> The Act on the Openness of Government Activities 621/1999

<sup>121</sup> The Constitution; the Code of Judicial Procedure

Judges must apply for permission for all secondary occupations, including secondary occupations in their free time.<sup>122</sup> Documents related to the appointment and suspension of judges are also public by law, and only rarely and in very special cases can the documents be restricted.

### **Transparency (Practice)**

*To what extent does the public have access to judicial information and activities in practice?*

#### **Score: 75 (Very Good)**

As a rule, all court documents and proceedings are public, so the citizens are able to gain information on judgments and the judiciary's activities in practice as well. Documents are made public in a timely manner. The Supreme Court is not required to provide reasons for its judgments in cases where the judgments are not taken up with.

In addition to court judgments, the annual reports of the courts and information on the members of the courts are both publicly available. One can say that transparency is fairly optimal in practice.

If the information the public receives about court judgments is evaluated in relation to the media, problems will arise regarding the scandal-hungry way the media treat the decisions of the courts. The media could sometimes use better knowledge of the justice system and the operational principles of the courts in order to avoid the kind of reporting that creates gratuitous and false impressions.<sup>123</sup> The related need to invest in professional and investigative journalism has come up in other pillar reports as well.

### **Accountability (Law)**

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<sup>122</sup> The State Civil Servants' Act, Section 18 (1)

<sup>123</sup> Interview on August 26, 2011. Cf. the other pillars.



*To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?*

**Score: 100 (Excellent)**

The right to receive a reasoned decision is secured by the Constitution. The court system is required to deal with and resolve all actions.<sup>124</sup> The primary regulations regarding the statement of reasons of judgments in civilian and criminal processes are included in Chapter 24, Section 4 of the Code of Judicial Procedure and Chapter 11, Section 4 of the Criminal Procedure Act (689/1997). According to the acts, the statement of reasons must indicate the circumstances and legal reasoning on which the decision is based. The statement of reasons must also include the basis on which a contentious issue has been proven or not proven. The Supreme Court does not need to state reasons for decisions to grant or deny leave to appeal. If the reasons for a court judgment have not been stated, the judgment must be overturned and returned to the court.<sup>125</sup> The Administrative Judicial Procedure Act<sup>126</sup> and the Local Government Act<sup>127</sup> contain more detailed regulations on appeal mechanisms.

Malfeasance by judges is usually dealt with in regular courts and in processes that deviate very little from normal. Only a court of law can suspend a judge from his or her office, either due to incapacity for work or on grounds justifying criminal dismissal.<sup>128</sup> The constitutional freedom of association and freedom of speech also apply to judges, though naturally within the limits of disqualification considerations.

**Accountability (Practice)**

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<sup>124</sup> The Constitution, Section 21 (2)

<sup>125</sup> E.g. Supreme Court Precedent KKO 2008:14

<sup>126</sup> The Administrative Judicial Procedure Act 586/1996

<sup>127</sup> The Local Government Act (365/1995)

<sup>128</sup> The Constitution, Section 103

*To what extent do members of the judiciary have to report and be answerable for their actions in practice?*

**Score: 75 (Very Good)**

Judges state the reasons for their judgments in accordance with the law. If a judge is in error, the matter is handled in a court of law. The Finnish justice system features extensive appeal mechanisms, meaning that in most cases litigants may appeal against decisions in two instances, which is considered sufficient.<sup>129</sup>

In Finland, public and free legal aid is only available to litigants with a low financial status, despite the fact that free legal aid is internationally considered a good system. This can be a problem for accountability in certain situations. If litigants do not qualify for free legal aid, they must pay for the legal assistance they require.<sup>130</sup>

### **Integrity Mechanisms (Law)**

*To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?*

**Score: 100 (Excellent)**

The incorruptibility of judges involves several principles. Firstly, the incorruptibility is based on the fact that a judge who has been disqualified cannot give judgment on the case at hand.<sup>131</sup> Secondly, the criminal code contains regulations on both giving and receiving bribes, which can at least partially help prevent such cases. Thirdly, judges must declare their property and interests if there is a chance they might affect their holding office. Judges must apply for permission for all secondary occupations, including secondary occupations in their free time.<sup>132</sup> Citizens may also enter a plea for the disqualification of a judge. The final decision on whether a judge is disqualified rests with

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<sup>129</sup> The Administrative Judicial Procedure Act 586/1996; interview on May 16, 2011; interview on August 26, 2011.

<sup>130</sup> Ministry of Justice (2011); interview on August 26, 2011

<sup>131</sup> The Code of Judicial Procedure

<sup>132</sup> The State Civil Servants' Act, Section 18 (1)

the court in question.<sup>133</sup> Finland does not bar judges from moving to another position or office afterwards.

The Finnish Association of Judges is currently preparing ethical guidelines, which are to specify the disqualification regulations.<sup>134</sup> The guidelines will complement the traditional, nearly 500 years old Instructions for a Judge by Olaus Petri.<sup>135</sup> The ethical guidelines will be better suited for modern ethical problems in judges' work, such as what a judge may or may not say in the media.

### **Integrity Mechanisms (Practice)**

*To what extent is the integrity of members of the judiciary ensured in practice?*

#### **Score: 75 (Very Good)**

Generally speaking, the integrity of the judiciary is secure in practise. For example, there have been very few bribery crimes aimed at judges or attempted bribery of judges. The ethical guidelines planned by the Finnish Association of Judges are still needed, since the old instructions of professional ethics may not cover all the ethical problems that present-day judges face in their daily work.<sup>136</sup>

Recently there has been discussion about whether the divisions of the tripartite separation of powers are adhered to in Finland. There are examples of members of the courts commenting on decisions that have not traditionally been under the judiciary's purview. These comments are another thing that the ethical guidelines planned by the Finnish Association of Judges are to clarify. There have also been cases of the Minister of Justice or the Chancellor of Justice commenting the judiciary's decisions.<sup>137</sup> Although these issues do not directly weaken the judiciary's integrity, they are

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<sup>133</sup> The Code of Judicial Procedure, Chapter 13, Sections 8 and 9

<sup>134</sup> Interview on August 26, 2011

<sup>135</sup> <http://www.om.fi/en/Etusivu/Julkaisut/Esitteet/OlausPetrintuomarinohjeet>

<sup>136</sup> Interview viewed at: [www.ruutu.fi](http://www.ruutu.fi)

<sup>137</sup> Interview on August 26, 2011

connected in principle to the judiciary's image as an independent and impartial wielder of judicial authority.

## **Executive Oversight**

*To what extent does the judiciary provide effective oversight of the executive? (The Chancellor of Justice)*

**Score: 75 (Very Good)**

The Chancellor of Justice oversees the legality of the actions the Government and the President of the Republic and provides judicial statements to the President of the Republic and the ministries on request. It is the Chancellor's duty to oversee that officials, civil servants, and others who carry out official duties observe the law and discharge their duties.<sup>138</sup> (cf. the pillar on the Ombudsman and the Chancellor of Justice.) The Ombudsman and the Chancellor of Justice oversee the judiciary's legality as well.<sup>139</sup>

## **Corruption Prosecution**

*To what extent is the judiciary committed to fighting corruption through prosecution and other activities?*

**Score: 75 (Very Good)**

The prosecution service is in charge of corruption prosecution. As administrators of law, prosecutors are an independent part of the judiciary. The majority of criminal cases (ca. 80,000 annually) are handled in local prosecution offices. The Office of the Prosecutor-General mainly deals with criminal cases that are of larger significance to society as a whole, numbering a few

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<sup>138</sup> The Act on the Chancellor of Justice of the Government 193/2000, <http://www.chancellorofjustice.fi/index.html>, interviews on May 16, 2011 and August 26, 2011

<sup>139</sup> E.g. Report of the Finnish Chancellor of Justice 2009, <http://www.chancellorofjustice.fi/43/Summary%202009.pdf>

dozen each year.<sup>140</sup> In June 2011 the Deputy Prosecutor-General raised charges involving corruption crimes in a public position of trust.<sup>141</sup> The charges were connected to errors and corruptive traits that emerged in election funding.

According to experts, the prosecution service is committed to corruption prosecution. Lately cases related to corruption have become more notable, and a lot of effort is being put into preventing financial crimes and black economy in particular.<sup>142</sup> The Ministry of Justice has made a proposal to increase appropriations in order to add 21 posts for judges in the courts and 25 posts for financial crimes prosecutors in the prosecution service.<sup>143</sup> This would help improve the prevention of black economy, invest in expertise, and make court proceedings more efficient.

*Questions to Consider*

*Can the independence of the courts grow if they are separated administratively from the immediate direction of the Ministry?*

*Could the same model of the administrative position of the courts that is used in Sweden and Denmark be adapted for Finnish conditions?*

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<sup>140</sup> <http://www.oikeus.fi/8108.htm>

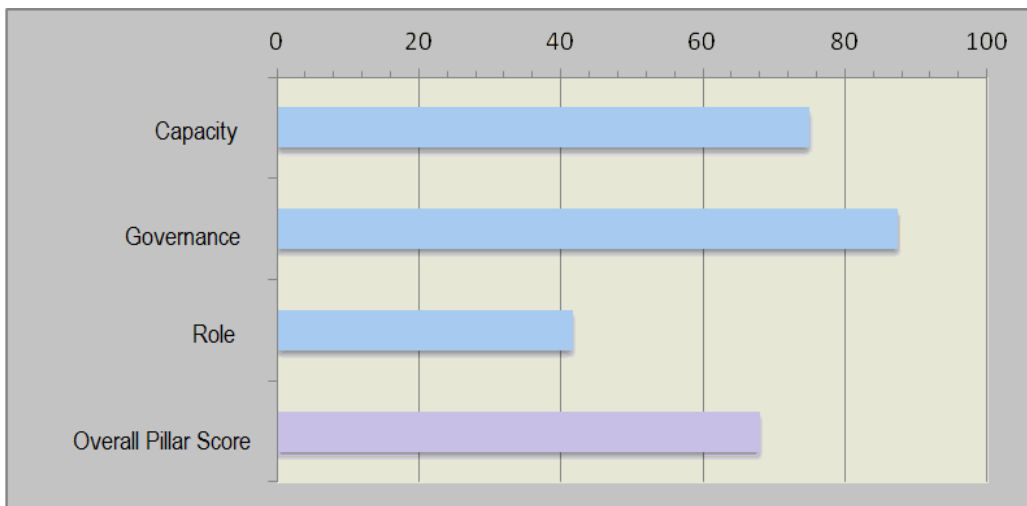
<sup>141</sup> Syytteet lahjusrikoksista ns. Rovaniemen kelkkatehtaan asiassa (Prosecution for bribery crimes in the so-called Rovaniemi sled factory case) <http://www.vksv.oikeus.fi/Etusivu/Ajankohtaista/Tiedotteet/1302673060039> (in Finnish)

<sup>142</sup> Interviews on May 16, 2011 and May 26, 2011

<sup>143</sup> Oikeusministeriön ehdotus valtion talousarvioon 2012: Harmaan talouden torjunta edellyttää lisää syyttäjiä ja tuomareita (Ministry of Justice proposal for the 2012 Budget: more prosecutors and judges needed in order to prevent black economy) <http://www.om.fi/Etusivu/Ajankohtaista/Uutiset/1302673417482> (in Finnish)

## 6.4. THE PUBLIC SECTOR

Figure. Overall score of the different dimensions of the public sector.



Capacity = resources, independence; Governance = transparency, accountability, integrity mechanisms; Role = cooperation in anti-corruption activities, integrity of public contracts

### Summary

Changes within the public sector bring ethical concerns to the forefront because such changes affect organisational values, which inevitably affects practice in municipalities. If the new Government Programme becomes reality, there will be a large shift in municipal structures and the number of municipalities will decrease significantly. The reforms in state administration have led to significant government staff reductions.

The municipal sector does not have shared or uniform lists of values. Each municipality defines its own values, which are often largely based on the state's values. However, the increasingly complex operational environment of municipalities creates a demand for other shared ethical principles than just the principles of good administration.

Municipal officeholders and decision-makers must take the laws and norms regulating public activities into consideration in all their actions. In addition, the organisation itself gives its members guidelines, rules, and restrictions. The ethics of public administration are defined by legal requirements, the principles of good administration, civil service ethics, and the organisation's internal guidelines. More and more is expected of civil servants, such as the ability to adapt to new operational models and regulations and to take into consideration the inhabitants' wishes regarding administration and the quality of services.

The public sector's integrity, transparency, independence, and accountability is safeguarded by legislation. The legislation is comprehensive and for the most part things also work well in practice. On the other hand, anti-corruption activities and education are consigned to a minor role, and there could be better information distribution, especially regarding anti-corruption activities. There are no common ethical codes for the public sector, though this lack is partially mended by the Administrative Procedure Act and its principles of good administration. The legislation that safeguards the independence and impartiality of public contracts is sufficient from an international perspective. However, there is insufficient expertise in the area of public contracts.

## **Introduction, Structure and Organisation**

The public sector is the part of the economy that is funded and owned by the state or municipalities. In addition to the normal activities of the state and the municipalities, the broadest definition of the public sector also includes social security funds (such as the Social Insurance Institution), federations of municipalities, and public utilities and corporations. This pillar report only deals with the municipal sector, mainly because municipalities play a major role in the Finnish welfare system as service providers and welfare maintainers.

The Municipal Act states that Finland is divided into municipalities, the self-government of whose inhabitants is safeguarded by the Constitution. According to the Municipal Act a council elected by the inhabitants holds the authority in municipalities. The Municipal Act regulates the council's duties, elections, and the inhabitants' right to participate in and influence local government. There

are also several other laws besides the Constitution and the Municipal Act that contain regulations on local government.<sup>144</sup>

Municipalities have a great deal of social influence in Finland, and their duties are unusually diverse compared to other European countries. Municipalities are responsible for up to two thirds of all public services. There are approximately 430,000 people in a civil service relationship with municipalities and federations of municipalities. Approximately 20,000 people are involved in municipally controlled enterprises and other communities. In addition, municipalities have numerous voluntary federations with a total of approximately 100,000 personnel.<sup>145</sup>

Municipalities organise basic services for citizens, the most important of which involve social and health care, education and culture, and technical infrastructure and the environment. Municipal decision-makers are elected every four years in municipal elections. There are three statutory types of federations of municipalities: hospital districts (20 in total), special care districts (16), and regional councils (18). The highest decision-making body in federations of municipalities is a joint council whose members are primarily municipal council members appointed by the member municipalities.<sup>146</sup>

Finland has a total of 336 municipalities, which means that most of the municipalities are quite small. Since 2002, the “Paras” (“Best”) project has helped decrease the number of municipalities by over a hundred. More than half of the municipalities have less than 6,000 inhabitants. The smallest island municipalities have less than 200 inhabitants. There are only seven cities with over 100,000 inhabitants.<sup>147</sup>

The Government Programme of Prime Minister Katainen, who was appointed in summer 2011, stresses the need to both strengthen the municipal structure and create a more viable municipal structure. The reforms are aimed to ensure high-quality and equal services in a customer-oriented

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<sup>144</sup> The Local Government Act 365/1995, the Constitution of Finland 731/1999; the Act on Local Authority Boundaries 1196/1997; the Election Act 714/1998; the Act on Restructuring Local Government and Services 169/2007; the Act on Central Government Transfers to Local Governments 1147/96 (KVOL)

<sup>145</sup> <http://www.kunnat.net/fi/kunnat/toiminta/Sivut/default.aspx> (In Finnish)

<sup>146</sup> *ibid.*

<sup>147</sup> *ibid.*



manner throughout the country and to strengthen local government and democracy. The stability and strength of municipal economy are being improved through reforms in municipal and service structures, strengthening the income base of municipalities, improving the productivity of municipal activities, and limiting the breath of municipalities' tasks. The legislation guiding the changes utilises tools that promote municipal reforms.<sup>148</sup>

According to the Government Programme, the new Government intends to clarify the rules of public sector business activities, define a clear framework for the business activities of municipalities, federations of municipalities, municipal corporations, and other municipally-owned units that compete with private business, and promote the development of welfare service markets to support the service needs of municipalities.<sup>149</sup>

In an economic sense the limits of the welfare state were reached in the 1990s. During the financially difficult years of the early 1990s, municipalities saw many cutbacks and reductions in the areas of primary education, health care, and social care.<sup>150</sup> In the 21<sup>st</sup> century, public service production is still battling the same issues and seeking new strategic options for weathering the increasingly tight economic situation.<sup>151</sup> However, according to financial reports collected by Statistics Finland, municipalities' financial situation improved in 2010 compared to the year before, despite the increasing indebtedness. For example, there were fewer long-term loans taken than in previous years.<sup>152</sup>

There is a need for shared ethical principles for municipalities. Researcher Aimo Rynänen states that it is not enough to follow the recommendations of the Council of Europe. Rather, ethical principles should generate from local government. Even though the municipal sector follows good practice, Rynänen states that the operational environment in the municipalities has grown more

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<sup>148</sup> The Government Programme of Prime Minister Katainen, 22 June 2011

<sup>149</sup> The Government Programme of Prime Minister Katainen, 22 June 2011

<sup>150</sup> Salminen 2001: The reform industry in the Finnish government. In *Politicians, Bureaucrats and Administrative reform*, 142–153 (ed. Peters B. Guy; Pierre Jon). Lontoo: Routledge/ECPR Studies in European Political Science; Haveri, Laamanen & Majoinen 2003: Kuntarakenne muutoksessa? Tutkimus kuntajaon muutostarpeista tulevaisuudessa. (Municipal structure undergoes change? A study on the future needs to change municipal divisions.) Helsinki: Suomen Kuntaliitto (the Association of Finnish Local and Regional Authorities).

<sup>151</sup> Ikola-Norrbacka & Salminen (2007). Kuntapalvelujen strategiset vaihtoehdot (Strategic options in municipal services). Kunnallistieteellinen aikakauskirja 35: 1, 57–70

<sup>152</sup> Statistics Finland 2011: [www.tilastokeskus.fi](http://www.tilastokeskus.fi), visited 30 June 2011

complex, which in turn has increased the need for ethical principles. Even though ethical principles are general by nature, they strengthen the role of ethical consideration in municipal decision-making.<sup>153</sup>

Municipal ethics faces challenges from many directions. There is a constant lack of resources, but the service needs of the inhabitants have not decreased. In addition, inhabitants are frequently demanding a wider range of services. Another challenge for municipal ethics is presented by the goal of having the decision-making close to the inhabitants. The inhabitants of municipalities must be given opportunities to influence services and matters that concern them. Fitting the inhabitants' service needs together is a constant dialogue about the order of importance of different interests. The close connection between the local government's trust decision-making and officeholder work presents its own challenge to municipal ethics.

Some ethical problems do occur, and the citizens' trust in political decision-making has wavered in recent years. A questionnaire study by the Public Management unit of the University of Vaasa revealed that the citizens see "old boy" networks as an obstacle for trusting the administration and political decision-making. Issues related to the ethics of administration have recently been under much discussion. In addition to the 2005 and 2007 Ministry of Finance reports, several documents have been written about the ethical values of civil servants and the principles of good administration in municipalities. Permanent goals include high administrative ethics and ethical behaviour from officeholders.<sup>154</sup>

## Resources (Practice)

*To what extent does the public sector have adequate resources to effectively carry out its duties?*

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<sup>153</sup> Rynänen, Aimo (2004). Eettisten periaatteiden tarve kunnallishallinnossa (The need for ethical principles in local government). Hallinnon tutkimus 23: 1, 30–37

<sup>154</sup> Salminen & Ikola-Norrbacka 2009 (Are we being heard? Ethical governance and citizens.) Proceedings of the University of Vaasa. Research papers 288; Arvot arjessa: Virkamiehen etiikka (2005). Valtionhallinnon käsikirja. (Everyday values: Ethics of officials. 2005. Handbook of state administration.) Helsinki: Ministry of Finance; Arvot virkamiehen arjessa: Selvitys virkamiesetiikan nykytilasta (Values in the daily work of the civil servant: Analysis of current status of civil service ethics) (2007). [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/01\\_julkaisut/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/01_julkaisut/) (In Finnish)

Assessment: 50 (Good)

Municipalities have legal authority to levy taxes. Councils base municipal tax rates on the municipality's financial situation. All inhabitants and businesses of a municipality are required to pay municipal taxes, which are levied alongside the state's taxes and debited to the municipalities. Municipalities are also paid government transfers on grounds that are laid down in a separate act. The government transfers for basic services are regulated in the Act on Central Government Transfers to Local Governments for Basic Public Services. Municipalities may also be granted discretionary government transfers. Subsidies are determined by the Government. The Association of Finnish Local and Regional Authorities is required to give a statement on each application.<sup>155</sup>

In Finland, the municipalities have a key role in securing welfare services: social and health care as well as education and culture are the municipalities' responsibility. The increase in tasks and responsibilities without a corresponding increase in public funding is an issue that is frequently under discussion in local government. Municipal debt has increased in recent years, which is a sign of inadequate funding. On the other hand, municipalities should change both structures and practices to make their activities more efficient.<sup>156</sup>

Salaries are lower in municipalities than for similar positions in the private sector, though they do vary from field to field. Nevertheless, it is clear that municipalities are going to have difficulties finding sufficient workforce in fields where the municipalities are competing with the private sector, such as in the health care sector.<sup>157</sup>

The resources available to the public sector depend on the size of the municipality. The fact that Finland lacks strong regional administration causes certain problems. The municipalities are left to stand alone, which weakens the overall financial situation of the public sector. Public sector salaries are reasonable when compared internationally. However, public sector salaries are not competitive with the private sector. Still, the ratio between the lowest and highest salaries within the public

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<sup>155</sup> The Act on Central Government Transfers to Local Governments for Basic Public Services 1704/2009; the Act on the Financing of the Provision of Education and Culture 1705/2009

<sup>156</sup> Interview on 2 May 2011

<sup>157</sup> Interview on 2 May 2011

sector is reasonable.<sup>158</sup> On the other hand, income disparities are growing rapidly in Finland, though this does not reflect directly into public sector salary levels.

### **Independence (Law)**

*To what extent is the independence of the public sector safeguarded by law?*

Assessment: 100 (Excellent)

The administration of municipalities is based on the inhabitants' self-government. The highest authority is held by a council elected by the inhabitants. Within local government, the activities of municipalities are independent from the state. The municipalities have a position of independence in relation to private enterprise.<sup>159</sup>

Municipal appointments follow the constitutional appointment grounds of skill, ability, and civil merit. Elections for the highest offices are the responsibility of the Municipal Council, the Local Government, or boards, whose members are trustees. The qualification requirements leave room for deliberation in elections and thereby also some room for political considerations. Municipal complaints may be filed on office elections, whereupon the administrative court will deliberate whether the appointment has been legal.<sup>160</sup>

### **Independence (Practice)**

*To what extent is the public sector free from external interference in its activities?*

Assessment: 75 (Very good)

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<sup>158</sup> Interview on 30 May 2011

<sup>159</sup> Interview on 2 May 2011; the Local Government Act 365/1995

<sup>160</sup> Interview on 2 May 2011; the Local Government Act 365/1995; the Act on Civil Servants in Local Government 304/2003; the Constitution of Finland 731/1999

State administration has a group of civil servants whose term of office is tied to the Government's term of office. There are no such offices in local government. Larger cities have temporary offices, for example that of the mayor or the deputy mayor, whose appointment is influenced by political power relations within the council. Mayors and municipal managers can be dismissed for loss of confidence. Other officeholders may only be dismissed on the same grounds that apply in the private sector. Approximately 70% of municipal employees are currently contractual workers and under the same contractual law as private sector workers.<sup>161</sup>

There have been some questionable appointments for the position of municipal manager. One problem is that in municipalities, political guidance is close to the officeholders. This is less of a problem in state administration, where political guidance is considerably more distant. Many of these problems are caused by the strong separation between the municipalities and state administration.<sup>162</sup>

Change of government does not negatively affect public sector employees' position or duties in Finland. However, the external expert mentioned a case from 2008 where the highest official at the Ministry of the Interior, the Permanent Secretary, was appointed for another five-year term. The Government was unanimous in their nomination of another candidate, but the President re-appointed the Secretary for want of convincing arguments not to re-appoint a person who had performed their duties well. Such fixed terms may be a threat to impartiality. However, such cases have been isolated and have not endangered independence in practice.<sup>163</sup>

## **Transparency (Law)**

*To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the public sector?*

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<sup>161</sup> Interview on 2 May 2011

<sup>162</sup> Interview on 30 May 2011

<sup>163</sup> Interview on 30 May 2011

Assessment: 100 (Excellent)

Legislation guarantees transparency and openness in public sector finances and human resources as well as information management and management in general.<sup>164</sup> The Tax Administration publishes tax information annually. The Ministry of Finance has handed out a document on personnel management regarding the publicity and handling of payroll information and assessment data on task difficulty and work performance.<sup>165</sup> In local government, all salaries – including those in the highest positions – are public based on the Act on the Openness of Government Activities and the Names Act.<sup>166</sup>

The Act on the Openness of Government Activities states that anyone has the right to receive information on public documents. The Act on Public Contracts, which adheres to EU directives and is in part even stricter than EU regulations, requires asking for bids on public contracts and consequently informing the public. Publicity is the rule also when it comes to unfilled offices, which must be declared open for applications with only a few exceptions.<sup>167</sup>

### **Transparency (Practice)**

*To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?*

Assessment: 75 (Very good)

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<sup>164</sup> The Constitution of Finland 731/1999; the Local Government Act 365/1995; the Act on Civil Servants in Local Government 304/2003; the Act on the Openness of Government Activities 621/1999

<sup>165</sup> VM 46/01/2006 Palkkatietojen, tehtävien vaativuuden ja työsuorituksen arviointitietojen julkisuudesta sekä käsittelystä (Ministry of Finance document VM46/01/2006: On the publicity and handling of payroll information and assessment data on task difficulty and work performance)

[http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/02\\_henkilostohallinnon\\_asiakirjat/04\\_muut\\_henkilostohallinnon\\_asiakirjat/20061214Palkka/name.jsp](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/02_henkilostohallinnon_asiakirjat/04_muut_henkilostohallinnon_asiakirjat/20061214Palkka/name.jsp) (In Finnish)

<sup>166</sup> Leading attorney of the Association of Finnish Local and Regional Authorities, interview on 2 May 2011; the Act on the Openness of Government Activities 621/1999; the Names Act 1010/1989

<sup>167</sup> Leading attorney of the Association of Finnish Local and Regional Authorities, interview on 2 May 2011; the Act on the Openness of Government Activities 621/1999; the Act on Public Contracts 348/2007; the Constitution of Finland 731/1999; the Local Government Act 365/1995; the Act on Civil Servants in Local Government 304/2003

Although the same regulations apply in both local government and state administration, the practice is more challenging in local government.<sup>168</sup> The regulations on public contracts and the application process for unfilled offices are being followed. However, one problem is that the processes are complicated and very demanding. On the other hand, politicising affects openness in applications for offices.<sup>169</sup>

The central socio-political question in the municipal sector is whether ethicalness and respect for values can be maintained through the changes in the production methods of welfare services. The new production methods challenge the position of offices and officeholders, necessitating flexibility, adaptability, and open-mindedness. Municipal trustees must possess both the ability and the will to weigh their options when it comes to choosing production methods.<sup>170</sup>

### **Accountability (Law)**

*To what extent are there provisions in place to ensure that public sector employees have to report and be answerable for their actions?*

Assessment: 100 (Excellent)

According to the Constitution, all official activities must follow the law. The Chancellor of Justice and the Parliamentary Ombudsman oversee the actions of municipal sector personnel as well. Anyone can file a complaint on an error or misuse that has occurred in official activities. Different administrative fields also have their own supervisory authorities, such as Valvira, the national supervisory authority for welfare and health, and special supervisory authorities like the Ombudsman for Equality. Officeholders can be charged with the same crimes as any other citizen. Instances of malfeasance, such as bribery, are regulated separately. There is no special duty to report except in complaints and similar situations. The law regulates matters related to

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<sup>168</sup> Interview on 30 May 2011

<sup>169</sup> Interview on 30 May 2011

<sup>170</sup> Ikola-Norrbacka, Rinna & Laura Natunen (2011). Kunnissakin tarvitaan eettisiä periaatteita (Ethical principles are needed in municipalities as well). Hallinto 52: 1, 24–26

accountability very strictly. Municipal auditors audit both finances and administration. In Finland, public and private justice are kept separate, a tradition which works quite well.<sup>171</sup>

Municipal officeholders and trustees are responsible for the legality of their actions, but they also have moral responsibility for them. The regulations of the Administrative Procedure Act regarding the duties of civil servants function as ethical guidelines and give direction on what kinds of actions can be considered good and desirable.<sup>172</sup>

### **Accountability (Practice)**

*To what extent do public sector employees have to report and be answerable for their actions in practice?*

Assessment: 75 (Very good)

A municipal trustee plays several roles: the responsible decision-maker, the political leader, and the person who calls decisions into question. The ethical values of trustees include honour, justice, law-abidingness, honesty, confidentiality, and responsibility. Local administration and the actions of trustees must emphasise the common good, benevolence, and solidarity.<sup>173</sup>

Municipal trustees meet with conflicting expectations in their work. Conflict situations are created by the expectations of parties and constituents and attempts to fit them together with the trustees' personal views. A political decision-maker's ability to solve value conflicts is one of the most

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<sup>171</sup> Interview on 2 May 2011; the Constitution of Finland 731/1999; the Parliamentary Ombudsman Act 197/2002; the Act on the Chancellor of Justice of the Government 193/2000; the Criminal Code 39/1889; the Act on Chartered Public Finance Auditors 467/1999; Interview on 30 May 2011

<sup>172</sup> Ikola-Norrbacka, Rinna & Laura Natunen (2011). Kunnissakin tarvitaan eettisiä periaatteita (Ethical principles are needed in municipalities as well). Hallinto 52: 1, 24–26; the Act on Civil Servants in Local Government 304/2003; the Administrative Procedure Act 434/2003

<sup>173</sup> Ryyänen, Aimo 2004: Eettisten periaatteiden tarve kunnallishallinnossa (The need for ethical principles in local government). Hallinnon tutkimus 23: 1, 30–37



important prerequisites for ethical action. A good municipal trustee takes responsibility for his or her actions.<sup>174</sup>

When oversight relies on complaints filed by inhabitants of the municipality, the system relies on the inhabitants' activeness. The effectiveness of activities initiated by officials depends mainly on resources. It is difficult to estimate how much "condemnable" activity is left outside the scope of oversight.<sup>175</sup>

There have been efforts to improve auditing, but practices may still vary between smaller and larger municipalities. Municipalities often have council members for whom administrative oversight is something of a vocation. This may actually result in political control in local administration being even more effective than in state administration. All in all, the laws work well in practice.<sup>176</sup>

### **Integrity Mechanisms (Law)**

*To what extent are there provisions in place to ensure the integrity of public sector employees?*

Assessment: 100 (Excellent)

The integrity of officeholders is safeguarded by the Administrative Procedure Act. In addition, the integrity of officeholders is also regulated by the Constitution, the Local Government Act, the Act

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<sup>174</sup> Pursiainen, Terho 2001: Kuntaetiikka. Kunnallissalan kehittämissäätiö (Municipal ethics. <http://www.kaks.fi/sites/> (In Finnish); Prättälä, Kari (2003). Kunnallishallinnon käytäntö ja eettiset periaatteet (Practice and ethical principles in local government). Helsinki: Kuntaosasto (Municipal department) [http://www.intermin.fi/intermin/biblio.nsf/BA2B51BC3F9E0C0EC2256E3F004E10B3/\\$file/eettiset\\_periaatteet.pdf](http://www.intermin.fi/intermin/biblio.nsf/BA2B51BC3F9E0C0EC2256E3F004E10B3/$file/eettiset_periaatteet.pdf) (In Finnish); Parjanne Risto (2003): Hyvä hallintotapa myös kuntasektorin yhtiöihin. (Good governance also for municipal sector companies) Helsinki: Suomen Kuntaliitto (the Association of Finnish Local and Regional Authorities) <http://hankinnat.fi/> (In Finnish); Rynänen, Aimo (2006): Kunnan luottamushenkilö – edustaja, päättäjä, poliitikko (Municipal trustee – representative, decision-maker, politician). Helsinki: Ministry of the Interior <http://www.intermin.fi/intermin/> (In Finnish)

<sup>175</sup> Interview on 2 May 2011

<sup>176</sup> Interview on 30 May 2011

on Civil Servants in Local Government, the Act on the Openness of Government Activities, the Act on Public Contracts, and the Names Act.<sup>177</sup>

In addition to the previously mentioned regulations of criminal law regarding e.g. bribery, officeholders should also take into consideration the regulations regarding eligibility and incapacity. The regulations regarding eligibility limit the highest officeholders' ability to serve as political trustees, whereas the incapacity regulations prevent them from participating in decision-making on issues where they have a personal interest. Certain professional groups have their own sets of ethical codes. However, there are not sufficient codes for officeholders and trustees.<sup>178</sup>

Finnish legislation regarding the integrity of officeholders is such that merely causing a threat is enough. This means that legislation has a strong role in maintaining integrity. Municipal officeholders are under the same regulations as state civil servants.<sup>179</sup> For example, state administration has guidelines for what position to take regarding trips offered by businesses. The Association of Finnish Local and Regional Authorities has given a related recommendation which municipalities can follow to approve their own guidelines.<sup>180</sup>

### **Integrity Mechanisms (Practice)**

*To what extent is the integrity of civil servants ensured in practice?*

Assessment: 75 (Very good)

The smooth working of a municipality is built on the ability to trust the local government's impartiality. To ensure trustworthiness and impartiality, decision-making must strongly reflect the

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<sup>177</sup> The Administrative Procedure Act 434/2003; the Local Government Act 365/1995; the Act on Civil Servants in Local Government 304/2003; the Constitution of Finland 731/1999; the Act on the Openness of Government Activities 621/1999; the Names Act 1010/1989; the Act on Public Contracts 348/2007

<sup>178</sup> Interview on 2 May 2011; the Local Government Act 365/1995; the Administrative Procedure Act 434/2003

<sup>179</sup> Professor of Public Administration, interview on 30 May 2011

<sup>180</sup> Interview on 2 May 2011; the Ministry of Finance [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/)

requirements of good practice and the morality of the officeholders.<sup>181</sup> Although Finland does not have a commonly approved set of ethical codes for the public sector, municipalities have defined values which are to guide the actions of officeholders. The principles of good administration that are included in the Administrative Procedure Act can be seen as a set of ethical codes that normatively binds public sector actors.

The actions of officeholders and trustees are directed by ethical regulation, which is part of the overall picture of municipal ethics. Ethical regulations and instructions include ethics-related national legislation, international guidelines and declarations, ethical rules within organisations, professional codes, and other sets of ethical norms. Ethical values differ depending on whether matters are examined from the point of view of inhabitants, trustees, or officeholders. Inhabitants stress justice, honesty, equality, and openness. A trustee will emphasise impartiality, responsibility, and trustworthiness. Civil servants will see independence, legality, economy, and cost-consciousness as important.<sup>182</sup>

Cases of bribery occasionally come into light in local government. It can be difficult to draw the line between bribery and natural interaction with the business sector.<sup>183</sup> Ethical codes and instructions for conflict situations would be effective in practice, had any been given out for the public sector. State administration has its own guidelines, but the municipal sector does not have a uniform operations model.<sup>184</sup>

Overall, Finnish municipal administration is a reliable system that functions well. Risto Parjanne, a former president of the Association of Finnish Local and Regional Authorities, feels that Finnish

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<sup>181</sup> Ikola-Norrbacka & Natunen 2011: Kunnissakin tarvitaan eettisiä periaatteita (Ethical principles are needed in municipalities as well). *Hallinto* 52: 1, 24–26

<sup>182</sup> Salminen 2010: Julkisen johtamisen etiikka. (Ethics of public management) Proceedings of the University of Vaasa. 3<sup>rd</sup> edition.

<sup>183</sup> Leading attorney of the Association of Finnish Local and Regional Authorities, interview on 2 May 2011; the Ministry of Finance [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/)

<sup>184</sup> Interview on 30 May 2011.

legislation is sufficient and constantly being evaluated, examined, and controlled. Generally speaking, officeholders and trustees exhibit high morals in their activities.<sup>185</sup>

According to a Finnwatch report, municipalities do not set ethical criteria when purchasing materials such as paving stones and cast iron. Compared to other European countries, in Finland price may be a stronger consideration in bidding than ethical action also in other areas of purchases. There should be more education on ethical purchase practices, since it is primarily a matter of policy and political will.<sup>186</sup>

## **Public Education**

*To what extent does the public sector inform and educate the public on its role in fighting corruption?*

Assessment: 25 (Satisfactory)

The state and the municipalities currently have – and have had in the past – joint projects aimed to prevent phenomena such as black economy and corruption. The Association of Finnish Local and Regional Authorities cooperates with many organisations including the Ministry of Justice (GRECO's anti-corruption work) and the Finnish Competition Authority (revealing cartels). However, activities and information distribution have been directed more inside the administration than out towards the public.<sup>187</sup>

Better information distribution about anti-corruption projects is essential for raising the citizens' awareness and increasing trust. There should be value discussions in administration about what organisational values mean in practice. Studies support the importance of educating the personnel. It is also important to continuously educate the trustees. Education that focuses on values and

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<sup>185</sup> Parjanne Risto 2003: Hyvä hallintotapa myös kuntasektorin yhtiöihin. (Good governance also for municipal sector companies) Helsinki: Suomen Kuntaliitto (the Association of Finnish Local and Regional Authorities) <http://hankinnat.fi/> (In Finnish)

<sup>186</sup> Finnwatch (2011). Eettistä kiveä? (Ethical stone?) <http://www.finnwatch.org/julkaisut/136-kunnat-hankkivat-epaeselvissae-oloissa-tuotettuja-katukiviae-ja-valurautakansistoja> (In Finnish)

<sup>187</sup> Interview on 2 May 2011.

ethical decision-making can open new kinds of ethical operations models and strengthen understanding of how things may look from different perspectives.<sup>188</sup>

### **Cooperation with Public Institutions, CSOs and Private Agencies in Preventing/Addressing Corruption (Practice)**

*To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?*

Assessment: 50 (Good)

The anti-corruption project of the National Bureau of Investigation cooperates with several different agencies and officials. In addition, there is an anti-corruption network that functions as an unofficial discussion forum. This type of cooperation is discussed in greater detail in the pillar on anti-corruption agencies.

Local government projects usually take place in cooperation with state administration, and the latter usually ensures that civil society organisations (CSOs) are also represented. The procedure is the same for anti-corruption projects and initiatives.<sup>189</sup>

However, cooperation could be taking place on a much larger scale. CSOs have a similar watchdog position in anti-corruption activities as they do in nature conservation and the protection of animals. Officials always strive for cooperation, but cooperation is limited by the fact that only officials have the right to use public authority, unless otherwise enacted by law.<sup>190</sup>

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<sup>188</sup> Ikola-Norrbacka & Natunen 2011: Kunnissakin tarvitaan eettisiä periaatteita (Ethical principles are needed in municipalities as well). Hallinto 52: 1, 24–26; Äijälä, Kirsi 2000: Miten säilytämme korkeatasoisen virkamiesetiikan? (How can we maintain high civil service ethics?) Valtiotyönantaja 3/2000. The Ministry of Finance. [http://www.vm.fi/vm/fi/04\\_julkaisut\\_ja\\_asiakirjat/01\\_julkaisut/](http://www.vm.fi/vm/fi/04_julkaisut_ja_asiakirjat/01_julkaisut/) (In Finnish)

<sup>189</sup> Interview on 2 May 2011

<sup>190</sup> Interview on 30 May 2011; More on the role of CSOs in the pillar report on civil society

## Lessening the Risk of Corruption through Securing the Impartiality of Public Contracts

*To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?*

Assessment: 50 (Good)

The Public Contracts Act safeguards effective legal protection against the corruption of public contracts. There are hundreds of complaints filed annually regarding public contracts.<sup>191</sup> The system of public contracts has changed significantly in the past twenty years. From an international perspective, Finnish legislation is current and fills the necessary criteria. However, there are some problems, such as ignorance of different complaint and appeal mechanisms.<sup>192</sup>

The existence of the Public Contracts Act is not enough to guarantee successful public contracts, which is demonstrated by the large number of complaints filed. Inviting and evaluating bids requires strong expertise in contracts, which is not necessarily available in all municipalities. In addition to expertise in contracts, there need to be uniform and transparent contract templates. Municipal mergers and cooperation stipulations present their own challenges for contracts.

### *Questions to Consider*

*How should the comprehensive reforms to Finland's municipal structure be assessed from the viewpoint of strengthening integrity?*

*Since municipalities play such a significant role in providing the citizens' welfare services, how could we create more uniform ethical codes for municipalities?*

*One key issue regarding the integrity of municipal procurement procedures is this: how can*

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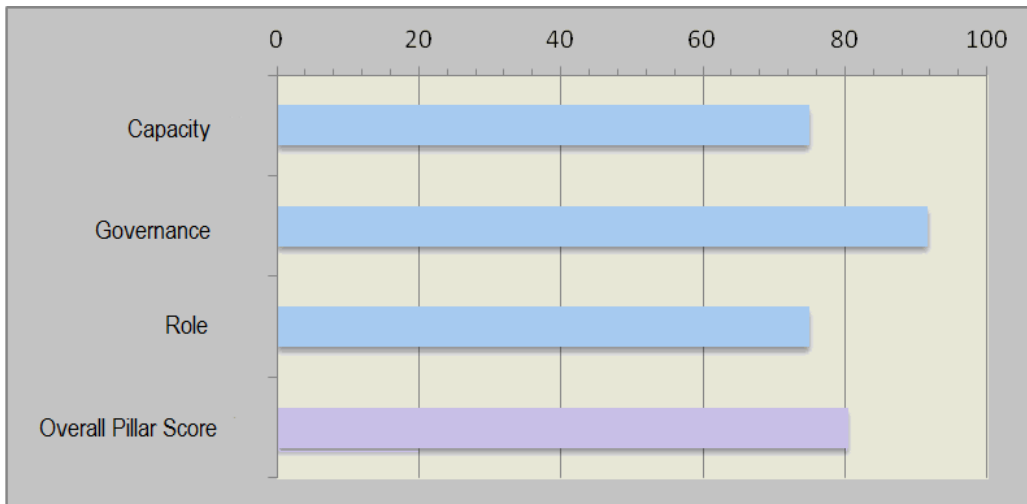
<sup>191</sup> Interview on 2 May 2011

<sup>192</sup> Interview on 30 May 2011

*we improve expertise in contracts and increase the use of ethical criteria?*

## 6.5. LAW ENFORCEMENT AGENCIES

Figure. Overall score of the different parts of law enforcement agencies.



Capacity = resources, independence; governance = transparency, accountability, integrity mechanisms; role = corruption prosecution.

### Summary

There are several actors responsible for law enforcement. Overall, it seems that coordination and communication between agencies works well and is beneficial in many ways. This may be partially due to the fact that the different law enforcement agencies cooperate quite widely.

The practical resources of law enforcement seem fairly adequate from an international perspective, though the current economic situation makes for limited resources. This is explained by the current state productivity programme, which has affected law enforcement resources and consequently law enforcement activities.

The integrity of law enforcement agencies is generally safeguarded by legislation. The principles of good administration set in law protect integrity. The police have special sets of ethical codes. The fact that Finns trust law enforcement agencies indicates that law enforcement agencies have



succeeded in maintaining integrity in the eyes of the public. It is a well-known fact that trust is easily lost. Constant effort is needed to maintain integrity.

The independence, transparency, and accountability of law enforcement activities is guaranteed both in law and in practice. However, it must be noted that there is a type of bad administration typical for Finland, the old boy network, which may affect individual cases. There is also room for improvement in making different ethical guidelines known on all levels.

## **Structure and Organisation**

Finnish law enforcement agencies include many different operational units, namely the Police, the Prosecution Service, Customs, and the Border Guard. The defence forces are excluded here because their primary focus is external security.

The activities of law enforcement agencies are regulated by several acts and decrees starting with the Constitution and the Administrative Procedure Act along with several separate acts and decrees on authorities.<sup>193</sup>

There are approximately 10,900 police personnel in Finland, including approximately 7,800 police officers. Finland has one police officer for every 681 citizens. Police activities are directed by the Finnish Government in accordance with the goals included in the Government Programme and Government Resolutions. The Ministry of the Interior is tasked with directing and supervising the field of activities of the police. The police service has had a two-tier organisation since 2010. The National Police Board, which operates under the Ministry of the Interior, directs and guides operational police activities. Within the Board's direct purview are the local police departments, the national police units, the Police College of Finland, and the Police Technical Centre. The National Police Board is responsible for the performance guidance of these units. The national units of the

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<sup>193</sup> The Constitution of Finland 731/1999; the Administrative Procedure Act 434/2003; the State Civil Servants' Act 750/1994; the Act on Civil Servants in Local Government 304/2003; the Police Act 493/1995; the Act on Public Prosecutors 199/1997; the Act on the Prosecution Service 439/2011; the Border Guard Administration Act 577/2005; the Customs Act 1466/1994

police comprise the National Bureau of Investigation, the National Traffic Police, and the Finnish Security Intelligence Service. The National Police Board acts as an independent accounting office under the Ministry of the Interior.<sup>194</sup>

The National Bureau of Investigation specialises in combating organised and professional crime. The Finnish Security Intelligence Service combats crime and other activities that endanger internal and external security. The National Traffic Police focuses on surveillance of traffic. The Police College of Finland is responsible for recruitment for police training, student selection, diploma and advanced studies, and research and development in the police field. The Police Technical Centre specialises in the acquisition of equipment and supplies for the police.<sup>195</sup>

The local police service consists of 24 police departments, each of which has a central police station, one or more other police stations, police service points, and citizens' offices. The police organisation has been structured this way since 2009. The local police are in charge of issuing permits. This service is offered in approximately 280 offices and over 50 citizens' offices. Issuing permits is connected to the key activities of the police, such as maintaining public order and security, preventing crime, and promoting traffic safety.<sup>196</sup>

The police cooperate with various agencies and officials. The statutory cooperation between the police and the prosecutor is linked to preliminary investigation of crimes, which is the first step of the criminal process. Customs, the Border Guard, the Coast Guard, and the Defence Forces also

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<sup>194</sup> Police organisation

<http://www.poliisi.fi/poliisi/home.nsf/pages/51AB1EDFFA353429C2256BB8003F8663?opendocument>; Mutttilainen & Kankaanranta 2011: Talousrikollisuuden kehityssuunnat ja toimintaympäristö vuosina 2000–2009 (Developments in financial crimes and the operating environment in 2000 to 2009), Publications of the Police College of Finland 91, Tampere; Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>195</sup> Police organisation

<http://www.poliisi.fi/poliisi/home.nsf/pages/51AB1EDFFA353429C2256BB8003F8663?opendocument>

<sup>196</sup> Ibid; Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

carry out preliminary investigations depending on either the type of crime, location, the role of the suspect, et cetera.<sup>197</sup>

The activities of the Border Guard are regulated by the Border Guard Act and the Border Guard Administration Act. The relevant acts and decrees are listed on the web pages of the Ministry of the Interior.<sup>198</sup> The main duties of the Border Guard include border surveillance, border checks, crime prevention, security of the territorial waters, and international cooperation.<sup>199</sup>

There is a particular focus on the external border of the Schengen Area. The aim is to prevent unauthorised persons from crossing the border in areas between border crossing points. The land and sea borders are guarded using different patrol and surveillance methods and equipment. Border checks are performed with the aim of maintaining border security. Border checks are not carried out in internal traffic within the Schengen Area.<sup>200</sup>

One of the Border Guard's core functions is preventing cross-border crime. The most serious types of cross-border crime include smuggling of and trafficking in persons as well as the facilitation of unauthorised entry. The Border Guard is authorised to perform preliminary investigations if the alleged offence is suspected to fall under the Border Guard's powers of inquiry. Other offences investigated by the Border Guard include border offences and forgeries.<sup>201</sup>

Due to the increasing international cooperation, the Border Guard is constantly in touch with the relevant authorities of EU member states, Schengen countries, and countries applying for EU membership. Border issues with the Russian Border Guard Service are dealt with by regional border delegates. The Border Guard also cooperates in maritime surveillance with the Estonian Border

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<sup>197</sup> Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>198</sup> The Border Guard Act 578/2005; the Border Guard Administration Act 577/2005; Ministry of the Interior: border control legislation

<http://www.intermin.fi/intermin/home.nsf/pages/61CA2C78926830C4C22573AA0049FE8B?opendocument> (in Finnish)

<sup>199</sup> The Finnish Border Guard [http://www.raja.fi/rvl/home.nsf/pages/index\\_eng](http://www.raja.fi/rvl/home.nsf/pages/index_eng)

<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

Guard and the Swedish Coast Guard. There is also close cooperation with the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX).<sup>202</sup>

Defending the nation has always been a key duty of the Border Guard, one that is performed in cooperation with the Defence Forces. The Border Guard also trains conscripts whose special expertise is in intelligence and guerrilla operations.<sup>203</sup>

Customs has many tasks as a service and law enforcement organisation. It helps ensure an undisturbed operation of the internal market of the EU, facilitates international goods trade and ensures compliance with provisions, collects the duties, taxes, and charges on foreign trade and on the production of goods correctly, and combats customs crime and threats to health and safety as well as to the economic interests of Finland and the EU.<sup>204</sup> The authority of the Finnish Customs is based on both national legislation and EU legislation.<sup>205</sup>

As part of the EU customs system, the Finnish Customs works in cooperation with the public economy and with both Finnish officials and officials in other countries. In 2010, Customs had 2,370 employees. Customs is subordinate to the Ministry of Finance. The National Board of Customs is the central administration for Finnish Customs. The regional administration comprises five customs districts.<sup>206</sup>

The Finnish Customs has the task of preventing threats to health and safety as well as combating financial crimes and the smuggling of drugs and other dangerous substances. The surveillance is based on EU safety norms, the internal security programme of the Finnish Government, and the Customs Act along with special legislation.<sup>207</sup>

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<sup>202</sup> Ibid.

<sup>203</sup> Ibid.

<sup>204</sup> Customs [http://www.tulli.fi/en/finnish\\_customs/about\\_us/index.jsp](http://www.tulli.fi/en/finnish_customs/about_us/index.jsp)

<sup>205</sup> The Customs Act 1466/1994; the Customs Decree 1543/1994 the Customs Administration Act 228/1991; the Government Decree on Customs Administration 205/2008; Customs Code – council decree (ETY) number 450/2008; Customs Code application decree – commission decree (ETY) number 2454/93 on certain regulations pertaining to the application of council decree (ETY) number 2913/92; Decree on the relief of customs duties – council decree (ETY) number 1186/2009 on creating a shared relief of customs duties system.

<sup>206</sup> Customs [http://www.tulli.fi/en/finnish\\_customs/about\\_us/index.jsp](http://www.tulli.fi/en/finnish_customs/about_us/index.jsp)

<sup>207</sup> Ibid.

Customs oversees the transport of goods, vehicles, and people. The main focus of crime prevention is on professional and organised crime. Customs uses all available means to prevent the import and export of drugs, firearms and related equipment, dangerous bladed weapons, and national cultural treasures, as well as money-laundering. Customs investigates financial and drug-related crimes that are connected to import or export.<sup>208</sup>

The Finnish cooperation between the Police, Customs, and the Border Guard (PCBG cooperation) is an internationally unique form of cooperation. The cooperation has existed for decades, but in recent years it has been expanded to cover crime intelligence. Joint PCBG crime intelligence work focuses on serious and cross-border crimes. The Border Guard's duties also include the surveillance of Finland's sea areas and supervision of traffic at sea. The Border Guard cooperates with the Finnish Maritime Administration, the Defence Forces, and environmental authorities.<sup>209</sup>

The Finnish prosecution service is two-tiered, consisting of the Office of the Prosecutor-General and local prosecution offices. The Office of the Prosecutor-General is the central administrative authority of the prosecution service as well as the supreme prosecutor and the head of the prosecution service. The Prosecutor-General directs and develops prosecutorial activity by issuing general instructions and guidelines for prosecutors. He also appoints local prosecutors. The Prosecutor-General may take over a case from a subordinate prosecutor but cannot order a subordinate prosecutor to decide the case in any specific manner. He may also decide whether or not charges are raised and to designate a prosecutor to pursue the case in the courts. The Office of the Prosecutor-General is under the administration of the Ministry of Justice.<sup>210</sup>

The Deputy Prosecutor-General has the same competence as the Prosecutor-General in matters assigned to him, in addition to acting as the deputy of the Prosecutor-General. The Office of the Prosecutor-General has 13 state prosecutors, who are competent to perform prosecution tasks

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<sup>208</sup> Customs [http://www.tulli.fi/en/finnish\\_customs/about\\_us/index.jsp](http://www.tulli.fi/en/finnish_customs/about_us/index.jsp);  
[http://www.tulli.fi/en/finnish\\_customs/publications/annual\\_reports/rikostorjunta\\_09\\_eng.pdf](http://www.tulli.fi/en/finnish_customs/publications/annual_reports/rikostorjunta_09_eng.pdf)

<sup>209</sup> The Finnish Border Guard [http://www.raja.fi/rvl/home.nsf/pages/index\\_eng](http://www.raja.fi/rvl/home.nsf/pages/index_eng); Customs  
[http://www.tulli.fi/en/finnish\\_customs/about\\_us/index.jsp](http://www.tulli.fi/en/finnish_customs/about_us/index.jsp)

<sup>210</sup> Justice Administration <http://www.oikeus.fi/17691.htm>; Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

anywhere in Finland. There are also local prosecution offices headed by leading district prosecutors. There are 13 local prosecution offices, with 29 service bureaus. Since 2009, the number of local prosecution offices and service bureaus has been reduced.<sup>211</sup>

Most criminal matters (some 80,000 cases annually) are handled in the local prosecution units. The Office of the Prosecutor-General mainly deals with criminal cases that have larger significance to society as a whole, numbering a few dozen each year.<sup>212</sup>

This European National Integrity System assessment focuses on assessing police activities.

## **Resources (Practice)**

*To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?*

Score: 50 (Good)

The state productivity programme, which is aimed at streamlining public sector spending, also affects law enforcement agencies. The National Audit Office has called attention to the fact that the productivity programme has turned almost entirely into a staff reduction programme. This trend has also been noticed by the Audit Committee, who have criticised the practical application and side effects of the productivity programme.<sup>213</sup> There were staff reductions in police administration even

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<sup>211</sup> Justice Administration <http://www.oikeus.fi/17691.htm>; Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>212</sup> Justice Administration <http://www.oikeus.fi/17691.htm>

<sup>213</sup> Ministry of Finance: State Productivity Programme

[http://www.vm.fi/vm/fi/05\\_hankkeet/02\\_tuottavuusohjelma/index.jsp](http://www.vm.fi/vm/fi/05_hankkeet/02_tuottavuusohjelma/index.jsp) (in Finnish); Poliisilehti (Police magazine) 5/2006 <http://www.poliisi.fi/poliisi/poliisilehti/periodic.nsf/vwarchivedlist/68414E297CEE4CC7C22572350030204B> (in Finnish); National Audit Office

[http://www.vtv.fi/files/2191/2072010\\_Tuottavuusohjelman\\_valmistelu\\_ja\\_johtaminen\\_NETTI.pdf](http://www.vtv.fi/files/2191/2072010_Tuottavuusohjelman_valmistelu_ja_johtaminen_NETTI.pdf) (in Finnish); Audit Committee Report TrVM 8/2010

before the productivity programme began, which has played a part in increasing the pressures to manage the workload.<sup>214</sup>

The police have very limited financial resources and staff. However, infrastructural needs and basic attitudes towards prevention of corruption are in good shape.<sup>215</sup>

On the other hand, it is clear that the state productivity programme has been aimed at making more efficient use of law enforcement agencies' resources. Nevertheless, police posts have been left unfilled, and some police officers are even unemployed. The judiciary has not received enough resources either, despite the fact this has led to very long processing times of some criminal cases. It would make sense to target more resources into investigating financial crimes, since the funds used in investigations could be recouped through confiscation of criminal earnings.<sup>216</sup>

## **Independence (Law)**

*To what extent are law enforcement agencies independent by law?*

Score: 100 (Excellent)

Section 21 of the Finnish Constitution lays the groundwork for the independence of law enforcement agencies, stating that everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice. There are also provisions concerning the

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<sup>214</sup> Joutsenlahti, Juha (2001). Poliisin työmotivaatio ja johtaminen. (Police work motivation and management.) Tampere: University of Tampere.

<sup>215</sup> Criminal Inspector of the National Bureau of Investigation, interview on May 11, 2011.

<sup>216</sup> Anonymous interview on May 17, 2011; Ministry of Finance: State Productivity Programme 2011

[http://www.vm.fi/vm/fi/05\\_hankkeet/02\\_tuottavuusohjelma/index.jsp](http://www.vm.fi/vm/fi/05_hankkeet/02_tuottavuusohjelma/index.jsp) (in Finnish); Helsingin Sanomat newspaper 2008

<http://www.hs.fi/politiikka/artikkeli/Valtion+tuottavuusohjelma+vie+poliisista+arviolta+600-700+virkaa/1135233617093> (in Finnish)

publicity of proceedings, the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance.<sup>217</sup>

The police function independently and impartially on the basis of the Police Act and the Criminal Investigations Act. According to the Criminal Investigations Act, the police must notify the prosecutor of criminal cases under investigation unless the case is legally clear-cut. In other cases the police and prosecutor cooperate during the preliminary investigation of crimes. Suspicions of bribery, for example, require the prosecutor and police to cooperate.<sup>218</sup> However, in Finland preliminary investigations are headed by the police, not the prosecutor as is the practice in many European countries.<sup>219</sup>

Finland has very strict regulations regarding the use of professional criteria in appointments for office. Appointments are regulated by the Constitution, the State Civil Servants' Act, and the Ministry of Finance recommendations on the preparation of appointments and relevant points. The bottom line is that the use of public authority must be based on the law, and all official activities must be strictly legal. The Constitution regulates the qualification requirements and appointment grounds for office. The State Civil Servants' Act regulates appointments for government office and general qualification requirements. The qualification requirements for police posts and offices are regulated in the Decree on Police Administration.<sup>220</sup>

According to regulations in Finnish legislation, appointments for police administration must be based on professional criteria. The regulations prevent politically motivated interference in police activities.<sup>221</sup>

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<sup>217</sup> The Constitution of Finland 731/1999; interview on May 17, 2011

<sup>218</sup> The Police Act 493/1995; the Criminal Investigations Act 449/1987; Criminal Inspector of the National Bureau of Investigation, interview on May 11, 2011.

<sup>219</sup> Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). *Acta Universitatis Tamperensis* 1556.

<sup>220</sup> The Constitution of Finland 731/1999; the State Civil Servants' Act 750/1994; Ministry of Finance recommendation 14/2000; the Decree on Police Administration 158/1996; interview on May 11, 2011; interview on May 17, 2011.

<sup>221</sup> Interview on May 11, 2011



## **Independence (Practice)**

*To what extent are law enforcement agencies independent in practice?*

Score: 75 (Very Good)

The Constitution guarantees that law enforcement agencies are independent in practice. Appointment decisions are made based on professional criteria, and anyone can file a complaint. In reality, Finland also has some so-called politically allocated offices. However, this applies to administration in general and not appointments in law enforcement agencies in particular.<sup>222</sup> In any case, political appointments are decreasing and are met with increasingly fierce public criticism. One researcher considers political appointments one face of Finnish corruption.<sup>223</sup> However, appointment criteria may be vague and so general that they make it difficult to actually justify complaints. Another problem is the government pay system's individual salary section, which is confidential and thus potentially enables unfair favouritism.

Favouritism and other activities of the old boy network can affect appointments, because Finland has a negotiation culture typically based on consensus, which is partially explained by the fact that in political circles "everybody knows everyone else". The politicisation of law enforcement may even be somewhat problematic in regard to its independence. There are occasionally threats made towards prosecutors and cases of improper interference in their activities.<sup>224</sup>

All in all, the police operate independently in practice without undue external influences. Similarly appointments are made based on professional criteria using the deliberation and authority that legislation requires. There has been no undue interference with police activities in Finland.<sup>225</sup>

## **Transparency (Law)**

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<sup>222</sup> Interview on May 17, 2011

<sup>223</sup> Silvo Kaasalainen 2011: Virkanimitysruletti (The official appointments roulette), WSOY, Helsinki

<sup>224</sup> Interview on May 17, 2011. See also Trautman, Neal 2000: The Corruption Continuum: How Law Enforcement Organizations Become Corrupt, Public Management 2000: 82, 6.

<sup>225</sup> Interview on May 11, 2011

*To what extent are there provisions in place to ensure that the public can access the relevant information on law enforcement agency activities?*

Score: 100 (Excellent)

Finland has statutory regulations on the publicity of document and on access to the documents of law enforcement agencies. The documents and other records that are in the possession of agencies are public, but their publicity can be restricted on certain grounds. The Act on the Openness of Government Activities and the Personal Data Act contain regulations on confidentiality and professional secrecy.<sup>226</sup>

The right to privacy is a basic right in Finland. The Parliament's Constitutional Law Committee and Administration Committee have issued statements regarding legislation on the handling of personal data. Stipulations on the handling of personal data may also emerge from the norms of the European Union and from other international rules and recommendations. In addition to the Personal Data Act, special legislation and other data security laws also affect the processing of personal data.<sup>227</sup>

The Act on the Openness of Government Activities states that the documents of agencies are public unless decreed otherwise. Everyone has the right to receive information on public documents. The Act on the Processing of Personal Data by the Police regulates the use and distribution of information. Access to police documents is restricted when it comes to information about criminal suspects. However, the Data Protection Ombudsman may investigate the lawfulness of registered information on the request of the individual.<sup>228</sup> The most central data protection issues are collected under the Act on the Protection of Privacy in Working Life. The Act on the Protection of Privacy in

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<sup>226</sup> The Constitution of Finland 731/1999; the Act on the Openness of Government Activities 621/1999; the Personal Data Act 523/1999; interview on May 17, 2011.

<sup>227</sup> Data Protections Ombudsman <http://www.tietosuoja.fi/1556.htm> (in Finnish – abridged in English at <http://www.tietosuoja.fi/27305.htm>); interview on May 17, 2011.

<sup>228</sup> The Act on the Openness of Government Activities 621/1999; the Act on the Processing of Personal Data by the Police 761/2003

Electronic Communications safeguards confidentiality and privacy in electronic communications. These laws are supplemented by the EU norms and guidelines on data security.<sup>229</sup>

### **Transparency (Practice)**

*To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?*

Score: 100 (Excellent)

The publicity of documents is fairly widespread in Finland. However, some practices that have formed within administration over time, such as old boy networks and the affiliated culture of secretiveness, may weaken transparency and openness.<sup>230</sup>

The police distribute information as openly as legislation permits. The Act on the Openness of Government Activities contains regulations on the duty to promote access to information and good administration. There are guidelines for both the internal and external information distribution by police administration. These guidelines obligate the police to actively distribute information.<sup>231</sup>

### **Accountability (Law)**

*To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?*

Score: 100 (Excellent)

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<sup>229</sup> The Act on the Protection of Privacy in Working Life 759/2004; the Act on the Protection of Privacy in Electronic Communications 516/2004

<sup>230</sup> Interview on May 17, 2011

<sup>231</sup> Interview on May 11, 2011

The reporting obligations of law enforcement agencies and the responsibility of activities are laid down in the Police Act, which lists police duties and general principles. The Administrative Procedure Act also contains regulation on the responsible actions of officials.<sup>232</sup>

When the prosecutor evaluates the evidence and draws conclusions, it is essential that the legal validity of the conclusions is convincing. The Prosecutor-General has sent out instructions on the proper procedure and content of a decision not to prosecute. The Finnish Bar Association believes that the duty to give a reasoned a decision not to prosecute should be regulated namely and on the level of law as required by section 21 of the Constitution.<sup>233</sup>

If anyone feels that a police officer or another official in police administration has acted wrongly or neglected their duties, an administrative complaint can be filed to bring their actions under inspection. The complaint is filed with a higher police official or the supreme overseer of legality. The Police Act states that police activities should be impartial, effective, and purposeful.<sup>234</sup> If police officers are suspected of breaking the law in their official activities, the prosecutor will take over the lead of the preliminary investigation.<sup>235</sup>

When preliminary investigation is complete, the case must be brought to the prosecutor for decision to prosecute or the giving of a summary penal judgement. The Criminal Investigations Act also regulates the exceptions to the rule. The leading investigator must make sure that the plaintiffs and persons who have been interrogated are immediately notified of a decision to not investigate or to stop the investigation, except in cases where notification must be considered unnecessary. The

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<sup>232</sup> Interview on May 17, 2011; the Police Act 493/1995; the Administrative Procedure Act 434/2003

<sup>233</sup> Giving reasoned decisions not to prosecute – Sufficient and convincing reasonings 392/1/94; 509/4/05; anonymous interview on May 17, 2011; Office of the Prosecutor-General 2007:4 Formulation and content of a decision not to prosecute

<http://www.vksv.oikeus.fi/Etusivu/VKSnmaarayksetjaohjeet/Syyttamattajattaminen/PageVKS20074Syyttamattajattamispaatoksenlaatiminenjasisal> (in Finnish)

<sup>234</sup> Administrative complaint

<https://www.poliisi.fi/poliisi/home.nsf/pages/AEF89A67DCEE9A4CC2256C2900441DFD?opendocument>; interview on May 17, 2011; the Police Act 493/1995

<sup>235</sup> The Criminal Investigations Act 449/1987

police activities are overseen by the Parliamentary Ombudsman and the Chancellor of Justice, with whom complaints can be filed.<sup>236</sup>

Preliminary investigation has always been subject to strict regulations and guidelines. The relatively stiff operational model has served the purpose of ensuring impartiality and predictability. The decision to prosecute has followed a similar model, since both prosecution and decision not to prosecute are based on legislation.<sup>237</sup> This also guarantees the accountability of activities.

### **Accountability (Practice)**

*To what extent do law enforcement agencies have to report and be answerable for their actions in practice?*

Score: 100 (Excellent)

Annual reports and performance planning documents offer information on the actions of law preparation officials. The annual reports of the Office of the Prosecutor-General are public documents.<sup>238</sup>

Preliminary investigation reports are sent to the plaintiffs and the prosecutor, who can evaluate the justness and completeness of preliminary investigation. Decisions made in other police activities are given to the citizens with instructions on appeal mechanisms.<sup>239</sup>

### **Integrity Mechanisms (Law)**

*To what extent is the integrity of law enforcement agencies ensured by law?*

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<sup>236</sup> Interview on May 17, 2011; the Criminal Investigations Act 449/1987

<sup>237</sup> Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>238</sup> Interview on May 17, 2011

<sup>239</sup> Interview on May 11, 2011

Score: 100 (Excellent)

The integrity of law enforcement agencies is safeguarded by the Constitution and the Administrative Procedure Act. The police are also obligated by their ethical oaths and the ethical guidelines for European police officers set by the Council of Europe. The Bar Association also has its own ethical guidelines. Gifts and hospitality are regulated by guidelines the Ministry of Finance has set for its officials.<sup>240</sup>

The integrity of law enforcement agencies is safeguarded by law as described in section 5.1.2. Conflicts of interest and police ethics are covered in police training. After basic training, police officers swear an ethical oath and promise to use police authority only in the way legislature intended. However, the oath is not a legally binding norm but rather a morally binding resolution. According to the State Civil Servants' Act, civil servants may not demand, accept, or receive an advantage of financial or any other kind if doing so will damage the trust in an official or authority. According to the Police Act, police officers both on and off duty must act in a manner that does not endanger people's confidence in the appropriate discharging of police duties.<sup>241</sup>

There are no actual written ethical codes for prosecutors and judges, but the issue has been under discussion recently. For example, the 2010 judges' meeting discussed a proposition that has been made in Norway for judges' ethical rules.<sup>242</sup> In addition to the oath, the police have an ethical code and a set of values.<sup>243</sup>

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<sup>240</sup> The Constitution of Finland 731/1999; the Administrative Procedure Act 434/2003; Ethical oath for police officers <http://www.poliisi.fi/poliisi/home.nsf/pages/E3FDF2D0D5BF6068C2256C3700393CAC?opendocument>; European code of police ethics <https://wcd.coe.int/wcd/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=1277578&SecMode=1&DocId=212766&Usage=2>; Ethical guidelines for lawyers [http://www.asianajajat.fi/files/856/B\\_19.3\\_Lakimiehen\\_eettiset\\_ohjeet.pdf](http://www.asianajajat.fi/files/856/B_19.3_Lakimiehen_eettiset_ohjeet.pdf) (in Finnish); Ministry of Finance 2010 [http://www.vm.fi/vm/en/04\\_publications\\_and\\_documents/02\\_documents\\_on\\_personnel\\_management/03\\_guidelines/20100825Hospit/Vieraanvaraisuudesta\\_eduista\\_ENGL.pdf](http://www.vm.fi/vm/en/04_publications_and_documents/02_documents_on_personnel_management/03_guidelines/20100825Hospit/Vieraanvaraisuudesta_eduista_ENGL.pdf)

<sup>241</sup> Interview on May 11, 2011; the State Civil Servants' Act 750/1994; the Act on Civil Servants in Local Government 304/2003; the Police Act 493/1995

<sup>242</sup> Ethical rules for judges in Norway <http://www.tuomariliitto.fi/tuomaripaiva/prime101/prime100/prime100.aspx> (in Finnish)

<sup>243</sup> Ikola-Norrbacka, Rinna & Annukka Jokipii (2010). Hallinnon eettiset arvot talousrikostutkijoiden professiossa. (The ethical values of administration in the profession of financial crimes investigators.) Hallinnon tutkimus 29: 1, 53–68

## **Integrity Mechanisms (Practice)**

*To what extent is the integrity of members of law enforcement agencies ensured in practice?*

Score: 75 (Very Good)

The ethical challenges that law enforcement agencies face are connected to globalisation, the increasing complexity of issues, and cooperation between officials. Anna-Liisa Heusala believes that supporting the element of calling or vocation helps strengthen organisational ethics despite an environment that needs continuous improvement. The central ethical questions of law enforcement are linked to what information is available to support decision-making and how the quality of information can be evaluated and improved.<sup>244</sup>

In practice, the integrity of law enforcement agencies is safeguarded through internal supervision and auditing. The media functions as a watchdog. Other methods include the publicity of documents and of tax information. However, these methods are weakened by the lack of sanctions and ignorance of ethical guidelines.<sup>245</sup> The oversight of legality of police activities is part of daily management. Police units also have a separate department responsible for oversight of legality. Current regulations and guidelines may largely be considered effective in safeguarding the ethical action of law enforcement agencies.<sup>246</sup>

In Finland, law enforcement agencies have the citizens' confidence, which shows that people trust the integrity of law enforcement. Research indicates that Finns put even more trust in law enforcement agencies than in education or health care, which are central sectors of welfare by international standards.<sup>247</sup>

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<sup>244</sup> Anna-Liisa Heusala 2006: Eettinen virkamiespätevyys suomalaisessa turvallisuuspolitiikassa. Esimerkkinä poliisi ja rajavartiolaitos. (Ethical competence of officials in Finnish security politics. Examples from the police and the Border Guard.) Hallinnon tutkimus 25: 2, 3–17

<sup>245</sup> Interview on May 17, 2011

<sup>246</sup> Interview on May 11, 2011

<sup>247</sup> Salminen & Ikola-Norrbacka (2009). Kuullaanko meitä: Eettinen hallinto ja kansalaiset. (Are we being heard: ethical governance and citizens.) Publications of the University of Vaasa. Studies 288; Police barometers (annual)

The details of the cooperation between the police and prosecutors should be agreed on within the boundaries of legislation.<sup>248</sup> This safeguards integrity in practical cooperation as well.

## **Corruption Prosecution**

*To what extent do law enforcement agencies detect and investigate corruption cases in Finland?*

Score: 75 (Very Good)

Approximately 10 to 15 corruption cases come to the attention of the police each year. The Police Act regulates police officers' authority to use the necessary investigation techniques in tracking cases. Correspondingly, citizens' legal protection is secure. The limited resources available to the police present challenges.<sup>249</sup> The cooperation between the police and the prosecutor is connected to the preliminary investigation of crimes. Both the Ministry of the Interior and the Prosecutor-General have stressed the importance of this cooperation.<sup>250</sup>

Changes to the Police Act were confirmed in spring 2011. The powers of the police are now regulated in closer detail and on a wider scale than before, taking into consideration both protecting basic and civil rights and the needs of crime prevention. The regulation of the rights and duties of the individual, which was previously done by decree, has been elevated to the level of act. The law regulates the principle of purpose. The regulations regarding general authorities are for the most part unchanged in content. There have been additions and specifications to the regulations on security and safety inspections and on the use of firearms.<sup>251</sup>

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<sup>248</sup> Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>249</sup> Anonymous interview on May 17, 2011; the Police Act 493/1995; the Coercive Measures Act 450/1987

<sup>250</sup> Koljonen, Eero (2010): Poliisin ja syyttäjän yhteistyön kehittäminen esitutkinnan johtamisen ja laadun näkökulmasta (Co-operation between police and prosecutors in the pre-trial investigation: Managing development and qualitative perspectives). Acta Universitatis Tamperensis 1556.

<sup>251</sup> Government bill for the Police Act and certain related acts 224/2010

<http://www.finlex.fi/fi/esitykset/he/2010/20100224> (in Finnish);



Under the new law, secret information gathering methods can be used to prevent crimes on the same grounds as they can be used to investigate crimes. The methods can be used to reveal crime in case of treason or terrorism. Secret information gathering methods include tapping and surveillance of telecommunications, gathering mobile mast information, planned and technical surveillance, covert information gathering, gathering unit information of an IP or computer, undercover activities, sham purchases, and directed information source activities.<sup>252</sup>

Police undercover activities are regulated more strictly than before. Police officers working undercover may not commit or incite crimes. The court decides whether the use of undercover information gathering methods was appropriate or necessary for the criminal activity. The act contains regulations on police investigations, meaning investigations other than preliminary investigations that are part of police duties.<sup>253</sup>

The National Bureau of Investigation has an employee responsible for handling and coordinating corruption cases.<sup>254</sup> If there is reason to suspect bribery or corruption, preliminary investigation takes place. The handling of bribery crimes is no different from any other criminal process. However, the police do not have jurisdiction to touch ethically questionable, corruptive activities that do not fit the criteria of bribery and corruption regulations. Cases of corruption have also been revealed during preliminary investigations of other cases. In such cases preliminary investigation is carried out like with any other crime.<sup>255</sup>

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<http://www.intermin.fi/intermin/bulletin.nsf/HeadlinesLinked/D7DB1C7BA7E993FEC22578D4003B94DA> (in Finnish)

<sup>252</sup> Government bill for the Police Act and certain related acts 224/2010

<http://www.finlex.fi/fi/esitykset/he/2010/20100224> (in Finnish); Government bill for reforms to legislation on criminal investigations and coercive measures 222/2010 <http://www.finlex.fi/fi/esitykset/he/2010/20100222> (in Finnish); <http://www.intermin.fi/intermin/bulletin.nsf/HeadlinesLinked/D7DB1C7BA7E993FEC22578D4003B94DA> (in Finnish)

<sup>253</sup> Government bill for the Police Act and certain related acts 224/2010

<http://www.finlex.fi/fi/esitykset/he/2010/20100224> (in Finnish); Government bill for changes to the Act on the Processing of Personal Data by the Police, the Act on the Processing of Personal Data by the Border Guard, and certain related acts 98/2010 <http://www.finlex.fi/fi/esitykset/he/2010/20100098> (in Finnish); <http://www.intermin.fi/intermin/bulletin.nsf/HeadlinesLinked/D7DB1C7BA7E993FEC22578D4003B94DA> (in Finnish)

<sup>254</sup> Interview on May 11, 2011; See the pillar Anti-Corruption Agency

<sup>255</sup> Interview on May 11, 2011

Even though the investigation of financial crimes in Finland is at a high level by international comparison, it is clear that there could be even closer cooperation between agencies so that all cases of bribery could be better uncovered and investigated.

*Questions to Consider*

*Considering the increasingly numerous duties and wide scope of law enforcement agencies, how can resource development be secured and how we can focus on key duties even when resources are limited?*

## **6.5 ELECTORAL MANAGEMENT BODY**

### **Summary**

The work of the Finnish electoral management body is trustworthy and transparent. There have been sufficient resources to conduct elections properly. In the future, there should be efforts to improve preparedness to organise elections especially in exceptional situations. Human resources are often limited, which is another area for improvement.

The accountability, responsibility, and integrity of electoral officials is secured in law and realised in practice mostly without flaw. Because free and honest elections are guaranteed in Finland, various sources report that the people's trust in electoral officials remains high. All electoral officials are responsible for the legality of their actions. Election committee members are elected from candidates nominated by political parties in a manner that ensures that all voter groups are represented. If recruiting election committee members becomes increasingly difficult, it may be prudent to consider alternative methods of forming the committees.

The supervision of election funding in Finland has been transferred from the Ministry of Justice to the National Audit Office (NAO), but the electoral management body is still in charge of inspecting the use of party subsidies. Statements of electoral and party funding are presented to the NAO. In practice, the co-operation between the Ministry of Justice and the NAO is developed with a view of maximising the efficiency of supervision.

## **Introduction**

The electoral management body is responsible for overseeing and conducting elections. In Finland, the Ministry of Justice is the supreme electoral management body. Finland has four general elections, which are conducted by the electoral management body and its electoral officials. Every four years a general election is held to elect 200 representatives for the parliament. The president of the republic is elected by direct popular vote for a term of six years. Municipal councils for Finland's 336 municipalities are elected for terms of four years. The number of members each council has depends on the size of the municipality. Additionally, thirteen representatives are elected for the European Parliament for terms of four years. Binding and consultative referendums are held when needed. For example, a national referendum was held on joining the European Union, and local referendums are often held on municipalities merging.

The foundations of Finnish electoral legislation were created in the early 1900s. All provisions for elections have been collected into one law, the Election Act<sup>256</sup>.

The general principles regarding elections in Finland state that elections must be direct, proportional, and secret. Elections have universal and equal suffrage. Everyone must cast their own vote; it is not possible to cast one's vote through a proxy. Voting takes place at polling stations

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<sup>256</sup> (714/1998)

appointed by the electoral management body. Save for the presidential election, Finland's electoral system is a combination of voting for individual candidates and voting for parties.<sup>257</sup>

The electoral management body is responsible for conducting and supervising independent and honest elections. The Organization for Security and Co-operation in Europe (OSCE) observed the spring 2011 parliamentary elections. According to the OSCE preliminary report, the functioning of the Finnish electoral system and work of electoral officials seemed beyond reproach.<sup>258</sup>

There are regular discussions held on the electoral system and its possible reform, and several expert teams have been engaged to study the matter. In 2008, an alternative method of voting, electronic voting, was tested in three municipalities. There were some practical issues involved in electronic voting. The intended cost savings were also not reached.<sup>259</sup>

## **Structure and Organisation**

In Finland, the Ministry of Justice is the supreme electoral management body. It co-ordinates and instructs electoral officials. The Ministry of Justice trains regional and local electoral officials and gives out election instructions with a detailed description of the duties of electoral officials for each election.<sup>260</sup> The Ministry of Justice is responsible for informing the public about elections, maintaining and developing the election information system, and supplying electoral materials.

There are fifteen Electoral District Committees in accordance to electoral district division. Electoral District Committees e.g. confirm the candidates for parliamentary elections and attend to the counting of advance votes and the verification count of all cast votes.

The Municipal Central Election Committees, one for each of the 336 municipalities, are responsible for electoral arrangements in the municipalities. In municipal elections the Central Election

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<sup>257</sup> The Ministry of Justice 2010, Tarasti 2006.

<sup>258</sup> See OSCE Need Assessment Report; full report to be published summer 2011.

<sup>259</sup> The Ministry of Justice 2009.

<sup>260</sup> E.g. Election Instructions for the 2008 Municipal Elections, Election Instructions for the 2011 Parliamentary Elections.

Committees confirm the candidates and attend to the counting of advance votes and the verification count of all cast votes. The Central Election Committees are also responsible for informing the public about elections and announcing election results.

There are also approximately 2,300 Election Committees that attend to the actual election day. Approximately 500 Election Committees attend to the arrangements for advance voting. The Population Register Centre establishes the voting register. The Ministry for Foreign Affairs is responsible for handling advance voting abroad.

### **6.1.1 Resources (Practice)**

#### **Score: 50 (Good)**

According to expert assessments, the resources of the are sufficient in practice to guarantee that elections are carried out in an impeccable and efficient manner. The resources of the electoral officials of the Ministry of Justice are relatively limited. In practice the duties are shared by four people.

The 2011 government budget proposal granted €18.5 million for electoral expenses. The electoral expenses for the 2007 parliamentary elections were slightly in excess of €13 million. The allocation is to be used for arranging popular votes in general elections in accordance with the Election Act<sup>261</sup>, informing the public, information service, maintaining the election information system and electoral preparedness, and covering the cost of developing the electoral system and the election information system. The allocation is also meant to be used to enhance procedures to increase voter activity.<sup>262</sup> The expenses of Electoral District Committees are covered in government budget, which has a special election clause. The personnel costs of the Ministry of Justice are taken out of the ministry administrative budget. Municipalities are responsible for most of their electoral costs<sup>263</sup>, but for

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<sup>261</sup> (714/1998)

<sup>262</sup> Budget Proposal for 2011.

<sup>263</sup> The Election Act 714/1998.

other than municipal elections the Ministry of Justice pays municipalities a lump sum compensation<sup>264</sup> for the costs.

According to one expert, the resources of Electoral District Committees are sufficient for carrying out their duties because the expenses of Electoral District Committees are covered in government budget under the election clause. Financial and human resources vary between municipalities. Municipal Central Election Committees have a secretary who carries out their electoral duties in addition to their regular office. Often the secretary is solely responsible for training and instructing other electoral officials. Limited resources remain an issue. An internal expert estimates that the time available for conducting elections varies between municipalities. This raises the question whether adequate time is guaranteed for electoral arrangements.<sup>265</sup>

In some municipalities, recruiting new members for Municipal Central Election Committees has occasionally proved difficult because the members elected are not necessarily motivated or inclined for positions of trust. The requirements set in the Equality Act<sup>266</sup> about the composition of the committees may also be difficult to fulfil in practice.<sup>267</sup> The large number of committees may also be problematic, along with the decrease in active citizenship. The requirement for balanced representation between political parties presents another challenge when it comes to forming committees.<sup>268</sup>

The internal expert believes that limited personnel and funding are partially responsible for the delays in developing the election information system of the Information Technology Centre of Judicial Administration (ITCJA). From the expert's point view, operations always seem to receive an inadequate share of the yearly budget, which usually leads to appropriations being exceeded.

The external expert feels that budgeting has been sufficient albeit limited.<sup>269</sup> On the other hand, the internal expert concludes that more resources should be given to the ITCJA, whose performance

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<sup>264</sup> In the 2008 parliamentary elections, the compensation was €1.8 per inhabitant eligible to vote.

<sup>265</sup> Interview on May 3, 2011.

<sup>266</sup> (609/1986)

<sup>267</sup> According to the Equality Act, committees should have at least 40 % representation of each sex.

<sup>268</sup> Interview on May 3, 2011, the Ministry of Justice 2009, Jääskeläinen 2008.

<sup>269</sup> Interview on May 3, 2011, interview on May 5, 2011.

enables the efficiency and development of electoral officials' work.<sup>270</sup> The Ministry of Justice agrees that the election information system needs rapid improvement. The current system has been in use since the early 1990s and has so far performed flawlessly. If the technology becomes outdated, this may threaten the safe conducting of elections and also potentially increase operational costs. If the election information system is truly to be improved, it is crucial to keep in mind the long life-span of the information system.<sup>271</sup>

Generally resources may not be sufficient for surprising and exceptional situations such as a referendum or a new governmental election in case of the government losing the parliament's trust.

### **6.1.2 Independence (Law)**

Score: 75 (Very good)

When the independence of electoral officials is being assessed in relation to other officials involved in elections, the independence of electoral officials is defined in the Election Act<sup>272</sup>. The highest electoral management body is the Ministry of Justice, making electoral officials part of the political-administrative guidance system. The Ministry of Justice has an election director who is in charge of decisions pertaining to conducting elections. All staff in the Ministry election unit is chosen on basis of both formal competence and additional proficiencies.

Members of Electoral District Committees, Central Election Committees, and Election Committees are elected officials. The election of the Regional State Administration Official, the Local Government, and the Municipal Council from committee members is based on nominations from political parties because committees should to represent voter groups as closely as possible with regard to the results of the previous election.<sup>273</sup>

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<sup>270</sup> Interview on May 3, 2011.

<sup>271</sup> The Ministry of Justice 2011: [www.vaalit.fi](http://www.vaalit.fi)

<sup>272</sup> [\(714/1998\)](#)

<sup>273</sup> Tarasti 2006.

The decision-making of Electoral District Committees is by law independent from and impartial towards the Ministry of Justice. Hence, the Ministry of Justice cannot influence decisions made by Election Committees. The Regional State Administration Agency elects the Members of Electoral District Committees based on nominations from political parties. Beyond the regulations of the Local Government Act<sup>274</sup> there are no other stipulations on the qualifications required from persons elected for positions of trust in the municipality, but the composition of the Election Committees is required reflect voter groups as diversely as possible.

Municipalities have independent jurisdiction over electing electoral officials. The Municipal Council and Local Government take the suggestions from political parties into account when setting up Election Committees. Municipalities use their own discretion when deciding the number and location of advance polling stations.<sup>275</sup>

The independence of electoral officials is fairly well safeguarded in law. Party election agents and constituency associations may suggest but not demand specific members for Election Committees. Election agents may not be Members of Electoral District Committees or Central Election Committees.<sup>276</sup>

### **6.1.3 Independence (Practice)**

Score: 100 (Excellent)

The experts assess that the independence of the Electoral management body in practice fulfils the spirit and letter of the law. There is a common consensus that the Ministry and the Electoral management body are trusted and independent in practice. The independence of the electoral management body is safeguarded by decentralised administration and the independent authority of electoral officials.

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<sup>274</sup> (365/1995)

<sup>275</sup> The Election Act (714/1998).

<sup>276</sup> Tarasti 2006.



Political parties are represented in regional and local Election Committees. Even though only a few political parties might be represented in small municipalities, efforts are made for the voter groups of the municipality to be represented as equally as possible.<sup>277</sup> This ensures that committees are not dependent on any single political party. In municipal elections, electoral officials are mainly people elected into positions of trust, but staff of the municipality central administration function as electoral officials in advance voting.

Independence in practice fulfils the spirit of the law, meaning that party associations only suggest members for Electoral Commissions. The Regional State Administration officials and the municipalities have final authority. Additionally, election agents of political parties and constituency associations may not join Electoral District Committees or Central Election Committees. The experts assess that there is very little undue external influence on or interference with the actions of electoral officials and that they act in an independent and impartial way.<sup>278</sup>

### **6.2.1 Transparency (Law)**

#### **Score: 100 (Excellent)**

Transparency is regulated in comprehensive and detailed ways. The transparency of the actions of electoral officials is regulated by the Act on the Openness of Government Activities<sup>279</sup>. Election results are entirely public, and all data is updated into the election information system. Documents and decisions of the local and regional administration of the Ministry of Justice are to be made available in a timely manner. The law requires transparency from electoral officials and timely documentation of decisions.

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<sup>277</sup> Tarasti 2006, the Election Act (714/1998).

<sup>278</sup> Interviews on May 3, 2011 and May 5, 2011.

<sup>279</sup> (612/1999)

In regards to election funding, the Act on Political Parties<sup>280</sup>, the Act on a Candidate's Election Funding<sup>281</sup>, and the Accounting Act<sup>282</sup> require openness from political parties and specify the demands and prerequisites for transparency in practice. The laws require the parties to present their accounting to the National Audit Office and the Ministry of Justice. In the future, information on party funding will be more easily available on the Internet. Due to changes to the Act on Political Parties<sup>283</sup>, an obligation to disclose election funding real-time came into effect in January 2011. This sort of requirement is very rare internationally.<sup>284</sup>

### **6.2.2 Transparency (Practice)**

Score: 100 (Excellent)

In practice, the workings of the Electoral management body are largely transparent, and information is readily available in real time on the Internet through several different sites and services. In this respect the demands set in the law translate well into practice. Some of the decisions and documents are also available on the Internet, and for example the minutes of Municipal Elections Committee meetings are always available on request. The Ministry of Justice, Statistics Finland, and the Population Register Centre publish election statistics.

Experts assess that the Finnish electoral system is quite transparent in both law and in practice. Information is available in real time. There may even be a problem of too much transparency, running the risk of endangering the secrecy of the ballot in small localities due to the detailed information being revealed about each voting district.<sup>285</sup>

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<sup>280</sup> (10/1969)

<sup>281</sup> (273/2009)

<sup>282</sup> (1336/1997)

<sup>283</sup> (10/1969)

<sup>284</sup> Interview on May 3, 2011.

<sup>285</sup> Interviews on May 3, 2011 and May 5, 2011.

Information on election results is available from various sources. The Electoral management body publishes a great variety of information and reports. The election statistics data is based on the election information system of the Ministry of Justice and on information that has been delivered by electoral officials, which is considered generally reliable. The Ministry of Justice publishes a lot of general information on different elections. The national register of candidates and election result information are also available on the Internet. Important result information for municipal elections is published in the election map service. In addition to the Internet, information on elections is also available in hard copy, such as the print publication on municipal elections.

The election information system development project was launched in 2004 and will likely continue until the end of 2013. A functioning election information system is an essential prerequisite for securing the transparency of the workings of the Electoral management body.<sup>286</sup>

In the 2011 parliamentary elections, the Electoral management body also utilised social media, which enabled the public to receive current information on the elections and ask electoral officials questions. This is another way in which the Electoral management body is actively working to diversify information distribution and improve transparency in elections.<sup>287</sup>

### **6.2.3 Accountability (Law)**

#### **Score: 75 (Very good)**

Electoral officials are always responsible for the legality of their actions. All electoral officials are also responsible for the legality of their actions under the penal code. Experts assess that the Election Act is detailed and that the duties and authority involved in conducting elections are specific. In certain cases, the responsibility of officials for the legality of their actions may also

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<sup>286</sup> The Ministry of Justice 2011. [www.vaalit.fi](http://www.vaalit.fi)

<sup>287</sup> The Ministry of Justice 2011, Interview on May 3, 2011.

extend to employees who through their work (e.g. with Itella, the Finnish mail service provider) contractually handle electoral matters.<sup>288</sup>

If a citizen feels that they have been unlawfully been excluded from the voting register or that their entry has errors, they may make a written demand for rectification to the local register office<sup>289</sup>. When a decision or action of an official is felt to be illegal, an election petition may be presented to the administrative court, though not until after election results have been published. The appeal period is relatively short at fourteen days. When the composition of the Electoral District Committee of North Karelia, for example, did not conform to the requirements of the Equality Act, the administrative court ruled for it to be disbanded and reformed.<sup>290</sup>

#### **6.2.4 Accountability (Practice)**

Score: 75 (Very good)

According to the experts, electoral officials in Finland are sufficiently accountable and responsible in practice.<sup>291</sup> Electoral officials are accountable for their actions to the ministry, the municipality, and the people. Breaking accountability detracts from the trustworthiness of the election and electoral officials.

According to the experts, there are a few complaints on e.g. Election Committees filed for every election, but no electoral officials have ever been convicted of intentionally breaking the responsibility of an official for the legality of his actions. Citizens may also lodge complaints with the parliamentary ombudsman or appeal to the administrative court. In practice, there is a varied range of ways for people to give feedback or lodge complaints about the actions of electoral officials. Persons who lodge complaints can trust that their complaints will be treated fairly and that they will also be able to give feedback on the actions of electoral officials.

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<sup>288</sup> Tarasti 2006.

<sup>289</sup> The Election Act 714/1998.

<sup>290</sup> YLE 2011.

<sup>291</sup> Interviews on May 3, 2011 and May 5, 2011.

### **6.2.5 Integrity Mechanisms (Law)**

Score: 75 (Very good)

In the context of electoral officials, integrity mechanisms are linked to the rules and norms about the honesty, incorruptibility, and independence of electoral officials. The integrity of electoral officials is safeguarded in law, e.g. when it comes to defining duties and incapacity.<sup>292</sup>

There is no separate ethical code for electoral officials, but the election instructions handed down by the Ministry of Justice include a clear and detailed list of their duties and tasks. The guarantees of good administration regarding the actions of electoral officials and their principles of service given in the Administrative Procedure Act help further integrity in action, and ideally they also help to weed out unethical courses of action and bad administration. Experts assess that existing legislation sufficiently guarantees the integrity of electoral officials.<sup>293</sup>

Candidacy can be an obstacle for membership in an Election Committee. Candidates may not take part in Electoral District Committees in any election where they have entered as candidates. Candidates in municipal elections may not be members of the Central Election Committee of their municipality, but in other elections candidacy is not an obstacle for membership.

### **6.2.6 Integrity Mechanisms (Practice)**

Score: 100 (Excellent)

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<sup>292</sup> The central laws for administration are the Election Act, the State Civil Servants' Act (750/1994), Administrative procedure Act (434/2003), and the Local Government Act (365/1995), which contains regulations for the integrity of the work of electoral officials.

<sup>293</sup> Interviews on May 3, 2011 and May 5, 2011.

Disqualification regulations in particular are interpreted quite strictly according to an expert, e.g. in municipalities the possible incapacity of members of Election Committees is investigated.<sup>294</sup> Integrity is realised fairly well through internal supervision, since the different political parties that are represented in the Municipal Central Election Committees in effect supervise each other.

There have been very few instances of unethical situations. According to the Election Act, if a disqualified person has been part of the decision-making process, this also creates a right to appeal.<sup>295</sup>

### **6.3.1 Campaign Regulation**

#### **Score: 50 (Good)**

The Ministry of Justice oversees the use of party subsidies. The Act on a Candidate's Election Funding<sup>296</sup> and the Act on Political Parties<sup>297</sup> and their amendments regulate both the funding granted on the basis of the Election Act and outside funding. With the new legislation, part of the responsibility for the supervision of campaign funding was transferred from electoral officials to the NAO in 2009. Presently they are clarifying the framework of their co-operation and the division of areas of responsibility.

Political parties are required to present their accounting both to the NAO and the Ministry of Justice. The NAO functions as an independent agency, which the external expert considers a significant improvement for supervising the use of party subsidies and election funding. The supervision of election funding applies to both single candidates and political parties.

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<sup>294</sup> Interview on May 5, 2011.

<sup>295</sup> Interviews on May 3, 2011 and May 5, 2011.

<sup>296</sup> (273/2009)

<sup>297</sup> (10/1969)

The Act on a Candidate's Election Funding<sup>298</sup> was amended and made more detailed in 2011 due to some irregularities<sup>299</sup> that emerged regarding election funding. It is too early to assess how well this will work in practice. Changes have been made to the law on the Finnish election funding system. These changes improve the accountability of political parties and the transparency of their funding. Regulations have been clarified and courses of action should now be consistent for all.

### **6.3.2 Election Supervision**

#### **Score: 75 (Very good)**

Expert assessments confirm that the Finnish Electoral management body is capable of guaranteeing an independent, open, and impartial election process.<sup>300</sup> The 2011 parliamentary elections were supervised by an OSCE representative. According the Need Assessment, election supervision is at a high level and election authorities enjoy the public's trust. The full OSCE report on the assessment is to be published in summer 2011.

According to the external expert, one of the most important improvements has been transferring the responsibility to inspect the supervision of election funding from the Ministry administration to a separate administrative agency.

In practice, the Electoral management body can guarantee fairly well that all eligible voters know where and when they can vote. A card of information is mailed to all eligible voters. The card of information contains information on polling stations and is a central instrument for informing the public. Overall, information is readily available from various sources. The Finnish Electoral management body is well-prepared for situations that require special arrangements, e.g. when

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<sup>298</sup> (273/2009)

<sup>299</sup> See the chapter on Finland's corruption profile.

<sup>300</sup> Interviews on May 3, 2011 and May 5, 2011, OSCE Need Assessment Report (2010).

eligible voters are unable to go to a polling station and need to cast their vote in different location.<sup>301</sup>

The amount of information citizens receive about elections also depends on their own actions. If a person's full address is not in the system, the card of information will not reach them. The address information for voters living abroad may also not be up-to-date. Nevertheless, the experts assess that the system works well, because voters both in Finland and abroad can be guaranteed an opportunity to cast their vote, and special cases are taken into consideration.

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<sup>301</sup> Interviews on May 3, 2011 and May 5, 2011, the Election Act (714/1998).



## 6.7 THE OMBUDSMAN

### Summary

The Ombudsman institution is a world-wide arrangement. It protects citizens against arbitrary authority and keeps the guard of the law on behalf of citizens.<sup>302</sup> In the Finnish system, the Parliamentary Ombudsman and Chancellor of Justice are highly respected and represent long-standing institutions. Their role is different from administrative courts where public servants are accused and sentenced.<sup>303</sup>

The Ombudsman's activities are regulated by the Constitution and the Parliamentary Ombudsman Act, along with the Administrative Procedure Act. It is the Ombudsman's duty to see that authorities and officials observe the law and discharge their duties. The Ombudsman pays special attention to the implementation of fundamental and human rights and good practice.

The Ombudsman and the Chancellor of Justice are the highest overseers of legality in Finland. The actions of the Chancellor of Justice are regulated by the Constitution and the Act on the Chancellor of Justice of the Government. The Chancellor of Justice supervises the lawfulness of the actions of government ministers and the President of the Republic, and the courts, and the implementation of fundamental and human rights. He also provides information and statements on judicial matters to the President of the Republic, the government, and the ministries when needed.

This assessment segment concentrates on the Ombudsman institution. There are two reasons for this decision. Firstly, the Ombudsman institution is internationally respected and widespread, and secondly, the Ombudsman has a vital role in guaranteeing the citizens' legal protection and thus protecting national integrity.

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<sup>302</sup> Rowat 1965

<sup>303</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

At present, the Ombudsman's work revolves mainly around complaints. There have been an increasing number of complaints, which has partly led to longer processing times. An amendment that came into force June 1, 2011 should help ease some of the pressure, since it gave the Ombudsman more freedom to independently determine which complaints to investigate. Additionally, the amendment shortened the expiration period of incidents from five years to two years, which facilitates more efficient use of resources. However, the Ombudsman should have more resources for launching investigations on his own initiative and for giving statements on socially significant issues. This would further improve the institution's social effectiveness.

According to the experts' assessment, the Ombudsman is independent, transparent, and accountable in both law and practice. There has been no improper interference with the Ombudsman's work. There is no existing set of ethical codes except the statutory principles of good administration, which the Ombudsman follows and which from an international perspective fill the role of a set of ethical codes.

## **Introduction**

The Finnish institutions of the Parliamentary Ombudsman and the Office of the Chancellor of Justice represent legal regulation and oversight of legality. In other words, these institutions present legal control efforts in terms of corruption and integrity in civil service.<sup>304</sup>

To appeal, citizens can institute action with either the Parliamentary Ombudsman or the Chancellor of Justice. The overall aim of these institutions is to safeguard the rights of citizens. There are 60 persons working in the Ombudsman's office and 40 persons working in Chancellor's office. But what kind of role do they play in curbing corruption?<sup>305</sup>

The formal duties (role to oversee) of the Ombudsman and the Chancellor of Justice are in many respects parallel with each other. The difference is that the Chancellor of Justice inspects the

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<sup>304</sup> Ikola-Norrbäck, Salminen & Viinamäki 2011

<sup>305</sup> Ikola-Norrbäck, Salminen & Viinamäki 2011

complaints concerning the actions of advocates and public legal aid councils. The Chancellor has the duty to oversee the legality of government actions. The Chancellor is present in the sessions of the Council of State, and he revises the cabinet documents before the weekly sessions.<sup>306</sup>

It is the Ombudsman's duty to ensure that public authorities and officials observe the law and constitutional and human rights, and that civil servants fulfil their duties according to good practice. The Ombudsman investigates the performance of authorities and officials on the basis of complaints filed by citizens. In the Ombudsman's investigations the names of complainants are not usually published which increases the probability of denunciation.<sup>307</sup>

Both institutions investigate corruption related cases, but what is the precise content of control? Typical cases from in the beginning of the 21st century referring to control of corruption handled by the Ombudsman were, in order of frequency: delayed issues, negligence, violating principles of equality, improper justifications of decisions, lack of publicity, lack of hearing of the parties involved, discrimination, undelivered public notices, insufficient advice, and partiality.<sup>308</sup>

In terms of corruption investigations, during the past years there have been ten types of cases in the Ombudsman institution and nine types of cases in the Chancellor's institution. Both institutions handle similar cases, such as delayed issues, lack of hearing of the parties involved and lack of publicity. Rethinking the relevance of this information, these kinds of issues belong to the category of maladministration rather than of severe corruption.<sup>309</sup>

There are also differences between the two institutions. Violation of principles of equality, negligence, and partiality belong to the Ombudsman's typical cases. Compared to the Ombudsman, the Chancellor is responsible for cases of disqualification, misuse of public power, and untrustworthiness of public actions which are closely related to the ethics of civil servants.<sup>310</sup>

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<sup>306</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>307</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>308</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>309</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>310</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

For a country with some 550,000 public sector employees, the information presented above and their number seem comparatively insignificant. When building the picture of Finnish low corruption and control mechanisms, these numbers only provide circumstantial evidence regarding occurrence and incidence.<sup>311</sup>

## Structure and Organisation

The Ombudsman institution has existed in Finland for over 90 years. The creation of the Ombudsman institution was influenced by the example of the Swedish Ombudsman institution and the existence of the office of the Chancellor of Justice.<sup>312</sup> The office of the Chancellor of Justice has its roots in the 18<sup>th</sup> century, when Finland was still part of the Kingdom of Sweden.<sup>313</sup>

Today, the Chancellor of Justice is a uniquely Finnish institution. The Ombudsman, on the other hand, is the Finnish version of the international ombudsman phenomenon. From a global perspective, there are basically three types of ombudsmen: overseers of legality (the Nordic model), mediators (the South European model), and human rights representatives (the Latin American model). The Finnish Ombudsman represents the first type, the classic Nordic model. However, the civil rights reform of 1995 increased the Ombudsman's duties related to overseeing fundamental and human rights internationally.<sup>314</sup>

The tasks of the Ombudsman are regulated by the Constitution and the Parliamentary Ombudsman Act. Another influence is the Administrative Procedure Act. It's the Ombudsman's duty to see that courts, other authorities, and officials observe the law and discharge their duties. The scope of the Ombudsman's oversight also includes others when they are performing tasks of public nature. The Ombudsman pays special attention to the implementation of fundamental and human rights and

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<sup>311</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>312</sup> Paunio 2010: Objectives and challenges: 90 years of the Ombudsman's oversight of legality

<sup>313</sup> Office of the Chancellor of Justice <http://www.chancellorofjustice.fi/index.html>

<sup>314</sup> Lehtimäja 1999: Eduskunnan oikeusasiamies perus- ja ihmisoikeuksien valvojana (The Parliamentary Ombudsman as overseer of fundamental and human rights)

good practice. The Constitution regulates the Ombudsman's legal liability, right to receive information, right to institute proceedings, and the division of tasks with the Chancellor of Justice.<sup>315</sup>

The core of the Ombudsman's activities is traditional oversight of legality of actions that have been taken by officials or authorities. Actions that the Ombudsman can take include proposals, reprimands, and expressions of opinion. The Ombudsman does not have the authority to order or forbid persons to do something, change or overturn decisions, intervene with legal action, or order payment of compensation. The Ombudsman may file for impeachment, but this has rarely been done because the cause of the reprimand is usually a minor misdemeanour, not an actual crime.<sup>316</sup>

Overseeing police surveillance of telecommunications and undercover operations is one of the Ombudsman's special tasks. At the Parliament's request, the Ombudsman also oversees children's rights. The Ombudsman performs inspections in public offices and institutions, especially prisons, garrisons, and other closed institutions. This allows the Ombudsman to observe the treatment of prisoners, the institutionalised, conscripts, other military personnel, and peacekeepers. The Ombudsman supports the citizens by overseeing legality, mainly by investigating complaints. The Ombudsman may also launch investigations on his own initiative.<sup>317</sup>

The Ombudsman and the Chancellor of Justice are the highest supervisors of legality in Finland. The Chancellor of Justice supervises the lawfulness of the actions of government ministers and the President of the Republic, and the courts, and the implementation of basic rights and liberties and human rights. He also provides information and statements on judicial matters to the President of the Republic, the government, and the ministries when needed. The Chancellor of Justice can function as a special prosecutor in impeachment cases.<sup>318</sup>

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<sup>315</sup> The Constitution of Finland 731/1999; the Parliamentary Ombudsman Act 197/2002; the Administrative Procedure Act 434/2003; the Parliamentary Ombudsman

<http://www.oikeusasiamies.fi/Resource.phx/ea/english/ombudsman/tasks/index.htm>

<sup>316</sup> Koskinen 1998: Oikeusasiamies sosiaalisten perusoikeuksien valvojana (The Ombudsman as overseer of social fundamental rights); see also Husa 2002: Oikeusasiamies käsittelyn joutuisuuden valvojana (The Ombudsman as overseer of speedy processing)

<sup>317</sup> The Parliamentary Ombudsman <http://www.oikeusasiamies.fi/Resource.phx/ea/english/ombudsman/tasks/index.htm>

<sup>318</sup> The Constitution of Finland 731/1999; the Act on the Chancellor of Justice of the Government 193/2000; Office of the Chancellor of Justice <http://www.chancellorofjustice.fi/ok3e.htm>

The basic provisions for the position and tasks of the Chancellor of Justice are in the Constitution of Finland. Detailed provisions for the tasks of the Chancellor of Justice are given in the Act on the Chancellor of Justice of the Government. The Constitution also regulates the Chancellor's right to institute proceedings, division of tasks with the Ombudsman, right to receive information, and legal liability.<sup>319</sup>

### **7.1.1 Resources (Practice)**

#### **Score: 75 (Very good)**

When estimating whether resources are sufficient in practice, first we must determine the tasks, means, and goals. The Ombudsman's task is general oversight of legality of everyone performing a public service. It follows that the scope of duties is extraordinarily wide. To perform his tasks, the Ombudsman must investigate and handle complaints, report to the Parliament, perform necessary inspections, and launch investigations on his own initiative.<sup>320</sup>

The internal expert states that investigating complaints is the Ombudsman's most important task at the moment. There has been an increasing number of complaints, which has partly led to longer processing times. However, the Parliament has been fairly understanding about giving the Ombudsman more resources. The budget for 2012 has been increased significantly, though this increase is due to the fact that an international human rights centre has been established in connection with the Ombudsman. Therefore, the increase does not really solve the Ombudsman's resource deficit.<sup>321</sup>

Nevertheless, the internal expert points out that the Ombudsman's work and efficient use of resources is significantly aided by the amendment that came into force June 1, 2011, since it gave the Ombudsman more freedom to independently determine which complaints to investigate. The

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<sup>319</sup> The Constitution of Finland 731/1999; the Act on the Chancellor of Justice of the Government 193/2000

<sup>320</sup> Interview on June 1, 2011; the Parliamentary Ombudsman Act 197/2002

<sup>321</sup> Interview on June 1, 2011

expiration period of cases was also shortened from five years to two years, which facilitates better use and targeting of resources.<sup>322</sup>

The external expert finds the flood of complaints received by the Ombudsman problematic. Resources are insufficient because the institution's staff has not increased at the same pace as the number of complaints. The Ombudsman runs the risk of not having enough time to launch enough investigations on his own initiative or give statements on other important issues. The situation is made difficult by the fact that the abovementioned activities of the Ombudsman are extremely effective. The external expert assesses that the Ombudsman's resources are insufficient due to the vast amount of work created by the complaints.<sup>323</sup>

### **7.1.2 Independence (Law)**

#### **Score: 75 (Erittäin hyvä)**

The Constitution regulates the Ombudsman's qualification requirements, tasks, removal from office, right to receive information, right to institute proceedings, and the division of tasks with the Chancellor of Justice. The Parliamentary Ombudsman Act (March 14, 2002/197) prescribes the activities, interests, and rules of procedure of the Ombudsman and the Deputy-Ombudsmen in greater detail.<sup>324</sup>

The external expert finds the Ombudsman highly independent and impartial. However, the Ombudsman's activities are regulated by law and the Ombudsman is required to give the Parliament annual reports. Nevertheless, this does not make the institution harmfully dependent on the Parliament's actions.<sup>325</sup>

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<sup>322</sup> Interview on June 1, 2011

<sup>323</sup> Interview on May 24, 2011

<sup>324</sup> The Constitution of Finland 731/1999; the Parliamentary Ombudsman Act 197/2002; Interviews on May 24, 2011 and June 1, 2011

<sup>325</sup> Interview on May 24, 2011

There is a broad definition of the Ombudsman's qualification requirements in the Constitution: "The Parliament appoints for a term of four years a Parliamentary Ombudsman and two Deputy Ombudsmen, who shall have outstanding knowledge of law."<sup>326</sup> Competence for the office is usually built "in-house", first for the position of Deputy-Ombudsman and then the Ombudsman.<sup>327</sup>

The Constitution makes the following provisions for removing an Ombudsman from office: "The Parliament, after having obtained the opinion of the Constitutional Law Committee, may, for extremely weighty reasons, dismiss the Ombudsman before the end of his or her term by a decision supported by at least two thirds of the votes cast."<sup>328</sup> However, the situation has never arisen.

The Constitutional Law Committee has been satisfied with the Ombudsman's reports. For example, the Constitutional Law Committee made the following statement on the 2004 annual report: "The Parliamentary Ombudsman's annual report for 2004 is, as in previous years, a well formulated and clear presentation on the activities of the Ombudsman and the most common problems that have arisen in oversight of legality." A well-written annual report is a crucial part of the effectiveness of the Ombudsman's activities. In order to improve social effectiveness, it is important that officials study the Ombudsman's annual reports.<sup>329</sup>

However, the external expert feels that generally the Constitutional Law Committee has played a very small role in guiding the activities of the Ombudsman. Especially in the first decade of the 21st century, the Committee did not make any recommendations based on the annual reports on how the Ombudsman might develop his activities.<sup>330</sup> The writings of Pirkko K. Koskinen, a former Ombudsman, lead to the conclusion that the Constitutional Law Committee did not give any more direction in the 1990s, either: "There have been no discussions on policy or emphasis in the recent years, and the Committee has not even attempted to guide the Ombudsman's activities."<sup>331</sup> According to Koskinen, oversight of the Ombudsman has not been particularly effective. In

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<sup>326</sup> The Constitution of Finland 731/1999

<sup>327</sup> Interview on May 24, 2011

<sup>328</sup> The Constitution of Finland 731/1999; Interview on June 1, 2011

<sup>329</sup> Statement of the Constitutional Law Committee 2004; Interview on May 24, 2011

<sup>330</sup> Interview on May 24, 2011

<sup>331</sup> Koskinen 1997; Interview on May 24, 2011



practice, the attention of the people and the public word has proven a more important means of oversight. Both quarters are quick to criticise actively and loudly, and Koskinen feels that this oversight cannot be disregarded.<sup>332</sup>

The internal expert states that the constitutional requirement that the Ombudsman have “outstanding knowledge of law” has in parliamentary practice meant that the Ombudsmen have been lawyers. This has been a way to ensure sufficient knowledge of law.<sup>333</sup>

The expert points out that the Ombudsman institution has existed in Finland for 91 years, making the institution a stable and accepted part of Finnish administrative tradition. It used to be that political parties would search their membership for suitable candidates for the Ombudsman’s position, due to which the candidates and the elected Ombudsmen had political backgrounds. However, for the past fifteen years there have been efforts to divorce this political tradition. Since 1995, those wishing to be Ombudsman must first register their interest, after which the Constitutional Law Committee hears the candidates. Nevertheless, the internal expert comments that there is no law stating that the Parliamentary Ombudsman is an independent and impartial institution.<sup>334</sup>

### **7.1.3 Independence (Practice)**

#### **Score: 100 (Excellent)**

Both of the experts interviewed agree that in practice the Ombudsman is both independent and impartial. Because the Ombudsman is elected by the Parliament, there is a chance that political interests may affect decision-making. Both experts say that in practice there have been no actual attempts to unduly interfere with the Ombudsman’s activities.<sup>335</sup>

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<sup>332</sup> Koskinen 1997; Interview on May 24, 2011

<sup>333</sup> Interview on June 1, 2011

<sup>334</sup> Interview on June 1, 2011

<sup>335</sup> Interviews on May 24, 2011 and June 1, 2011

There is very little political oversight of the Ombudsman's activities.<sup>336</sup> The internal expert states that although political actors have contacted and still often contact the office of the Ombudsman, they are only helping to bring citizens' complaints to the attention of the Ombudsman institution. Relations with political decision-making are good but distant. The Parliament has not interfered with the Ombudsman's work in oversight of legality.<sup>337</sup>

The external expert assesses that the Ombudsman's activities are open and uses the annual reports as an example. In this respect, independence in practice has not, according to the expert's assessment, led to activities being "closed" to the public.<sup>338</sup>

### **7.2.1 Transparency (Law)**

#### **Score: 75 (Very good)**

The Parliamentary Ombudsman Act requires the Ombudsman to give the Parliament annual reports on his activities: "The Ombudsman shall submit to the Parliament an annual report on his or her activities and the state of administration of justice, public administration, and the performance of public tasks, as well as on defects observed in legislation, with special attention to implementation of fundamental and human rights." The Ombudsman may also submit a special report to the Parliament on a matter he or she deems to be of importance."<sup>339</sup>

The Ombudsman's tasks, legal liability, right to receive information and institute proceedings, and the division of tasks with the Chancellor of Justice are regulated by the Constitution. The Ombudsman is also bound by the Act on the Openness of Government Activities.<sup>340</sup> The

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<sup>336</sup> Interview on May 24, 2011

<sup>337</sup> Interview on June 1, 2011

<sup>338</sup> Interview on May 24, 2011

<sup>339</sup> The Parliamentary Ombudsman Act 197/2002; Interviews on May 24, 2011 and June 1, 2011

<sup>340</sup> The Constitution of Finland 731/1999; the Act on the Openness of Government Activities 621/1999; Interviews on May 24, 2011 and June 1, 2011

Constitutional Law Committee also hears the Ombudsman and the Deputy-Ombudsmen on the annual report.<sup>341</sup>

The reports and the Ombudsman website enable the public to get a detailed overview of the Ombudsman's activities. However, the law does not define what information on the Ombudsman's activities and decision-making citizens may be given during investigations.<sup>342</sup>

### 7.2.2 Transparency (Practice)

#### Score: 100 (Excellent)

Statutory reports are always publicly available. The external expert assesses that it is the annual reports and the Ombudsman website that make the institution's activities transparent in practice. The website contains the decisions made by the Ombudsman as well as detailed information on how to file a complaint and which officials are included in the Ombudsman's oversight.<sup>343</sup>

In addition to maintaining the website, the Ombudsman offers citizens opportunity to contact the office's legal advisers. The Ombudsman also offers a service for researchers. Brochures about the Ombudsman's activities are available in ten languages.<sup>344</sup>

The Office of the Ombudsman also receives citizens' phone calls and e-mails regarding legal problems and answers questions about the Ombudsman's activities. A typical question is whether the Ombudsman is the right avenue for filing a complaint.<sup>345</sup> However, the Ombudsman and the Chancellor of Justice transfer cases between their offices when they receive complaints that are not part of their jurisdiction. In other words, a citizen's chance to have their complaint investigated will not be lost even if the citizen accidentally files the complaint with the "wrong" authority.<sup>346</sup>

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<sup>341</sup> Interview on May 24, 2011

<sup>342</sup> Interview on May 24, 2011

<sup>343</sup> Interview on May 24, 2011

<sup>344</sup> Interviews on May 24, 2011 and June 1, 2011

<sup>345</sup> Interview on May 24, 2011

<sup>346</sup> Interview on May 24, 2011

The internal expert stresses that when the law allows for deliberation, the institutional policy is mainly one of publicity. The Ombudsman strives to serve the citizens, and the role of information distribution has been emphasised.<sup>347</sup> The external expert states that the jubilee book “Parliamentary Ombudsman 90 years”, which is a collection of articles, is a very good sample for assessing the transparency of the Ombudsman’s activities.<sup>348</sup>

### **7.2.3 Accountability (Law)**

**Score: 75 (Very good)**

The Constitution and the Parliamentary Ombudsman Act regulate the Ombudsman’s duty to submit reports. This means that the Ombudsman gives the Parliament annual reports on his activities. The Ombudsman institution is tasked with overseeing administration on the Parliament’s behalf and submitting reports on the oversight and on its own activities to the Parliament. There is no other statutory accountability.<sup>349</sup>

### **7.2.4 Accountability (Practice)**

**Score: 75 (Very good)**

In practice, the Ombudsman fulfils his accountability by submitting annual reports.<sup>350</sup> The external expert feels that while the Ombudsman's activities are transparent, as demonstrated by the reports and website, there is little oversight from the Parliament.<sup>351</sup>

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<sup>347</sup> Interview on June 1, 2011

<sup>348</sup> Jubilee book: Parliamentary Ombudsman 90 years

<http://www.oikeusasiamies.fi/Resource.phx/ea/english/publications/jubilee-book.htm>; Interview on May 24, 2011

<sup>349</sup> The Constitution of Finland 731/1999; The Parliamentary Ombudsman Act 197/2002; Interviews on May 24, 2011 and June 1, 2011

<sup>350</sup> Interviews on May 24, 2011 and June 1, 2011

<sup>351</sup> Interview on May 24, 2011

The external expert also criticises the lack of oversight and interest from the scientific community in the activities of the Ombudsman and the Chancellor of Justice. Ombudsmen have also not been very active in writing articles or other publications. The same applies to other staff of the Ombudsman's office. The previously mentioned jubilee book is an exception.<sup>352</sup> The external expert goes on to say that due to limited resources, the Ombudsman and his staff do not have enough time to publicly participate in seminars and such as often as required by good accountability and civic responsibility.<sup>353</sup>

The internal expert stresses that the Ombudsman is still accountable to the citizens as well. Reliability, responsibility, fairness, and equality must be taken into account especially when interacting with the citizens.<sup>354</sup>

#### **7.2.5 Integrity Mechanisms (Law)**

##### **Score: 75 (Very good)**

The Parliamentary Ombudsman Act has provisions for the Ombudsman's interests and their declaration: "A person elected to the position of Ombudsman, Deputy-Ombudsman or as a substitute for a Deputy-Ombudsman shall without delay submit to the Parliament a declaration of business activities and assets and duties and other interests which may be of relevance in the evaluation of his or her activity as Ombudsman, Deputy-Ombudsman or substitute for a Deputy-Ombudsman. During their term in office, the Ombudsman, the Deputy-Ombudsmen and a substitute for a Deputy-Ombudsman shall without delay declare any changes to the information referred to in paragraph (1) above."<sup>355</sup>

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<sup>352</sup> Jubilee book: Parliamentary Ombudsman 90 years

<http://www.oikeusasiamies.fi/Resource.phx/ea/english/publications/jubilee-book.htx>; Interview on May 24, 2011

<sup>353</sup> Interview on May 24, 2011

<sup>354</sup> Interview on June 1, 2011

<sup>355</sup> The Parliamentary Ombudsman Act 197/2002; Interviews on May 24, 2011 and June 1, 2011

The law regulates the Ombudsman's other duties as follows: "During their term of service, the Ombudsman and the Deputy-Ombudsmen shall not hold other public offices. In addition, they shall not have public or private duties that may compromise the credibility of their impartiality as overseers of legality or otherwise hamper the appropriate performance of their duties as Ombudsman or Deputy-Ombudsman."<sup>356</sup>

The external expert states that there are no actual rules to help solve conflicts of interest except when it comes to the division of tasks between the Ombudsman and the Chancellor of Justice. In the external expert's opinion, there exists no real set of ethical codes for the Ombudsman.<sup>357</sup>

The internal expert confirms the lack of ethical codes and guidelines. In their place, the emphasis is placed on the Administrative Procedure Act's incapacity regulations, which are highly valued within the organisation. In practice, this can be seen in which matters are handled by whom within the organisation. The Ombudsman and the Deputy-Ombudsmen do not handle matters related to organisations in which they have an interest or other connection. The internal expert points out that despite the lack of ethical codes, the principles of good administration that have been part of Finnish legislation since early 1980s are always taken into account in the Ombudsman's activities. In other places, the principles of good administration have been replaced by ethical codes that are not as formally binding as the Finnish statutory good practice.<sup>358</sup>

## **7.2.6 Integrity Mechanisms (Practice)**

**Score: 100 (Excellent)**

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<sup>356</sup> The Parliamentary Ombudsman Act 197/2002; Interviews on May 24, 2011 and June 1, 2011

<sup>357</sup> Interview on May 24, 2011

<sup>358</sup> The Administrative Procedure Act 434/2003; Interview on June 1, 2011; the Parliamentary Ombudsman <http://www.oikeusasiamies.fi/Resource.phx/ea/english/index.htm>

Both experts stress that statutory demands are taken into consideration in the Ombudsman's work.<sup>359</sup>

However, the external expert finds the question about protecting and realising the Ombudsman's integrity difficult. Nevertheless, the expert claims that the Ombudsman can act impartially towards those within his oversight. The Ombudsman's statements are public and therefore easily under public criticism, which makes it difficult for the Ombudsman to systematically favour a particular side. This in itself helps protect integrity in practice.<sup>360</sup>

The external expert also points out that the Ombudsman's decisions are made in teams, so a single Ombudsman or Deputy-Ombudsman would find it difficult to make decisions that are contrary to the office's general outlook.<sup>361</sup>

The internal expert stresses the importance of the organisational values, which in part guide the Ombudsman's activities. Impartial and courageous promotion of justice, humanity, and responsibility are values with an inherent set of ethical codes.<sup>362</sup>

### **7.3.1 Investigation**

Score: 75 (Very good)

The Parliamentary Ombudsman Act regulates the investigation of complaints. In addition, the Constitution regulates the Ombudsman's duties and right to institute proceedings.<sup>363</sup>

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<sup>359</sup> Interviews on May 24, 2011 and June 1, 2011; the Parliamentary Ombudsman Act 197/2002; the Administrative Procedure Act 434/2003

<sup>360</sup> Interview on May 24, 2011

<sup>361</sup> Interview on May 24, 2011

<sup>362</sup> Interview on June 1, 2011

<sup>363</sup> The Constitution of Finland 731/1999; The Parliamentary Ombudsman Act 197/2002

In 2009, citizens files over 4,300 complaints with the Ombudsman. In 2006, for example, the number was significantly lower at approximately 3,700 complaints. However, resources have been practically the same at both times.<sup>364</sup>

This demonstrates that it is easy to file a complaint. Complaints can be filed via an Internet form, by e-mail, or by post. Filing a complaint is also free of charge for all and does not require many formalities. Complaints may be filed on behalf of someone else and about any action of an official, regardless of whether it is an administrative decision or an action. Although a complaint is not as powerful a method of legal protection as an appeal, complaints have often led to desired results for the complainant through indirect effects.<sup>365</sup>

The Ombudsman has a statutory duty to investigate all complaints, which is a positive thing for legal protection, but a negative thing in that it leads to longer processing times. In other words, active and free-of-charge investigation of complaints sometimes causes decisions to be less effective due to their lateness. The backlog of complaints leads to the Ombudsman not having enough time to make inspections and launch investigations on his own initiative as often as needed.<sup>366</sup>

The external expert feels that it may be even too easy to file a complaint. In Keinonen and Määttä's study of the Ombudsman institution, one respondent stated: "The complaint form is easily available and the instructions make it easy to write a complaint. This is good for legal protection. I have observed that, based on the clearly exaggerated comments, people have filed complaints under the influence of alcohol and strong emotions. Writing a letter from start to finish would demand more deliberation."<sup>367</sup>

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<sup>364</sup> Parliamentary Ombudsman Annual Report 2009 (summary)

<http://www.oikeusasiamies.fi/dman/Document.phx?documentId=mj33410103951779&cmd=download>; Interview on May 24, 2011

<sup>365</sup> Interviews on May 24, 2011 and June 1, 2011; Lindström 2010: Compensation for violations of fundamental rights

<sup>366</sup> Interview on May 24, 2011

<sup>367</sup> Interview on May 24, 2011; Keinänen & Määttä 2007: Näkökulmia oikeusasiamiesinstituution vaikuttavuuteen (Perspectives on the effectiveness of the Ombudsman institution)



The internal expert confirms that the number of complaints has increased but is of the opinion that the Ombudsman is still working effectively and actively. However, some of the complaints are on issues that are not subject to the Ombudsman's oversight, such as banks or matters that are still before the courts. The Ombudsman has not quite reached his goal that no complaint be in-house for more than a year. The reality is not far off, however, because no complaint is older than two years. Despite the relatively limited resources, investigation can be seen to be both effective and active.<sup>368</sup>

### 7.3.2 Promoting Good Practice

#### Score: 75 (Very good)

Oversight of good practice, such as good service, cooperation with officials, and good language is one of the key areas of the Ombudsman's oversight of legality aimed to safeguard civic rights. Good practice is overseen through the Ombudsman's statements, decisions, and annual reports in particular.<sup>369</sup> The Ombudsman can influence the activities of officials through various instruments, such as prosecution, reprimand, expression of opinion, drawing attention to an issue, proposal for changes, report, and other methods of information distribution. These instruments can be classed as severe, mild, or neutral. Mild and neutral instruments are used most often.<sup>370</sup>

According to the external expert, the Ombudsman has a central role in developing good practice. The interviewee feels that the Ombudsman's statements hold great weight when the contents of good practice are being defined.<sup>371</sup>

The external expert feels that the Ombudsman's role has shifted from prosecution towards improving government activities. The majority of the Ombudsman's actions are recommendations

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<sup>368</sup> Interview on June 1, 2011

<sup>369</sup> Interviews on May 24, 2011 and June 1, 2011

<sup>370</sup> Husa 2002: Oikeusasiamies käsittelyn joutuisuuden valvojana (The Ombudsman as overseer of speedy processing)

<sup>371</sup> Interview on May 24, 2011

on how an official should have acted in a certain situation. In 2009, as much as 86% of all actions were recommendations, while only 4% of actions were reprimands.<sup>372</sup>

The Ombudsman publishes all his decisions on the website. These press releases are also noted in the media. Publicity is an excellent way to bring the Ombudsman's views to public awareness and help promote good practice.<sup>373</sup>

The Ombudsman's statements are part of officials' training activities and internal communication. Hence, a statement from the Ombudsman affects practice in other ways than just through public discourse. The Ombudsman also trains officials, although the resources for this task are very meagre.<sup>374</sup> The internal expert states that the Ombudsman starts campaigns for officials whenever possible, but actual development work belongs to the administrative sector's purview. One example of an Ombudsman's report with a strong influence on the national level is the instructions for implementing the Act on Services and Assistance for the Disabled. Before the Ombudsman's report the law was being interpreted and applied in vague, contradictory, and divergent ways.<sup>375</sup>

During the course of their study, Keinänen and Määttä found that officials take the Ombudsman's statements into consideration in matters under investigation and on an even wider scope. Officials were meticulous in carrying out the instructions or recommendations included in the Ombudsman's decision. Officials have stated that the Ombudsman's decisions and statements help disambiguate unclear points of the law and thus improve the activities of officials. In addition, officials mostly agree with the Ombudsman's decisions.<sup>376</sup>

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<sup>372</sup> Interview on May 24, 2011

<sup>373</sup> Interview on May 24, 2011

<sup>374</sup> Interview on May 24, 2011

<sup>375</sup> Interview on June 1, 2011

<sup>376</sup> Interview on May 24, 2011; Keinänen & Määttä 2007: Näkökulmia oikeusasiamiesinstituution vaikuttavuuteen (Perspectives on the effectiveness of the Ombudsman institution)

## 6.8 SUPREME AUDIT INSTITUTION

### Summary

The National Audit Office (NAO) is the supreme audit institution in Finland. It is the oldest government institution in Finland that audits the state's finances and financial management.<sup>377</sup> Based on its formal position, the NAO is one of the three constitutional supervisory authorities along with the Parliamentary Ombudsman and Finnish government's Chancellor of Justice. The NAO is external and independent from the administration in a similar way as the administrative courts.<sup>378</sup>

Section 90 of the Finnish constitution prescribes the position and auditing rights of the NAO. "An independent body affiliated with the Parliament, the State Audit Office, exists to audit the financial management of the State and compliance with the budget. More detailed provisions on the duties of the State Audit Office are laid down by an Act. The State Audit Office shall have the right to obtain from authorities and other parties without delay documents, reports and other information necessary for the Audit Committee and the State Audit Office to perform its prescribed task."

The scope of the NAO's authority is laid down by the Act on the National Audit Office of Finland and the Act on the Right of the Parliamentary State Auditors and the National Audit Office to Audit Certain Credit Transfers between Finland and the European Communities. The Act on a Candidate's Election Funding and the Act on Political Parties are also relevant to the NAO.<sup>379</sup>

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<sup>377</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

<sup>378</sup> Pöysti 2010: Hyvä hallinto ja parempi sääntely ovat aitoa tuottavuustyötä (Good Administration and Better Regulation Truly Increase Productivity)

<sup>379</sup> The Act on the National Audit Office of Finland (676/2000), the Act on the Right of the Parliamentary State Auditors and the National Audit Office to Audit Certain Credit Transfers between Finland and the European Communities (353/1995); the Act on a Candidate's Election Funding (273/2009); the Act on Political Parties 10/1969, amended 686/2010.

The NAO's predecessors operated under the Ministry of Finance. Under the new Finnish Constitution that came into force on March 1, 2000, the NAO began operating as an independent agency in connection with the Parliament in January 2001.<sup>380</sup>

There do not seem to be problems with the NAO's functioning in relation to its legal and administrative position. In regard to maintaining integrity, legislation and practical operations models are stable and functioning well. The NAO staff and president are chosen on professional merit, and political influence does not play a role in hiring. There are also no signs of political or other inappropriate interference with the NAO's activities.

However, more resources are needed to maintain operations. This is most evident when the situation in Finland is compared with other Nordic countries. The scope of the NAO's duties is quite wide, but at the same time its powers are extremely specific. Because supervising the legality of election funding and party subsidies is an essential part of the integrity system, the NAO's task as a supervisor of legality crosses over to general supervision of legality and is therefore larger in scope than the international practice.<sup>381</sup> For the NAO to be able to properly fulfil this role, the NAO's budget should be increased, especially in the personnel section.

## Introduction

The basis for the current state audit system was created in the Finnish Constitution of 1919. Legislation to reform the audit system was passed in 1947. The new National Audit Office, which was tasked with auditing the state's financial management, started operating in 1948.<sup>382</sup>

Experiences show that well-established tasks of financial and performance-controlling institutions and transparent controlling mechanisms might reduce potential corruption. One might even argue that corruption increases if administrative control and audit mechanisms are missing or if

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<sup>380</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao); The Constitution of Finland 731/1999.

<sup>381</sup> Interview on May 6, 2011.

<sup>382</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

controlling is not extensive.<sup>383</sup> Internal audit plays a significant role in preventing corruption because of its semi-autonomous standing and its function as overseer of internal control mechanisms. In general, an internal audit may have greater access and higher potential for broad coverage of operation than any other controlling institution, but it is dependent on political and management intervention.<sup>384</sup>

The financial side of controlling corruption is organised in Finland so that all Finnish ministries and government agencies have a unit for internal control. However, these units are primarily concerned with financial audits. Corruption-related issues may be revealed in terms of performance audits and on the basis of denunciation. If internal units find misuse or any other signs of corruption, they always pass the case to the police authorities. Internal as well as police investigations are speeded up with external pressure: corruption cases are interesting topics for the media.<sup>385</sup>

At the top of the system, the Finnish Parliament controls and audits government finances alongside its legislative role. From among the Members of Parliament, four auditors of public accounts are selected. The formal duty of these auditors is to audit the accounts and administration.<sup>386</sup> In their annual reports to the Parliament over the recent years, the auditors have handled maladministration-related cases and issues, such as potential problems of shadow economics and misuses of external financing in public organisations.<sup>387</sup>

The National Audit Office performs financial and performance audits as an independent body. In terms of financial control, the office ensures compliance with the state budget and the provision of correct and adequate annual accounts by the state and agencies. In 2010, 118 financial audits were conducted. Performance audits consist of producing information on the effectiveness of administration and compliance with regulations and the principles of good administration. Performance auditing serves the information needs of the Parliament, administration, and citizens,

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<sup>383</sup> Maor 2004; Caiden 2001

<sup>384</sup> Schwartz 2003

<sup>385</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011

<sup>386</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011; Parliamentary Auditors  
<http://web.eduskunta.fi/Resource.phx/parliament/organs/parliamentarystateauditors.htx>

<sup>387</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011; Parliamentary Auditors  
[http://www.eduskunta.fi/triphome/bin/vex3000.sh?kaikkihaku=tunniste=k+and+nimike=Eduskunnan tilintarkastus](http://www.eduskunta.fi/triphome/bin/vex3000.sh?kaikkihaku=tunniste=k+and+nimike=Eduskunnan+tilintarkastus)

through evaluation. There were 21 performance audits carried out in 2010. Most of the audits consist of recommendations for better performance and conduct.<sup>388</sup>

The formal audit is not the whole picture. Individuals and organisations can submit complaints to the National Audit Office concerning the state's financial management, public economy, and suspicions of abuse or misuse of government funds. For an unknown reason, the citizen complaints accumulate in a few branches of administration, such as agriculture and forestry as well as education, transport, and communication. The number of complaints varies from approximately 30 to over 60 cases each year.<sup>389</sup>

Approximately every fifth complaint leads to measures being taken. Notable subjects of complaints have been the inappropriate administration and supervision of subsidies to a certain village association's Leader program and the deficiencies in the online services of the Tax Administration that could affect citizens' legal protection.<sup>390</sup>

In 2010, state offices and agencies filed 20 statutory reports of abuse of their funds. In addition, state offices and agencies filed a further six reports of abuse that were non-statutory but which they wished to bring to the awareness the NAO. The NAO itself reported no offences in 2010, but it advised another office to report a credit card fraud.<sup>391</sup>

## Structure and Organisation

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<sup>388</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011; NAO Financial Statement 2010  
[http://www.vtv.fi/files/2472/VTV\\_Tilinpaatos\\_2010\\_netti.pdf](http://www.vtv.fi/files/2472/VTV_Tilinpaatos_2010_netti.pdf) (In Finnish)

<sup>389</sup> Ikola-Norrbacka, Salminen & Viinamäki 2011; NAO Financial Statement 2010  
[http://www.vtv.fi/files/2472/VTV\\_Tilinpaatos\\_2010\\_netti.pdf](http://www.vtv.fi/files/2472/VTV_Tilinpaatos_2010_netti.pdf) (In Finnish)

<sup>390</sup> Annual Report to the Parliament 2011

<sup>391</sup> Annual Report to the Parliament 2011

The National Audit Office's task is to ensure the legality and effectiveness of the government's financial management and compliance with the state budget.<sup>392</sup> The NAO's position is secured in the constitution and in the Act on the National Audit Office of Finland, which states that the NAO is an independent body affiliated with the Parliament.<sup>393</sup>

The National Audit Office is the supreme audit institution that audits the state's finances and asset management. Through its audit activities the NAO strives to ensure that public funds are spent on targets chosen by the Parliament effectively and in compliance with legislation. The NAO's goal is to improve and supervise the state's financial management and build confidence in the proper and effective use of public funds. The NAO is also tasked with providing the Parliament, the Finnish government, and administration necessary supervisory and audit information on financial management, compliance with state budget, and state administration. As an independent and impartial expert, the NAO is to support the decision-making of the Parliament, the government, and state administration.<sup>394</sup>

The NAO's scope covers the Finnish government and ministries, state agencies and offices, funds outside the state budget, state business enterprises and state-owned companies, state grants and aids to local authorities, enterprises and other organisations, and the transfer of funds between Finland and the European Communities. The NAO does not audit the Parliament's finances, funds under Parliament control, the Bank of Finland, or the Social Insurance Institution. The right to audit does not apply to private persons who have received funds or other financial support or benefit for personal or family needs or for the direct support of their household.<sup>395</sup>

The NAO strives to focus its resources for maximum effectiveness. The NAO's activities are directed according to the economic significance of the matter and the associated risk for the state economy. The higher the significance and risk to the state economy, the more important it is to start an audit.<sup>396</sup>

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<sup>392</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao); The Act on the National Audit Office of Finland (676/2000)

<sup>393</sup> The Act on the National Audit Office of Finland (676/2000), the Constitution of Finland 731/1999.

<sup>394</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

<sup>395</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao); The Act on the National Audit Office of Finland (676/2000)

<sup>396</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

The NAO also produces new information, confirms the reliability of information, and ensures compliance with the state budget and that the financial management of state agencies and offices is proper and effective. The NAO has strategic focuses from which annual themes are derived.<sup>397</sup>

The Parliament's Audit Committee and the National Audit Office have the right to obtain the information they require to perform their task from officials and auditees. State authorities and offices must immediately report any abuse of their funds to the NAO. The NAO reports improprieties to the appropriate body and sees that any improprieties and shortcomings observed in audits are corrected.<sup>398</sup>

The NAO comprises the Financial Audit, Performance Audit and Executive Management Support units. There are also the Administration and Information units, the Scientific Council, and the Quality Board. The NAO has approximately 150 employees. Its headquarters are in Helsinki, with branch offices in Turku and Oulu.<sup>399</sup>

### **8.1.1 Resources (Practice)**

#### **Score: 50 (Good)**

The NAO controls and administers its own resources and prioritises them according to what is needed in each situation. The NAO's budget allocation does not necessarily increase each year, and resources have been limited. This is partially due to legislation that has appointed the NAO more duties. Human resources are also stretched. Despite the limited resources, NAO staff is hired according to strict professional criteria, which guarantees their high level of professionalism.

The internal expert assesses that the NAO does not have sufficient resources to fulfil the duties assigned to it by law. The proposed budget for 2012 included just 150 full-time equivalents. This number is the smallest in the Nordic Countries; for example in Norway the corresponding number is

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<sup>397</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

<sup>398</sup> The Constitution of Finland 731/1999.

<sup>399</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)



800 full-time equivalents. Furthermore, the scope of the NAO's duties is the largest compared to other Nordic Countries, because the NAO is also responsible for auditing election funding and party subsidies. The internal expert assesses that these additional duties stretch the NAO's limited resources even thinner. The irregularities concerning election funding in Finland in the past few years have also taxed resources.<sup>400</sup>

According to our external expert, when it comes to auditing, it is difficult to precisely say how wide the scope should be. Auditing can be done almost limitlessly, but sometimes a small-scale audit may suffice. If the NAO can successfully prioritise its duties, the external expert assesses that resources are sufficient for reaching objectives.<sup>401</sup>

### **8.1.2 Independence (Law)**

#### **Score: 100 (Excellent)**

The independence of the NAO is defined in the constitution. The tasks and position of the NAO are handled in other legislation as well, and especially the Act on the National Audit Office of Finland defines the NAO's position in relation to other institutions. The NAO can independently determine its modes of operation, auditing targets, and methods. The activities of NAO officials are covered in the State Civil Servants' Act, making them responsible for the legality of their actions under the penal code. NAO officials are independent and impartial while auditing. The same is required of the NAO president, the Auditor General.

The external expert assesses that the NAO's constitutional position is independent even though the NAO is affiliated with the Parliament. According to the expert, the law makes it very clear that the NAO does not operate "under" the Parliament but in connection with it. The internal expert also confirms the NAO's independence. The NAO's position is defined in the constitution, the Act on the National Audit Office of Finland, the Act on a Candidate's Election Funding, and the Act on

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<sup>400</sup> More on this in the section on political parties.

<sup>401</sup> Interviews on May 6, 2011 and May 24, 2011.

Political Parties.<sup>402</sup> For the most part it can be said that the NAO is sufficiently independent from the Parliament. The expert also sees this independence in practical application.

However, it should be noted that the NAO president's salary is decided within the Parliament's administration. This leads to the watcher's salary depending on those he watches. A better practice would be to define the salary in another way, such as directly in law. Nevertheless, the internal expert assesses that the Finnish system has functioned flawlessly so far.<sup>403</sup>

### **8.1.3 Independence (Practice)**

Score: 100 (Excellent)

The NAO staff is hired on professional merit. The staff of all audit units must act impartially. The incapacity regulations laid down in the Administrative Procedure Act are taken into consideration in both hiring and operations. Employment is generally long-term. Staff is not dismissed for political reasons or due to changing political climates.

The internal expert sees independence in practice in the fact the NAO Auditor General is elected by closed ballot. The procedure is the same as for electing the Parliamentary Ombudsman. There appear to have been no real political appointments. The organisation itself has internal recruitment criteria, which according to our expert are strictly followed.

There is no visible external interference, but occasionally the NAO receives comments and criticism on why some auditees have been chosen for a social effectiveness assessment. According to the expert, these situations also create the need to draw a clear line between criticism and attempt to influence the choice of auditees. On the other hand, external pressure has never caused the NAO to change its activities.

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<sup>402</sup> The Constitution of Finland 731/1999; The Act on the National Audit Office of Finland 676/2000; the Act on a Candidate's Election Funding 273/2009; the Act on Political Parties 10/1969, amended 686/2010.

<sup>403</sup> Interviews on May 6, 2011 and May 24, 2011.

The external expert agrees that the NAO's activities are independent in both law and practice. There are no signs of direct external interference with the NAO or the auditees.<sup>404</sup>

### **8.2.1 Transparency (Law)**

#### **Score: 100 (Excellent)**

In Finland, the publishing of documents is regulated by the Act on the Openness of Government Activities.<sup>405</sup> The internal expert explains that the NAO is known for informing the public and making its activities transparent. There is a strong trend in the NAO for active information distribution. Whenever possible, documents are put online for the citizens' perusal and thus made available for public discourse.

According to the external expert, the public nature is emphasised by the fact that the NAO publishes its financial audit reports and performance audit reports online.

The NAO has a duty to give the Parliament annual reports on its activities and on the state economy as well as supervise election funding and party subsidies. In addition, the NAO must prepare a financial statement and an annual report, both of which are public documents.<sup>406</sup>

### **8.2.2 Transparency (Practice)**

#### **Score: 75 (Very good)**

The documents required by law are prepared and produced for the Parliament's assessment and for the public. In practice, the NAO's policy of active information distribution means that more

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<sup>404</sup> Interviews on May 6, 2011 and May 24, 2011.

<sup>405</sup> The Act on the Openness of Government Activities 621/1999.

<sup>406</sup> Interviews on May 6, 2011 and May 24, 2011.

information is made available to citizens via the Internet than is required by law. For example, the NAO website contains speeches, statements, and topical commentaries by NAO officials.

NAO publications are also available on the website, mostly in PDF format. Alternatively, citizens may order NAO publications in print. The NAO also has a customer magazine, *Reviisori*, which can be downloaded from the website (in Finnish only).

The internal and external experts are unanimous that this part of the NAO's operations functions exceptionally well. It is difficult to see how this policy of openness and information distribution could be improved on without detracting from the NAO's primary task.<sup>407</sup>

### **8.2.3 Accountability (Law)**

**Score: 75 (Very good)**

The Act on the National Audit Office of Finland<sup>408</sup> states that the NAO must give the Parliament an annual report on its activities by the end of each September. The NAO may also give the Parliament additional reports when needed.

Each spring, the NAO gives the Parliament an additional report on the audit of the state's financial statement and financial report. The Parliamentary Auditors audit the auditing board and give an assessment on its activities.<sup>409</sup>

### **8.2.4 Accountability (Practice)**

**Score: 75 (Very good)**

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<sup>407</sup> Interviews on May 6, 2011 and May 24, 2011.

<sup>408</sup> The Act on the National Audit Office of Finland (676/2000)

<sup>409</sup> Interviews on May 6, 2011 and May 24, 2011.

The audit authority is in practice accountable to the Parliament for the actions stated in its report. Because the NAO continuously reports its activities publicly, it also fulfils its responsibility to the citizens.

The experts assess that statutory reporting works well in practice. There is no separate, systematic auditing of the audit authority, but the NAO has commissioned evaluations on the effectiveness of its audit activities.<sup>410</sup>

### **8.2.5 Integrity Mechanisms (Law)**

#### **Score: 75 (Very good)**

The NAO's vision is to be a top expert of auditing the state's financial management. The NAO has a set of common values that guide its auditing activities and quality of work. These values are expertise, objectivity, cooperation, courage, and effectiveness.<sup>411</sup> According to our expert, the NAO strives to uphold these values in its audit activities. On the other hand, the NAO's activities are also guided by the audit regulations of international organisations, good auditing practice, and the ethical code of internal auditing.<sup>412</sup>

The experts assess that in the Finnish system, the integrity mechanism is included in the Act on the National Audit Office of Finland. NAO activities are also regulated by principles of good administration, incapacity regulations, and constitutional statements. More specific practical instructions are handed down by the NAO.

Conflicts of interest are largely solved with the help of the abovementioned laws and by guaranteeing the full independence of all NAO activities. There are clear statements on the proper

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<sup>410</sup> Interviews on May 6, 2011 and May 24, 2011.

<sup>411</sup> The National Audit Office: Task, Vision, and Values. <http://www.vtv.fi/files/2340/values.pdf>

<sup>412</sup> ISSAI, International Standards of Supreme Audit Institutions <http://www.issai.org/composite-347.htm>; IIA, Institute of Internal Auditors Finland, Code of Ethics <http://www.theiia.fi/?sc=5299&sc2=5393> (in Finnish; the English original available at <http://www.theiia.org/guidance/standards-and-guidance/ippf/code-of-ethics/english/>); interviews on May 6, 2011 and May 24, 2011.

size of gifts and the limits of hospitality, but no specific legislation. However, according to the internal expert this has not caused any practical difficulties so far.

### **8.2.6 Integrity Mechanisms (Practice)**

**Score: 75 (Very good)**

According to the internal expert, the incapacity regulations are known and utilised very well, and for the most part the international and internal ethical codes of auditing are recognised as part of the NAO's activities. It appears that the organisational values are known and highly regarded.

However, the internal expert believes that it is equally important to raise awareness of the importance of ethical action and to further strengthen the ethos of the NAO's expert duties. This facilitates activities remaining objective, assessing new situations correctly, and avoiding conflicts of interest in the future as well.

The need to emphasise ethics is demonstrated by the fact that there is presently a guidebook, a set of ethical codes, in the works for NAO employees. The NAO is also closely watching the Dutch audit office, which is currently developing an integrity self-assessment tool.

According to the external expert, integrity is also safeguarded in practice. There have been no known and reported integrity violations within the NAO. Our expert has no knowledge of cases where integrity might have been threatened.<sup>413</sup>

### **8.3.1 Effective Financial Audits**

**Score: 75 (Very good)**

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<sup>413</sup> Interviews on May 6, 2011 and May 24, 2011.

The NAO protects citizens' interests by auditing the collection of state revenues, the use of state funds, and the management of state property. The NAO improves the performance of state administration by performing financial and performance audits and providing expert services in financial supervision.<sup>414</sup>

Audit reports may lead to warnings or the auditee being obliged to notify the NAO of the required corrective measures. Performance audit is focused based on risk assessment and is meant to improve performance. The starting point is that all performance audits lead to recommendations for improvements. The NAO receives reports on whether the recommendations are followed.<sup>415</sup>

The internal expert assesses that more resources are needed for the effective auditing of public funds. For example, state business enterprises outside the state budget should be audited more widely than they are at present. Although the NAO does not inspect single government internal audits, there are annual assessments given on the state and development of internal supervision. The NAO does performance auditing in addition to supervising the legality of the use of funds.

The external expert comments that the NAO performs equivalence checking to ensure the legality of the use of funds. The annual audit is a good example of this. Performance auditing is the other main field of the NAO. In this case, audits are mainly focused on the proper and effective use of state revenues. According to the external expert, in recent years the NAO has been developing this area in particular.<sup>416</sup>

### **8.3.2 Detecting and Sanctioning Misbehaviour**

#### **Score: 100 (Excellent)**

Matters concerning the protection of law and principles of good administration are constantly subject to the NAO's external auditing. For example, in 2008 the NAO performed a performance

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<sup>414</sup> National Audit Office [www.vtv.fi/en/nao](http://www.vtv.fi/en/nao)

<sup>415</sup> Interview on May 6, 2011.

<sup>416</sup> Interviews on May 6, 2011 and May 24, 2011.

audit of the administrative courts that assessed the effectiveness of the courts and the prerequisites for the activities of the administrative courts.<sup>417</sup>

In the speech he gave when the administrative courts convened on December 3, 2010, the NAO Auditor General Pöysti stated that the principles of good administration must be a clear part of setting the administration's objectives and of its performance reports. He especially stressed the importance of making correct decisions and giving equal treatment. According to Pöysti, there have been clear signals that there is certain pressure towards good administration. The same topic was raised in a study on the ethics of administration that was commissioned for the citizens.<sup>418</sup>

The external expert states that although in the Finnish system the NAO does investigate cases of misbehaviour and misconduct, preliminary investigation is the purview of the police and indictments are prosecuted by public prosecutors.

The internal expert specifies that the NAO has the same role as the Ombudsman, a secondary right to investigate misbehaviour and misconduct of public officeholders. The starting point of the law is that if the authorities will not act, the NAO will. In practice, the NAO's activities lead to a few malfeasance charges each year. Usually the NAO merely speeds up things so that corrective measures are taken before things reach the level of malfeasance charges. Our expert states that in practice the NAO does investigative work even though it is not part of the NAO's official duties. In its work with election funding and party subsidies, the NAO also functions as a sanction board.<sup>419</sup>

### 8.3.3 Improving Financial Management

**Score: 75 (Very good)**

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<sup>417</sup> Pöysti 2010: Hyvä hallinto ja parempi sääntely ovat aitoa tuottavuustyötä (Good Administration and Better Regulation Truly Increase Productivity)

<sup>418</sup> Pöysti 2010: Hyvä hallinto ja parempi sääntely ovat aitoa tuottavuustyötä (Good Administration and Better Regulation Truly Increase Productivity); Salminen & Ikola-Norrbacka 2009

<sup>419</sup> Interviews on May 6, 2011 and May 24, 2011.



According to the internal expert, performance auditing leads to effectiveness. A key purpose of auditing is to ensure economy, productivity, and effectiveness, which constantly brings matters concerning effectiveness to the forefront. Effectiveness evaluation supports the principles of good administration, whether they involve administration in general, management, or finance.

Our external expert found it fairly difficult to estimate how much the NAO is effectively improving the government's financial management and control. It is assumed that just awareness of the NAO is enough to improve control of finances. Audit findings also improve both financial management and control in general.

The NAO publishes all audit reports on the Internet, which makes it possible for many things to become part of public discourse. In fact, NAO reports have recently led into public discourse on e.g. the state productivity programme, health care information systems, and the performance of the health care options of the elderly. Public discourse also indirectly leads to efforts to improve management and financial control.<sup>420</sup>

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<sup>420</sup> Interviews on May 6, 2011 and May 24, 2011.

## 6.9 ANTI-CORRUPTION AGENCIES

### Summary

Finland does not have an anti-corruption agency that functions as an independent unit. According to the experts interviewed, the prevention of corruption is not considered a central issue in political decision-making, possibly due to the fact that Finland has long held a top spot on the list of least corrupted countries, including Transparency International's Corruption Perceptions Index, and the fact that there have been relatively few cases of corruption in Finland. Another factor that may affect political decision-making is the great trust that the citizens have in social institutions.<sup>421</sup>

Instead of a separate anti-corruption agency, Finland has a different system. There is an anti-corruption project within the National Bureau of Investigation (NBI). Its staff consists of one person with a police background. There are also other institutions fighting corruption. At the recommendation of GRECO (Group of States against Corruption), an anti-corruption network was established in Finland. The network is loosely structured, consists of experts, and functions under the coordination and budget of the Ministry of Justice. Members of the network meet a few times a year to hold discussions and share information. It would be prudent to have more dialogue on how Finnish anti-corruption activities should be organised in order to be as effective and appropriate as possible for the Finnish situation.

Resources for anti-corruption activities are meagre. Both the project and the network are also dependent on other actors; the project is dependent on the NBI's funding and the network is dependent on the coordination of the Ministry of Justice. However, the accountability and independence of activities is statutory. Transparency is also protected by legislation. Things do not seem to work as well in practice as they do in law, especially when it comes to independence and transparency of activities. It is difficult to find information about the project or the network. On the

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<sup>421</sup> Transparency International [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi); Salminen & Ikola-Norrbacka 2009

network's part, there is some information available on the appointing of the network. The anti-corruption project is slightly more transparent in that it publishes a press release on current issues a few times a year and an annual report on Finland's corruption situation. The activities of the anti-corruption network are not continuous. The network is appointed for approximately two years at a time, with no permanent plan of action.

## Introduction

Anti-corruption agencies have been established in many countries since the 1990s. Every country has its own methods for preventing and investigating corruption and for penalising corruption. Prosecution service and auditing are examples of this. An actual anti-corruption agency is a separate and permanent agency whose main purpose is to protect integrity through centralised oversight of the key areas of administration. Internationally, the tasks of an anti-corruption agency usually include receiving and responding to complaints; intelligence gathering, monitoring, and investigation; prosecutions and administrative orders; research, analysis, and technical assistance; ethics policy guidance, compliance review and scrutiny of asset declarations; and public information, education, and outreach.<sup>422</sup>

Just existing is not enough to make an agency and its activities effective. Success depends on the agency's political mandate, leadership, actual resources, and possible external influences. The agency's effectiveness also depends on the calibre of the agency's staff and how well their education and integrity are safeguarded.<sup>423</sup>

Article 6 of the United Nations Convention Against Corruption proposes that governments should establish a preventive anti-corruption body.<sup>424</sup> Instead of an anti-corruption agency, Finland has the NBI's anti-corruption project and the anti-corruption network coordinated by the Ministry of

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<sup>422</sup> USAID AntiCorruption Agencies 2006

[http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/publications/pdfs/ACA\\_508c.pdf](http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ACA_508c.pdf)

<sup>423</sup> USAID AntiCorruption Agencies 2006

[http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/publications/pdfs/ACA\\_508c.pdf](http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ACA_508c.pdf); Doig 1995 Good government and sustainable anti-corruption strategies: a role for independent anti-corruption agencies?

<sup>424</sup> United Nations [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

Justice. Neither fills the role of an anti-corruption agency from an international perspective because they are not independent agencies with independent powers of investigation. The resources of the NBI's anti-corruption project are very limited and part of the NBI's funding. The activities of the anti-corruption network are coordinated and funded by the Ministry of Justice.

## **Structure and Organisation**

The anti-corruption network was established in Finland in 2002 at the recommendation of GRECO. It was recommended that Finland should have a cooperation body tasked with exchanging anti-corruption information and practices between different officials and authorities. The network's first term ended in 2009. A new network has been appointed since with a term that started in February 2010 and will last until the end of 2011.<sup>425</sup>

The network's goal is to help minimise the presence of corruption in Finland. The network's tasks are to promote anti-corruption activities, propose initiatives regarding this, increase awareness of corruption in society, and promote awareness of anti-corruption guidelines in different sectors of society. Additional tasks include promoting research on corruption as well as following and promoting the implementation of obligations under international anti-corruption agreements and obligations by international bodies.<sup>426</sup>

In addition to the central ministries, the network also includes members from the NBI, the Office of the Prosecutor General, the National Board of Customs, the Tax Administration, the Central Chamber of Commerce, the Confederation of Finnish Industries, the Association of Finnish Local and Regional Authorities, the European Institute for Crime Prevention and Control, and TI Finland.<sup>427</sup> The network does not include university researchers or other academic experts.

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<sup>425</sup> Ministry of Justice Memorandum OM 7/69/2009; Appointment Decision OM 7/69/2009; Group of States against Corruption [http://www.coe.int/t/dghl/monitoring/greco/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/default_en.asp)

<sup>426</sup> Ministry of Justice Memorandum OM 7/69/2009; Appointment Decision OM 7/69/2009

<sup>427</sup> Appointment Decision OM 7/69/2009

Former Ombudsman and Member of Parliament Jakob Söderman has criticised the network's activities. He criticises the fact that the network has never had independent funding, nor has it been able to carry out its own investigations. The network has usually assembled a few times a year, which is part of the reason why the network's results are fairly weak from the viewpoint of social effectiveness. Söderman also believes that because the anti-corruption network was established by the Ministry of Justice, it does not fulfil the requirements of the UN Convention Against Corruption.<sup>428</sup>

### 9.1.1 Resources (Law)

#### Score: 50 (Good)

According to an NBI report, corruption is not defined in Finnish legislation or in the Government Programme, nor is there a legislative programme for it. And yet corruption cases are increasing in frequency.<sup>429</sup>

Although there is no actual anti-corruption agency in Finland, the NBI has a special project for handling corruption-related issues. Investigating corruption is also part of certain other actors' duties: the National Audit Office, the Underground Economy Investigation Unit, the Financial Intelligence Unit, and the anti-corruption network, to name a few. Finnish anti-corruption activities are decentralised and seem disconnected. The Council of Europe's GRECO has recommended in its country report that a separate anti-corruption agency be established in Finland. Citizens have access to the normal methods of legal protection, which are the responsibility of the Ombudsman and the Chancellor of Justice of the Government.<sup>430</sup>

According to the outside expert interviewed, the anti-corruption project does not have its own budget but functions on the NBI's budget funding, under the Ministry of the Interior. The anti-

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<sup>428</sup> Jakob Söderman [http://www.jacobsoderman.fi/index.php?option=com\\_content&task=view&id=960&Itemid=1](http://www.jacobsoderman.fi/index.php?option=com_content&task=view&id=960&Itemid=1)

<sup>429</sup> Katsaus korruptiorikollisuuteen 2011 (A review of corruption crime 2011)

<sup>430</sup> Interview on May 17, 2011

corruption network functions on the budget of the Ministry of Justice. The anti-corruption project and the anti-corruption network cannot plan their budgets independently because they are tied to the budgets of their respective ministries.<sup>431</sup>

The inside expert confirms that the project's budget depends on the NBI. The internal expert goes on to say that the anti-corruption project's employee is expected to do too much. The employee's tasks include unmasking corruption, offering expert services, developing interest groups, corruption-related training and education, and developing training and education. It is somewhat impossible to fulfil all these duties because there is not enough political will to support legislation and funding.<sup>432</sup>

### **9.1.2 Resources (Practice)**

#### **Score: 25 (Satisfactory)**

The NBI's anti-corruption project employs one person with a police background. The anti-corruption network has approximately 20 members, who work in the network in addition to their other employment. According to the external expert's assessment, resources seem meagre. If resources were increased, activities would probably become more effective. However, there is no indication of the resources being increased.<sup>433</sup>

The inside expert confirms that the anti-corruption project will not be receiving increased funding. Changes in political decision-making are needed in this matter. As long as political decision-makers do not see corruption as a large enough social problem in Finland, they will not deem it necessary to increase resources.<sup>434</sup>

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<sup>431</sup> Interview on May 17, 2011

<sup>432</sup> Interview on May 9, 2011

<sup>433</sup> Interview on May 17, 2011

<sup>434</sup> Interview on May 9, 2011

### **9.1.3 Independence (Law)**

#### **Score: 50 (Good)**

The anti-corruption network and the NBI's anti-corruption project are tied to their ministries through both organisation and funding. They do not have statutory independence. The anti-corruption network is part of unofficial cooperation between authorities, and the NBI's anti-corruption project is part of police activities. Still, the project gains a certain kind of independence through its classification as part of police activities, such as a police official's right to perform investigations. The arrangement is made more independent by the fact that appointments are always made based on professional criteria.<sup>435</sup>

The internal expert states that the police are independent and responsible for the legality of their actions. Other influential legislation includes the Police Act and the Criminal Investigations Act. Appointments are made based on professional criteria, and the internal expert even strongly believes that if the project became an independent agency it would lose some of the independence that it has been able to achieve under the current arrangement. This is explained by the fact that an independent agency would probably be led by a politically appointed director, since the highest offices in the police are often also political appointments.<sup>436</sup>

### **9.1.4 Independence (Practice)**

#### **Score: 50 (Good)**

According to the external expert, in practice there is very little independence in organisation and funding. The anti-corruption project is not independent in relation to other law enforcement

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<sup>435</sup> Interview on May 17, 2011

<sup>436</sup> The Police Act 493/1995; The Criminal Investigations Act 449/1987; Interview on May 9, 2011

agencies for the same reasons. Despite the dependence, the external expert has not perceived any undue interference with actual activities or their content.<sup>437</sup>

The internal expert considers the job description of the employee of the anti-corruption project independent. However, there are problems with targeting resources. Human resources are sometimes available from other units, such as a temporary loan of an investigative assistant. There is no undue interference with the project's activities, but in meetings on the intake of new cases there are discussions and even lobbying on which cases the anti-corruption project should investigate.<sup>438</sup>

The external expert assesses that the project also cooperates with other actors fairly frequently. The project's representative is a member of the anti-corruption network, which is based on cooperation between authorities and other actors. According to the internal expert, the cooperation is fairly efficient in regard to activities as a whole. In principle there are no limits to cooperation. The cooperation is more often limited by time constraints.<sup>439</sup>

### **9.2.1 Transparency (Law)**

#### **Score: 75 (Very good)**

The Constitution and the Act on the Openness of Government Activities contain regulations that guarantee citizens' right to receive information. The Personal Data Act and the data protection regulations of different fields also affect the level of publicity. The external expert confesses to not knowing what documents and decisions the NBI's anti-corruption project is required to publish.<sup>440</sup>

The internal expert states that the project's activities are very public and regulated by the Act on the Openness of Government Activities just like any other official activities. However, normal

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<sup>437</sup> Interview on May 17, 2011

<sup>438</sup> Interview on May 9, 2011

<sup>439</sup> Interviews on May 9, 2011 and May 17, 2011

<sup>440</sup> Interview on May 17, 2011; the Constitution of Finland 731/1999; the Act on the Openness of Government Activities 621/1999; the Personal Data Act 523/1999



regulations regarding secrecy and intelligence still apply. The Ombudsman, the Chancellor of Justice, the state prosecutors, and the Prosecutor General oversee the legality of activities.<sup>441</sup>

### **9.2.2 Transparency (Practice)**

#### **Score: 25 (Satisfactory)**

The meeting documents of the anti-corruption network are available online. However, the external expert does not know whether all information that the law demands to be published is actually publicly available. As for the NBI's anti-corruption project, the annual reports on the corruption situation and the press releases that are published a few times a year are available online. Visibility and transparency suffer from the lack of a dedicated website. The inadequate information distribution is due to the fact that the project's sole employee does not have the time to create and update a website.<sup>442</sup>

It is difficult for citizens to find information on the anti-corruption network. The meeting documents mentioned by the external expert cannot be found using search words. In practice, it seems that one must be aware of the network and its information forum to be able to follow the network's activities. The project's reports on the corruption situation are easy to find, at least for the years 2008 and 2009. The report for 2010, however, could not be found with the same search method.

The existence of these bodies is not enough to guarantee transparency. It is obvious that when a project only has one employee, that person must concentrate on what is most relevant. Due to time constraints, updating a website cannot be a central part of the employee's job description. The minimal amount of information that the anti-corruption network distributes to the citizens, on the other hand, is much more puzzling.

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<sup>441</sup> The Act on the Openness of Government Activities 621/1999; Interview on May 9, 2011

<sup>442</sup> Interviews on May 9, 2011 and May 17, 2011; Korruptiotilannekuva 2009 (Report on the Corruption Situation 2009) [http://www.poliisi.fi/poliisi/krp/home.nsf/files/Korruptiotilannekuva%202009/\\$file/Korruptiotilannekuva%202009.pdf](http://www.poliisi.fi/poliisi/krp/home.nsf/files/Korruptiotilannekuva%202009/$file/Korruptiotilannekuva%202009.pdf)

Because the project does not have a website, it is relatively difficult to find information on the project. However, former employees of the project have been open about its activities, and when requested they have been willing to distribute information. Nevertheless, citizens are unfamiliar with the project. The project's publicity comes from the press releases and the annual report on the corruption situation. The meagre resources and the fact that the person in charge of the project has changed three times in the past four years cause problems for the project. The frequent changes may weaken the effectiveness of activities.

### **9.2.3 Accountability (Law)**

**Store: 75 (Very good)**

Officials function in the network under their own authority. Police activities are regulated by the Police Act, the Administrative Procedure Act, and internal guidelines. The accountability of the people in question is fulfilled annually when their closest supervisor inspects how well goals have been met.<sup>443</sup>

### **9.2.4 Accountability (Practice)**

**Score: 75 (Very good)**

In practice, the anti-corruption network is a channel for exchanging information between officials and a way to coordinate the anti-corruption activities of authorities and interest groups. The anti-corruption project is accountable for its activities to the directors of the NBI and must submit the required documents for assessment.<sup>444</sup>

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<sup>443</sup> Interviews on May 9, 2011 and May 17, 2011; the Police Act 493/1995; the Administrative Procedure Act 434/2003

<sup>444</sup> Interviews on May 9, 2011 and May 17, 2011

### 9.2.5 Integrity Mechanisms (Law)

**Score: 75 (Very good)**

In 2010, the Ministry of Finance confirmed guidelines on hospitality in government activities. The guidelines apply to all state civil servants or officials and, for the applicable parts, personnel in state employment. The guidelines are based on the NBI's 2009 guidelines on hospitality, benefits, and gifts. However, the guidelines of the Ministry of Finance do not include sanctions.<sup>445</sup>

Integrity is protected by the State Civil Servants' Act and the Administrative Procedure Act. The police also have their own oath and set of ethical codes. There is a strong requirement for fairness and objectivity connected with carrying out official acts. In addition, the values set for the police include justice, professionalism, good service, and the well-being of personnel.<sup>446</sup>

### 9.2.6 Integrity Mechanisms (Practice)

**Score: 75 (Very good)**

Because integrity is safeguarded by several different laws in Finland, the practice is quite decentralised as well. The external expert suspects that many officials are not familiar with the contents of the guidelines the Ministry of Finance has given on hospitality, benefits, and gifts. In this sense the guidelines are not sufficient or effective. There is no general training for officials regarding matters of integrity. Education and guidelines for different fields are quite disconnected. However, the external expert has not encountered actual unethical activity.<sup>447</sup>

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<sup>445</sup> Interviews on May 9, 2011 and May 17, 2011; the Ministry of Finance  
[http://www.vm.fi/vm/en/04\\_publications\\_and\\_documents/02\\_documents\\_on\\_personnel\\_management/03\\_guidelines/20100825Hospit/Vieraanvaraisuudesta\\_eduista\\_ENGL.pdf](http://www.vm.fi/vm/en/04_publications_and_documents/02_documents_on_personnel_management/03_guidelines/20100825Hospit/Vieraanvaraisuudesta_eduista_ENGL.pdf)

<sup>446</sup> Interview on May 9, 2011; the State Civil Servants' Act 750/1994; the Administrative Procedure Act 434/2003; Puheenvuoroja poliisin ammattietiikasta (Addresses on Police Ethics)  
[http://www.intermin.fi/intermin/biblio.nsf/F44FC1BF5A55D209C22573E80041BE85/\\$file/3-2008.pdf](http://www.intermin.fi/intermin/biblio.nsf/F44FC1BF5A55D209C22573E80041BE85/$file/3-2008.pdf); Ikola-Norrbacka & Jokipii 2010

<sup>447</sup> Interview on May 17, 2011

The internal expert states that the integrity guidelines of the NBI are sufficient but the integrity guidelines of the police are not. Even though the police do not receive sufficient corruption-related training, employees of the anti-corruption project must have educational backgrounds that enable them to recognise and handle integrity issues.<sup>448</sup>

### **9.3.1 Prevention**

#### **Score: 75 (Very good)**

According to the internal expert, both the NBI and the NBI's anti-corruption project are strongly committed to policies that aim to prevent corruption. However, in relation to the workload, the resources are inadequate. The complexity of the issues involved also complicates investigations. The project may recommend law reforms regarding prevention of corruption or propose laws to the Parliament's Legal Affairs Committee.<sup>449</sup>

The external expert states that Finland does not have a general anti-corruption strategy even though different actors are committed to preventing corruption. The capacity for preventive work seems small. Nevertheless, the fact that the anti-corruption project can recommend law reforms and consult other experts in matters related to law reforms makes activities more effective.<sup>450</sup>

### **9.3.2 Education**

#### **Score: 50 (Good)**

According to the internal expert, the NBI's anti-corruption project has very little time for organising education, even though those in the project have been conscious of the importance of education. However, new training for the police will be launched in 2011, and several training projects have

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<sup>448</sup> Interview on May 9, 2011; NBI Guidelines on Hospitality, Benefits, and Gifts 665/000/09

<sup>449</sup> Interview on May 9, 2011

<sup>450</sup> Interview on May 17, 2011

already taken place. The HAUS Finnish Institute of Public Management Ltd organised a training seminar on malfeasance for officials, with viewpoints on corruption from several different experts. The Confederation of Finnish Industries has commissioned training on ethics for stock exchange executives. As for universities, Aalto University has also commissioned ethics training. Additional funding for education would require political decision-makers to acknowledge that there is a corruption problem developing in Finland.<sup>451</sup>

The external expert points out that there are no judges who have specialised in corruption or financial crimes in general. However, prosecutors have such specialisations. The external expert criticises the fact that there is no separate education in prevention of corruption in the universities or other institutes of higher learning. The police financial crimes investigation training includes some topics related to corruption, but basic police training does not. There is definitely room for improvement in corruption-related education and in disseminating information about corruption in all levels of society.<sup>452</sup>

### 9.3.3 Investigation

#### Score: 25 (Satisfactory)

The NBI and the anti-corruption project investigate matters of large-scale international corruption. The anti-corruption network, on the other hand, may not discuss individual cases related to corruption, because the network includes representatives from interest groups who are not government officials.<sup>453</sup> The internal expert states that the anti-corruption project may examine issues and make inquiries in matters related to suspicions of corruption, but the project may not undertake criminal investigations. The primary purpose of the anti-corruption project is to uncover subjects for criminal investigation.<sup>454</sup>

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<sup>451</sup> Interview on May 9, 2011; HAUS <http://www.haus.fi/midcom-serveattachmentguid-1e088465b438486884611e0b5db51e5f93413a213a2/Ohjelma.pdf>

<sup>452</sup> Interview on May 17, 2011

<sup>453</sup> Interview on May 17, 2011

<sup>454</sup> Interview on May 9, 2011

The powers of the project and the network in relation to other law enforcement officials have not been clearly defined. The anti-corruption network and the NBI's anti-corruption project are tied to their ministries through both organisation and funding. The project is mainly an expert forum that offers support for actual investigations.<sup>455</sup>

Despite everything, the internal expert feels that Finland does not necessarily need an independent anti-corruption unit because the police force is well-trained. In Finland, the police are trusted as protectors of internal security. Trust in the police is so strong that citizens even consider the police the most trustworthy social institution. The internal expert thinks that instead of a separate agency, what Finland needs is a more effective unit with stronger investigative abilities, thus better equipped to handle larger issues. The internal expert believes that the citizens' trust in the police should be used to ensure that the new unit can enlist all different interest groups right from the beginning. Important interest groups include the Tax Administration, the National Audit Office, the National Board of Customs, the Finnish Border Guard, other authorities, and naturally also municipalities due to their duty to report suspected corruption.<sup>456</sup>

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<sup>455</sup> Interviews on May 9, 2011 and May 17, 2011

<sup>456</sup> Interview on May 9, 2011; Salminen & Ikola-Norrbacka 2009

## **6.10. POLITICAL PARTIES**

### **Summary**

Political parties in Finland are guaranteed a free operating environment. However, party activities as a whole are facing several challenges. Citizens have little trust in political parties or politicians, and political parties are estranged from the people, which are important issues for political parties to resolve. Concrete problems negatively affecting operations include dwindling membership, low voting activity, and political parties' shift towards electoral parties or so-called "catch-all parties". In Finland, political parties receive party subsidies from government budget based on the results of the Parliamentary Elections. In addition, parties may collect private funding. Certain external sources of funding, and especially issues with electoral funding, have been under ethical evaluation. The 2010 reform to the Act on a Candidate's Election Funding aims to improve transparency and accountability in party activities and election campaigns.

Political parties mostly represent a wide and diverse range of different social views. However, not all viewpoints receive equal exposure in the media, and especially small parties and the parties that are not in the Parliament are considered to be in a weaker position compared to the others.

Traditionally, political parties have been slow to get involved in corruption issues of their own initiative, and their stances on corruption issues are not mentioned in party programs. Political parties need to show more initiative, for example by creating ethical codes and rules for lobbying on both national and local level.

### **Structure and Organisation**

In 2011, the Finnish party register had 14 registered parties, four of which could be considered major parties. The Finnish Government has often been a coalition of three main parties: the National Coalition Party (Kansallinen Kokoomus), the Social Democratic Party (SDP, Suomen Sosialidemokraattinen Puolue), and the Centre Party (Suomen Keskusta).

The central position of a large agrarian party, the relative disunity of the labour movement, and strong left-wing radicalism have long been defining characteristics of the Finnish party system.<sup>457</sup> The Parliamentary Elections of spring 2011 brought changes to the traditional three-way system when a previously less popular party, the True Finns (Perussuomalaiset), won the elections and became the third largest party.

Voting activity in Finland has been in decline. 70.4% of eligible voters cast their vote in the 2011 Parliamentary Elections. Voting activity has remained at an average of 70% in recent years.<sup>458</sup>

### **Resources (Law)**

*To what extent does the legal framework provide a conducive environment for the formation and operations of political parties?*

Score: 75 (Very good)

The Act on Political Parties (10/1969) and the Associations Act (503/1989) regulate the activities of political parties in Finland. Freedom of association is a civil right protected by the Constitution, which provides a conducive environment for the formation of political parties<sup>459</sup>.

The Ministry of Justice maintains a Party Register for which political parties can register free of charge. The Act on Political Parties states that the Party Register is for registering associations whose purpose is to have an impact on matters of the state. Association rules must ensure that democratic principles are followed in decision-making and activities. In addition, the association must have a general program in accordance with its goals and principles. It is easy for citizens to join political parties in Finland and consequently participate in political activity and influence things.

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<sup>457</sup> Suomen poliittinen järjestelmä (Finland's Political System) <http://blogs.helsinki.fi/vol-spj> (in Finnish).

<sup>458</sup> Statistics Finland (2011).

<sup>459</sup> The Act on Political Parties, the Associations Act, interview with a professor of political science on May 15, 2011, interview with a former Party Secretary of the Centre Party on July 6, 2011.



If a political party fails to win a seat in the Parliament in two consecutive Parliamentary Elections, the party will be removed from the Party Register.<sup>460</sup>

### **Resources (Practice)**

*To what extent do the financial resources available to political parties allow for effective political competition?*

Score: 50 (Good)

The party subsidies from the government are determined by voting results, i.e. the distribution of parliamentary seats. This means that government parties do not have an advantage over opposition parties. Parties outside the Parliament and especially small parties are in a relatively weak position because they do not have the right to claim party subsidies.

Sources of funding and the amount of private and public support vary from party to party. According to our expert, the majority of the capital of the Swedish People's Party (Suomen ruotsalainen kansanpuolue) comes from outside funding, whereas the Green League (Vihreät) have ruled that the party subsidies from the Government are to be their party's primary source of funds.<sup>461</sup> Election funding is considered an issue that can put candidates and parties in unequal positions.

### **Independence (Law)**

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?*

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<sup>460</sup> The Act on Political Parties (10/1969).

<sup>461</sup> The National Audit Office (2011). Interview on May 15, 2011.

Score: 75 (Very good)

The law guarantees associations considerable independence from the state, meaning that political parties can function independently in relation to public authority. According to the law, the state, municipalities, and other officials must treat all political parties equally and consistently. The law states that candidates may not receive money or donations from general government.<sup>462</sup>

A political party's program and goals are approved in their party conference. The principles of democracy apply within party organisations, and the power of decision is exercised by party organs such as the party conference and party council.

### **Independence (Practice)**

*To what extent are political parties free from unwarranted external interference in their activities in practice?*

Score: 50 (good)

The independence of political parties is considerably weaker and more questionable in practice than it is in law. Different interest groups attempt to influence party lines and members of parliament, and outside funding can be seen to create conflicts of interest. However, it is difficult to ascertain whether it is a case of undue interference. Lobbying and advancing certain interests are in some sense a natural part of the democratic system, but it is difficult to assess when interference threatens the independence of a political party.<sup>463</sup>

Interference and interplay of the “old boy” network variety is considered a problem in Finland, especially on the municipal level. According to a citizen survey in 2008, citizens consider “old boy”

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<sup>462</sup> Such as municipalities, public utilities, etc. The Act on Political Parties (10/1969). The Act on a Candidate's Election Funding (273/2009).

<sup>463</sup> *Helsingin Sanomat* (2011), interviews on May 15, 2011 and July 6, 2011.

networks the most common form of corruption in Finland.<sup>464</sup> The experts interviewed were clearly critical of the so-called “debts of gratitude” and conflicts of interest in municipal politics.<sup>465</sup> Recently, the media has also brought into public attention several cases where connections to business have been too strong, leading to preferential treatment, for example in building contracts.<sup>466</sup>

### **Transparency (Law)**

*To what extent are there regulations in place that require parties to make their financial information publicly available?*

Score: 75 (Very good)

Prior to 2010, political parties were required by law to deliver a financial statement to the Ministry of Justice. Recent changes to the Act on Political Parties have tightened regulations, and political parties are now required to report their funding to the National Audit Office (NAO). The law reform supports better transparency, but how well the law will work in practice remains to be seen.

The NAO maintains a register of statements of party funding. According to the law, anyone is entitled to retrieve information from the register. Information on both party funding and the election funding of members of parliament is readily available on the NAO website.<sup>467</sup>

Political parties may not accept support whose donor cannot be identified. For example, if an election advertisement costs in excess of 1500€, the political party must ensure that the name of the person paying for the advertisement is visible.

### **Transparency (Practice)**

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<sup>464</sup> Salminen & Ikola Norrbacka (2009). Kuullaanko meitä? (Are We Being Heard?)

<sup>465</sup> Interviews on May 15, 2011 and July 6, 2011.

<sup>466</sup> E.g. the connections of the Mayor of Vantaa to a private architectural firm.

<sup>467</sup> The Act on Political Parties (10/1969), the National Audit Office (2011).

*To what extent do political parties make their financial information publicly available?*

Score: 25 (Satisfactory)

Before the alterations to the Act on Political Parties, transparency was weak. At present, information on political parties' funding is available on the NAO website. Political parties must make public the identities of those who have donated funding unless the sum is under 1500 euros.<sup>468</sup> In practice, the majority of election funding is still unidentified because there have been many donations under €1500. In the 2011 elections, these small donations made for a total of €2.8 million.<sup>469</sup>

Political parties inform the public about their other activities on their websites. Rules, programs, and goals are available online, as well as information on persons elected into positions of trust, such as the members of the party council and the party government.<sup>470</sup>

### **Accountability (Law)**

*To what extent are there provisions governing financial oversight of political parties?*

Score: 50 (Good)

The Act on a Candidate's Election Funding and the Act on Political Parties help in the oversight of party funding. With the law reform of 2010, oversight of party and election funding was transferred to the National Audit Office, although the Ministry of Justice still oversees the use of the party subsidies granted from government budget.<sup>471</sup> As of January 2011, political parties have a duty to report funding real-time, meaning that all funding must be reported within a month or so of

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<sup>468</sup> The Act on a Candidate's Election Funding (273/2009), the Act on Political Parties (10/1969).

<sup>469</sup> *Helsingin Sanomat* (2011). Eduskuntavaaleissa nimetöntä vaalirahaa 2,8 miljoonaa euroa. (€2.8 million unidentified funding in Parliamentary Elections)

<sup>470</sup> Websites of political parties.

<sup>471</sup> The Act on Political Parties (10/1969).

receiving it<sup>472</sup>. There have been efforts to remove old loopholes from the law, and it is no longer possible to for example funnel funding through associations.

However, the National Audit Office is still dependent on information provided by political parties and has no special powers to investigate party funding. A recent OSCE evaluation report recommended increasing the investigative powers of the National Audit Office.<sup>473</sup>

Parties and district organisations must provide the NAO with a financial audit report, a financial statement, and an accounting of the use of state subsidies in electronic format. Similarly, close communities of political parties must provide a financial audit report, a financial statement, and an accounting of their use of state subsidies.<sup>474</sup> The NAO reports to the Parliament annually on the oversight of party funding and eight months after elections on the oversight of election funding.<sup>475</sup>

### **Accountability (Practice)**

*To what extent is there effective financial oversight of political parties in practice?*

Score: 25 (Satisfactory)

Political parties have reported their finances and funding relatively well. On the other hand, there have been some problems with the election funding statements of individual candidates, and not all members of parliament have delivered the required statements in a timely manner. During the recent election funding controversy, there were paradoxical comments that the law was neither broken nor obeyed.<sup>476</sup> Prior to the changes to the Act on a Candidate's Election Funding there were problems with the election funding statements of many members of parliament. The situation has been slightly corrected with the law reform and improved oversight. After the 2011 elections, the NAO received the election funding statements of almost all persons with the duty to report on

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<sup>472</sup> From receiving the support to the 15th day of the following month.

<sup>473</sup> OSCE (2011). Finland Parliamentary Elections 2011.

<sup>474</sup> NAO (2011). [www.puoluerahoitus.fi](http://www.puoluerahoitus.fi) (Information on party funding in Finnish)

<sup>475</sup> The National Audit Office (2011), the Act on Political Parties (10/1969).

<sup>476</sup> Interview with a former Party Secretary of the Centre Party on July 6, 2011. See Venho (2008). Piilotettua julkisuutta. (Hidden Publicity)

time.<sup>477</sup> Compared to previous elections, it can be said that the statements have been delivered in a much more timely manner.

Political parties are required to have a formally qualified auditor. If a political party does not comply with the accountability regulations, the NAO may order sanctions for erroneous or late reports.<sup>478</sup>

Political parties are accountable to their voters. In practice, unethical connections or conflicts of interest and election funding issues can result in lost elections. The Centre Party lost several seats in the spring 2011 Parliamentary Elections, and the general consensus is that one of the reasons for the loss was the election funding controversy and the subsequent loss of trust among the citizens and voters.

## **Integrity (Law)**

*To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?*

Score: 75 (Very good)

The law requires political parties to be governed in a democratic manner. According to the Act on Political Parties, one prerequisite for registering is that the party rules safeguard the use of democratic principles in the association's decision-making. Nomination of candidates, for example, is decided through membership vote.<sup>479</sup>

Political parties have not traditionally had separate ethical codes. The Green League party delegation and parliamentary group have formulated ethical guidelines for their ministers,

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<sup>477</sup> The National Audit Office (2011). [www.puoluerahoitus.fi](http://www.puoluerahoitus.fi). 276 statements out of 280 were left on time.

<sup>478</sup> The Act on Political Parties (10/1969).

<sup>479</sup> Party rules, interview with a former Party Secretary of the Centre Party on July 6, 2011, interview with a professor of political science on May 15, 2011.

emphasising openness and transparency.<sup>480</sup> According to the guidelines, ministers should for example keep notes of their meetings with lobbyists. The need to spell out the rules of lobbying has been brought up in public discourse. Political parties could play a more active role in developing ethical rules for ministers and members of parliament as well for candidates.

### **Integrity (Practice)**

*To what extent is there effective internal democratic governance of political parties in practice?*

Score: 50 (Good)

Generally speaking, political parties are fairly democratic in their decision-making. The party leader is usually elected in the party conference, which most parties organise every two years. Members of the Social Democratic Party, for example, recently discussed whether there should be a consultative membership vote on selecting the leader in the case there were several candidates.<sup>481</sup>

Experts have voiced concerns that money can influence candidate nominations. The Centre Party and the National Coalition Party, for example, had ties to an association called Kehittyvien Maakuntien Suomi (Finland of Developing Provinces), which was accused of interfering with candidate nominations. Kehittyvien Maakuntien Suomi was used to funnel election funding to candidates from different parties who were viewed as suitable by certain businessmen.<sup>482</sup> Connections to business may carry too much weight within political parties.<sup>483</sup>

### **Interest Aggregation and Representation (Practice)**

*To what extent do political parties aggregate and represent relevant social interests in the political sphere?*

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<sup>480</sup> Green League ethical guidelines for ministers (2011).

<sup>481</sup> Party rules.

<sup>482</sup> Koikkalainen & Riepula (2009). Näin valta ostetaan. (This is how power is bought)

<sup>483</sup> Interview with a former Party Secretary of the Centre Party on July 6, 2011.

Score: 75 (Very good)

The Finnish field of political parties represents a fairly large and diverse group of different political views. Party-list proportional representation gives also the smaller parties a chance to win seats in the Parliament. Elections are strongly person-centric rather than party-centric. It can thus be said that individual and consequently diverse views are presented in elections.<sup>484</sup>

Small parties and especially parties that are not in the Parliament may not have equal opportunities to gain media exposure as larger parties. The 2011 OSCE report called attention to the role of Finland's national public service broadcasting company Yle as a provider of public service, to help smaller parties and parties outside the Parliament get more visibility in the media.<sup>485</sup>

### **Anti-Corruption Commitment (Practice)**

*To what extent do political parties give due attention to public accountability and the fight against corruption?*

Score: 50 (Good)

Party programs do not contain any commitments to or goals regarding anti-corruption activities.<sup>486</sup> Political parties have been more reactive than proactive towards corruption scandals, showing little initiative. Party organisations have cause to call more attention to corruption issues in order for anti-corruption efforts to happen more “bottom-up” rather than “top-down”. At present, political parties react to corruption issues mostly only when they are prompted by changes in legislation, demands from international organisations, or media scandals. In practice, political parties are committed to accountability and existing anti-corruption principles, but using initiative could help ameliorate the lack of trust the citizens have towards political parties.

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<sup>484</sup> Interviews on May 15, 2011 and on July 6, 2011.

<sup>485</sup> OSCE (2011). Finland Parliamentary Elections 2011.

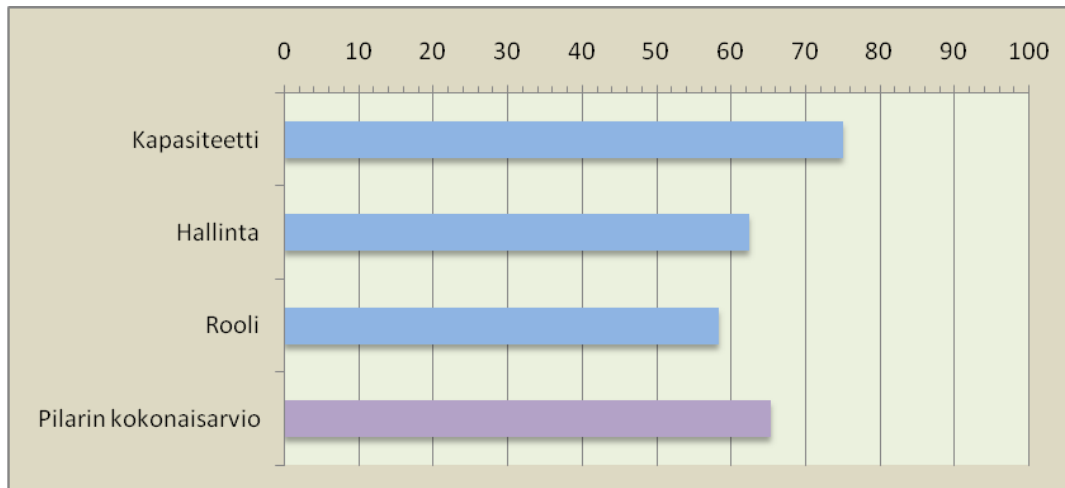
<sup>486</sup> Party programs. Interview with a professor of political science on May 15, 2011, interview with a former Party Secretary of the Centre Party on July 6, 2011.





## 6.11 MEDIA

### Media



### Summary

Finland, as other Nordic countries, is rated high in international press freedom statistics.

A licence is required for radio and television. Otherwise, the conditions to the media imposed by the state are reasonable. The biggest problems are competition and concentration of ownership, that cause homogenization of media content as well as a need to produce scandalous stories that “sell”.

In general the Finnish media is perceived to be of high ethical standards, transparent and reliable. The self-regulation system, however, has been criticized, and the need to establish a media ombudsman institution has been under regular discussion. The current press council is perceived non sufficient by some, and a media ombudsman system could strengthen the ethics and monitor the media more efficiently. Self-regulation, strengthened by official sanctions, could also protect the consumers better.

The internet era imposes certain challenges on the work of journalists. In the future, common rules regarding, for example, online discussions, will be necessary.

Media ownership is public according to business legislation, but especially the relationship between businesses, advertisers and the media could be made more transparent via a public register. Here, one of the challenges is the integrity of journalists.

In Finland, the media plays a central role in disclosing corruption cases and bringing them into public discussion. The work of media played a significant role in the so-called election funding crisis that took place a few years ago. The revelations made by the media lead to the changes in the political party funding regulations and to the unethical actions being made public. In order for the media to remain its position as a high-level “watchdog of democracy”, should more resources be allocated to to investigative journalism and to initiatives that increase the expertise level of journalists.

## Structure and organization

This report concentrates on news media, predominantly radio and television. As electronic communications are concerned, in Finland they consist of a mixture of public service broadcasters and private, commercial broadcasters. Thus, in Finland telecommunication s, cabel communication sand public service broadcasting form a hybrid system, where public and private ownership operate in parallel to each other.

Yle, the Finnish Public Service broadcaster, has traditionally had a remarkable position in Finland, but as the competition has been set more free, several new channels have appeared in the market. Yle, according to its task as a public service broadcaster, is supposed to support democracy and citizen participation by offering a large variety of information and points of view.<sup>487</sup>

Currently there are over 60 radio stations, many of which are regional. The overall amount of TV channels is 34. YLE has 4 television and 6 radio channels. The operation of YLE is funded via license fees, gathered from the citizens, advertising in YLE’s channels is prohibited by law.

The two biggest individual private media companies are Sanoma Oyj and Alma Media. The market share of those two together is over 40 percent. State-owned Yleisradio’s market share is 48 %.

In 2009, there were 51 daily newspapers in Finland (published 7-4 days a week). The amount o non-dailies was 201. The large amount of magazines is characteristic to Finland. In 2009 in Finland almost 4500 different magazine were published. Despite its quantity, the newspaper industry in Finland is relatively concentrated. Usually in small municipalities there is one local newspaper. The amount of political party press has decreased during the latest years. Helsingin Sanomat is the daily with the biggest circulation; it also holds a central position as a public opinion maker.

Finns tend to subscribe to and read relatively lot of newspapers. Finns also use a lot of Internet – almost 86 % of the population has Internet at their disposal. The best-known and largest news agency is called Oy Suomen Tietotoimisto – Finska Notisbyrån Ab (STT). The total circulation of

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<sup>487</sup> Laki Yleisradio Oysta 1380/1993.

publications, that subscribe to and publish news from the STT, is over 2,5 million. STT also offers different electronic services for the communication needs of businesses and communities. The owners and customers and STT are several private media. State-owned Yleisradio (YLE) gave up the services of STT in early 2007. In general, the Finns consider STT a reliable news agency.

### **Resources (law)**

*To what extent does the legal framework provide an environment conducive to a diverse independent media?*

Score: 100 (Excellent)

The Finnish legislation guarantees good conditions for free and independent media. The limitations concerning the work of media have been set only in order to meet the minimum requirements of the rule of law, concerning privacy and other issues. According to experts as well as academic research, the media operates in a favorable atmosphere.

According to the external expert, the licensing regulations are not very strict, and there are no unnecessary limitations imposed on the broadcasting license holders. A license is not required to establish a newspaper or a magazine, but according to the law, the editor-in-chief must be no less than 15 years old, and his/her legal viability has not been restricted. Radio and television broadcasting require a license from the government, that can be applied for through the Finnish Communications Regulatory Agency FICORA.

The aim of FICORA is to supervise the compliance of the laws as well as the realization of consumer's rights.<sup>488</sup> It is the job of the FICORA, for instance, to oversee how the programmes potentially harmful to children are placed in the programme charts, to regulate television and radio advertising, sponsoring and product placement .

Yleisradio Oy is obliged to give FICORA an annual report of its public service broadcasting. Based on this report, FICORA prepares its statement to the government. FICORA also deals with customer complaints based on issues defined by the law on television and radio broadcasting.

### **Resources (practice)**

*To what extent is there a diverse independent media providing a variety of perspectives?*

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<sup>488</sup> Viestintävirasto on liikenne- ja viestintäministeriön hallinnonalalla toimiva viranomainen.

Score: 50 (Good)

Despite the fact that the resources of the media are also practically sufficient, the external expert feels that the resources are in practice not as good as the law stipulates, since the publication of different interests and opinions does not necessarily reflect the result of the elections and subsequent state of public opinion. The internal expert underlines the importance of different web services in bringing forward different opinions and viewpoints.<sup>489</sup> Thanks to the competition, the so-called 'mainstream' line of the public discussions can end up being over-emphasized, leading finally to the lack of diversity in political viewpoints reflected in the media.<sup>490</sup> According to the recommendations of the OSCE final report, especially the YLE should pay more attention to the right of all parties, including the small and new ones, to bring their viewpoints forwards.

The competition has become harsher in newspaper business, and it is mostly only the big newspapers and magazines that are financially viable. For newspapers as well as commercial television and radio, advertisements provide a crucial source of income. The license fees, paid to the YLE, form the biggest individual source of income in television business.

In practice the limited resources of the media have led to the small amount of investigative reporting. The lack of resources is perceived to be a bigger reason for the small amount of investigative reporting, than, for instance, the problems with integrity.<sup>491</sup> Journalists themselves feel that specialized reporting will give way to more general reporting. Several interviewees emphasized the lack of investigative reporting and felt that it would be very important to allocate resources in high quality investigative reporting and its needs.

### **Independence (law)**

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?*

Score: 100 (Excellent)

In Finland, the integrity of the media is guaranteed widely by law. Freedom of speech is written in the Constitution. The Freedom of Speech legislation is from 2004, and it has made media regulation more clear and consistent. The law underlines, that communications should not be limited

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<sup>489</sup> Haastattelu 11.5.2011; haastattelu 30.6.2011.

<sup>490</sup> Haastattelu 30.6.2011.

<sup>491</sup> Kuutti (2001). Suomalaiset toimitukset tutkivat vähän. [www.journalismi.fi](http://www.journalismi.fi)

any more than necessary, keeping in mind the meaning of freedom of speech in the state run by the rule of law.

For instance, the Data Protection Ombudsman has no right to inspect the personal data registers or the photography archives of the media, and in case of criminal investigation, these materials need not to be given to the police. Source protection is well guaranteed in Finland.<sup>492</sup>

Finland is obliged to obey the European Convention for Human Rights as well as the European Union Charter for Fundamental Rights. These documents also act as guarantors of the freedom of speech and media integrity.

### **Independence (practice)**

*To what extent is the media free from unwarranted external interference in its work in practice?*

Score: 75 (Excellent)

Advance censorship of the media existed in Finland until 1905. In 1919, press freedom was guaranteed in the constitution. Today the Finnish media can be called practically independent and nonpartisan with regards the state.

Finnish media practically exercises self-regulation in order to preserve high level of communication.

When we make an assessment on whether media is independent and free in terms of external influences, the experts state that different kind of influence is constantly exercised. Some media find the constant influence efforts annoying. According to the journalists that replied to the Press Freedom Day questionnaire, half of the journalists feel that senior journalists are under pressure attempts harmful to freedom of speech.<sup>493</sup>

In international comparisons, Finland rates high in press freedom and integrity. Finland was number one in Reporters Without Borders' press freedom rating in 2010, and has together with other Scandinavian countries rated very well for a long time. According to Freedom House's World Press Freedom assessment, Finnish media was rated free.<sup>494</sup>

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<sup>492</sup> Huovinen (2008). Medianvapaus sananvapauteen perustuvana oikeusperiaatteena. Lakimies 5/2008. Haastattelu 11.5.2011; haastattelu 30.6.2011.

<sup>493</sup> Sananvapauspäivän kysely toimitusten johdolle (2011).

<sup>494</sup> Reporters without Borders (2010). Press Freedom Index. Freedom House (2011). World Press Freedom.

Discussions about media integrity are often concerned about the concentrated ownership of the media. This tendency is often criticized; however, it is also acknowledged by some critics that the effects of the ownership are not that significant due to the large amount of players that produce media content. The central question is, however, the effect that the ownership may have in the choices made inside newsrooms. Also, the YLE impartiality should be put under critical scrutiny the same way as the commercial media is scrutinized from the state ownership viewpoint.

### **Transparency (law)**

*To what extent are there provisions to ensure transparency in the activities of the media?*

Score: 75 (Very good)

The same rules that concern business ownership in general concern media ownership as well.<sup>495</sup> Companies listed on the Stock Exchange are under stricter rules than those that are not listed. All companies must give their information to the trade register. The information about editor-in-chief must be publicly available.<sup>496</sup>

### **Transparency (practice)**

*To what extent is there transparency in the media in practice?*

Score: 50 (Good)

In most cases Finnish media is transparent. According to the ethical norms of good journalism, the journalists and media companies must be transparent.<sup>497</sup> If we believe strongly, that there is a culture of openness and transparency in Finland, one must say that the ownership and other financial information is well reported.

According to the external expert, media could be made more transparent. Especially the relationships between business world and media with regards advertising, could be made more visible. One way to do this could be establishing a register or a database, that would include the information about the sums that different companies have spent on advertising in different media.<sup>498</sup> On the other hand a solution like this can feel questionable.

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<sup>495</sup> Yhdistyslaki, tilintarkastuslaki.

<sup>496</sup> Kaupparekisteri. Haastattelut 11.5.2011 ja 30.6.2011.

<sup>497</sup> Journalistin ohjeet (2011). Haastattelut 11.5.2011 ja 30.6.2011.

<sup>498</sup> Haastattelu 30.6.2011.

## Accountability (law)

*To what extent are there legal provisions to ensure that media outlets are answerable for their activities?*

Score: 75 (Excellent)

According to the law on freedom of speech<sup>499</sup> all publications must have a responsible editor. According to the law, the editor-in-chief is in charge for the published texts, and if she/he has clearly neglected his supervisory tasks, he shall be under criminal liability. In principle the editor-in-chief or responsible editor is in charge for everything that is being published. According to the law, the guilt must be proven.

The regulations concerning right of reply and corrections have been unified since 2004, and it concerns all regular publishing and broadcasting activity in Finland. The right of reply concerns private individuals, and right of correction concerns everyone. The journalists are obliged to correct the mistakes in time and publish information about the corrections<sup>500</sup>. The Ethical Codex of journalists<sup>501</sup> also states that mistakes must be corrected. The Ethical Codex is a part of the self-regulation system, and they cannot be used as a basis for a criminal or civil case in court. In fact, the Ethical Codex plays a greater role in demanding accountability from journalists, than legal regulation does.

The journalists might have to be held responsible for the Council for Mass Media in Finland, that is in charge for the ethical regulation. Anyone can complain to the Council in matters concerning breaches of good professional practice or the freedom of speech and publication. The Council does not conduct independent investigations in matters other than those of very big principal meaning.<sup>502</sup>

## Accountability (practice)

*To what extent can media outlets be held accountable in practice?*

Score: 50 (Good)

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<sup>499</sup> Laki sananvapauden käyttämisestä joukkoviestinnässä 403/2003.

<sup>500</sup> Haastattelu 11.5.2011, laki sananvapauden käyttämisestä joukkoviestinnässä 403/2003.

<sup>501</sup> Journalistiliitto (2011). Journalistin ohjeet.

<sup>502</sup> Julkisen sanan neuvosto (2011). Julkisen sanan neuvoston vuosikertomus (2010).



Media accountability is realized mainly through self-regulation. The Council for Mass Media supervises the ethical codex and the implementation of good professional practice. The newsrooms are obliged to take responsibility for their actions, and according to experts, factual mistakes are corrected mainly clearly and in a timely manner; however, derelictions of duty do occur. The use of Internet and other web-based services add pressure to the need for greater accountability; however, they are also hard to supervise.<sup>503</sup>

The amount of complaints to the Council for mass media has been growing all the time in the 2000's. In 2010, 244 complaints were made to the Council, which was the record amount. 76 decisions were made altogether, part of the complaints are always left out due to, for instance, when too much time has elapsed since publication. Of the decisions made by the Council, almost stated that good professional practice was breached. When dealing with the complaints, the editors-in-chief often referred to the lack of resources, especially with regards supervising online discussions.<sup>504</sup>

According to the external experts, the Finnish media often hypocritically refers to the principles of freedom of speech, completely forgetting the responsibility related to it.<sup>505</sup>

### **Integrity mechanisms (law)**

*To what extent are there provisions in place to ensure the integrity of media employees?*

Score: 75 (Excellent)

Ethics and rule of law are the cornerstones of freedom of speech. Media freedom needs to be earned, and reliability and truthfulness are essential features when earning that freedom.<sup>506</sup>

The law on freedom of speech<sup>507</sup> includes principles about media integrity. According to experts, the regulation is relatively light and allowing; this is why self-regulation and ethical codes form an important part of preserving integrity.

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<sup>503</sup> Haastattelut 11.5.2011 ja 30.6.2011. the Economist 7/2011.

<sup>504</sup> Julkisen sanan neuvoston vuosikertomus (2010). Haastattelu 11.5.2011.

<sup>505</sup> Haastattelu 30.6.2011.

<sup>506</sup> Huovinen (2008). Medianvapaus sananvapauteen perustuvana oikeusperiaatteena. Lakimies 5/2008.

<sup>507</sup> Laki sananvapauden käyttämisestä joukkoviestinnässä (403/2003).

The Ethical Code for Finnish journalists includes the most important ethical rules, that underline honesty, integrity and impartiality.<sup>508</sup> The Council for mass media is supposed to supervise the realization of these principles.

The Ethical Codes of Finnish journalist is considered important in Finland, and have been used as guiding principles even in court processes. Thus, a discussion has raise on whether an ethical code aimed at ethical regulation of a certain profession can be used in courts, since it is not a regulatory instrument that can be compared to legislation.<sup>509</sup>

The Finnish News Agency has its own Stylebook, that contains both general principles about newswork and ethical rules<sup>510</sup>. YLE has own ethical rules for current affairs journalism as well as the principles for its programmes.<sup>511</sup> The Association for Economic reporters has published ethical rules for Stock Exchange, which contains, among other, recommendations that journalists should keep their personal stock tradings separate from their professional activities.<sup>512</sup>

### **Integrity mechanisms (practice)**

*To what extent is the integrity of media employees ensured in practice?*

Score: 50 (Good)

As mentioned above, self-regulation is the cornerstone of media integrity. Numerous journalistic associations take care of the realization of journalists' integrity. Education is of great importance, and it is worth asking whether it is currently sufficient.<sup>513</sup> Experts feel that integrity is well realized in practice, and serious examples of unethical activities are rare.

The amount of complaints to the Council for Mass Media has grown during the 2000s. Still, examples of or accusations for bribery are very few.<sup>514</sup>

As mentioned above, the Council for Mass media is an institution for self-regulation. There are several different viewpoints about the effect and real weight of the Council. The most critical ones see the Council as a "PR agency for the media". The councils in several countries have been subject

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<sup>508</sup> Journalistiliitto (2011). Journalistin ohjeet.

<sup>509</sup> Mediaetiikan puheenvuorot: Mäenpää, Wuori, Koskelo, saatavissa: [www.journalismi.fi](http://www.journalismi.fi), haastattelut 11.5.2011 ja 30.6.2011.

<sup>510</sup> STT:n tyylikirja. [www.stt.fi](http://www.stt.fi).

<sup>511</sup> <http://www.journalistiliitto.fi/pelisaannot/journalistinohjeet/>

<sup>512</sup> Taloustoimittajat ry. (2002). Pörssieettinen suositus.

<sup>513</sup> Haastattelu 11.5.2011.

<sup>514</sup> Haastattelu 11.5.2011.

to similar criticisms.<sup>515</sup> The inefficiency of the Council as the supervisor of accountability and integrity is partly due to the fact that the decisions made are considered to be very mild and sanctions are insignificant compared to those, for instance, in Sweden.

Another problem in the mandate of the Council is the fact that the Council deals with cases based on complaints and conducts no independent investigations.<sup>516</sup>

One of the proposed solutions to securing better self-regulation has been the establishment of a media ombudsman institution. On the other hand the idea of establishing an external, regulatory agency is also criticized as being able to restrict the freedom of speech.

The integrity of the media and journalists has been under vivid discussion lately thanks to the event in Great Britain. Many editorials have discussed the ethics and integrity of journalism, and asked for critical scrutiny of the relationship between politicians and the media.<sup>517</sup> In Finland the media ethics is trusted, however, in a small country like Finland the editors-in-chief and politicians might form close relationships that can be questioned. Good relationships are seen as an essential feature in securing a functioning mass communication system; however, it is worth asking whether the media is always able to maintain its impartiality.

### **Investigate and expose cases of corruption practice**

To what extent is the media active and successful in investigating and exposing cases of corruption?

Score: 75 (Excellent)

Media's central role in investigating and revealing cases of corruption has arisen in other pillars of this report (for instance, political parties).

The basic task of the media is to reveal problems, but due to lack of time and resources it is impossible to tackle all the problems. Both experts underlined, that there could and should be more investigative journalism.<sup>518</sup> The media companies and journalists themselves have expressed their concern about the increasing lack of specialties. On the other hand the journalists should be as broad specialists as possible, so called general reporters.<sup>519</sup>

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<sup>515</sup> Von Krogh (2008): Media Accountability- Today and Tomorrow. Nordicom.

<sup>516</sup> Von Krogh (2008): Media Accountability. Today and Tomorrow. Nordicom.

<sup>517</sup> Esim. Helsingin Sanomat 21.7, Mediaviikko.

<sup>518</sup> Haastattelut 11.5.2011 ja 30.6.2011.

<sup>519</sup> Journalismikritiikin vuosikirja (2010).

During the interviews, one of the questions raised had to do about where and how the investigations and publicity should be focused. Because over half of the income of the newspaper and magazines come from advertising, financed by the business sector, one can ask whether the press is ready to investigate problems that are related to those businesses. This is why greater transparency in the quantities of advertising could be beneficial for the audiences.<sup>520</sup>

### **Inform public on corruption and its impact**

*To what extent is the media active and successful in informing the public on corruption and its impact on the country?*

Score: 50 (Good)

In recent years, the Finnish media has been active in informing the audiences about corruptions and its implications. All cases are brought to public domain. The election funding scandal and the investigation of it has been discussed in the media for several years. A few other cases, related, for instance, to irregularities in public procurement or conflicts of interest have been made public recently.<sup>521</sup> Even though the media informs actively about these cases, no focused information campaigns about anticorruption or implications of corruption have been initiated.

### **Inform public on governance issues**

*To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?*

Score: Good( 50)

Informing about the decision of the government as well as the statements of the politicians belong to the central tasks of the media. In principle the Finnish media manage this relatively well. The tabloidization, scandal-orientation and concentration of ownership of the media have, however lead to the fact that too much weight is put on the need for the news to sell, concealing important, yet less “attractive” news. This way the basic role of the media as the impartial and truth-bearing carrier of information is in danger. One major problem is the crisis of the business model of the print media as bigger and bigger percentage of advertising money is spent on the web.

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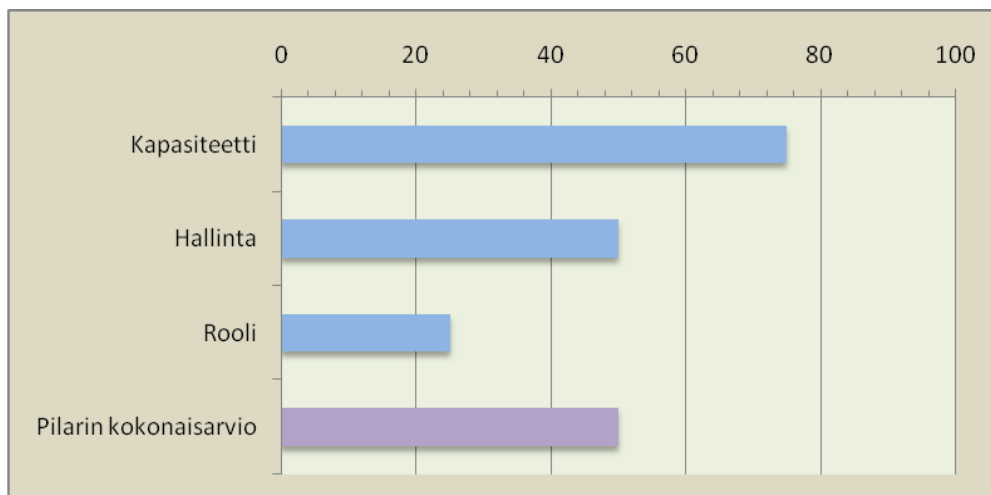
<sup>520</sup> Haastattelu 30.6.2011.

<sup>521</sup> Haastattelut 11.5.2011 ja 30.6.2011.

Several experts raised their concern about the fact that important political decisions are not reported thoroughly enough, if there is a major scandal ongoing at the same time. Possible shortcomings are reported very visibly, causing a public outcry that is possible to bury under it important news from the worlds of politics and administration .<sup>522</sup> Another problem is that politicians that are suspected for wrongdoings are quickly condemned guilty by the media, but decisions that overrule those suspects, and activities to clean one's reputation are often left with much less media attention.

## 6.12 CIVIL SOCIETY

### Civil Society



### Summary

This pillar assesses civil society and non-governmental organizations, ie. civic organizations. Due to globalization and the EU-regulations the functioning of different NGO's have changed, and especially, and the non-profit and for-profit division is problematic. EU-regulation influences the service-production of the civic organizations, and several organizations have become companies,

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<sup>522</sup> Herkman (2005). Haastattelut 11.5.2011 & 30.6.2011. ja eri puheenvuorot (Journalismi.fi).

which does not necessarily support the original purpose of their work. These developments bring about certain problems for the civil society organizations.

In the future civic organizations have a challenge of recruiting new, committed members. Also on behalf of the society and politics, the role of civic organizations, especially in service production, is emphasized more and more, though their resources may not be adequate in relation to the expectations. The anticipated changes in the legislation regarding associations will make online participation in the meetings easier; this might increase the commitment in the activities of associations easier.

According to a recently published report, there are several challenges upcoming in the economic preconditions of associations.<sup>523</sup> The report suggests several points regarding the development of civil society organizations, that should be included in the programme of the new government. In fact, the program of the new government includes only a very short mention about strengthening the possibilities of the third sector in organizing services related to citizen's health and well being.<sup>524</sup>

Civil society's financial system in Finland differs from many other countries. It is, however, considered to be functional. For example, Slot Machine Association (RAY), distributes grants to non-profit social and health care communities. Several reports have raised concerns about financial security and continuity. If RAY does not retain its monopoly position, one key channel in the funding of civil society is compromised.

## **Structure and organization**

Civil society is a large and heterogenic concept, thus difficult to define in simple terms.

An essential part of Finnish civil society is the work of non-governmental and not-for profit organizations. Also various foundations can be considered as a part of civil society. Trade unions, labour market organizations and different interest groups have a significant role in society and in political activities.

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<sup>523</sup> Harju & Niemelä (2011). Järjestöjen taloudelliset toimintaedellytykset.

<sup>524</sup> Pääministeri Jyrki Kataisen hallitusohjelma 2011.

The most important tasks associated with civil society organizations are influencing, lobbying, service-production, expertise, and volunteer activities. These organizations, or associations, offer the citizens a possibility to participate and contribute to society.<sup>525</sup>

Currently there are about 120 000 associations in the register of associations, and about 30 000 unregistered associations.<sup>526</sup> Of these, 80 000 are currently active. The biggest group are the cultural and interest associations, out of which sport associations consist over 40 % of the actively functioning associations (over 28 000). There are 13 000 associations that work in the social and health sectors, 12 000 occupational and business associations, 11 000 citizen's associations and trade unions, and 4500 associations that deal with social issues and health care. In terms of membership, culture and interest associations have the biggest numbers (over five million) as well as the occupational and business associations (4,5 million).

Internationally, if compared to the percentage of the civil society of the labor force and GDP, the volumes of the civil society in Finland are below European averages. In Finland the level of labor organization is relatively high, over 70 % of the work force are trade union members. The overall amount of civil society organization as well as the amount of voluntary work is of Nordic level in Finland.<sup>527</sup> Traditionally in Finland, a strong sense of cooperation has prevailed between the state and civil society. The civil society complements the public services without replacing them.<sup>528</sup>

It is worth noting that trade unions are important factors in the society, taking part, among others, in preparation of laws through meetings and expert groups.

## **Resources: Law**

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<sup>525</sup> Kansalaisyhteiskunnan toimintaedellytykset. Oikeusministeriö.

<sup>526</sup> Oikeusministeriö (2005). Kohti aktiivista kansalaisuutta.

<sup>527</sup> Oikeusministeriö (2005). Kohti aktiivista kansalaisuutta. Matthies (2006). Nordic civic society organisations and the future of welfare services.

<sup>528</sup> Matthies (2006). Nordic civic society organisations and the future of welfare services.

*To what extent does the legal framework provide an environment conducive to civil society?*

Score: 75 (Excellent)

In Finland, the circumstances and policies ensure an enabling environment for civil society. Freedom of association is guaranteed by the Constitution. No permission is needed for the founding of an association (except for the use of firearms-related activities/hobbies). Associations Act (503/1989) is the most important associations and organizations governing the activities of civil society. Associations can be registered by making a notification to the National Board of Patents and Registration (PRH), or for the registration place. Registration, which is not mandatory, allows the association to have more extensive rights, such as the ability to apply for grants, and to open a bank account.

Authorities do not interfere to the civil society activity unnecessarily, however the registration requirement may cause problems. Nowadays, there are more informal associations created and formed via the internet. Registration is a precondition for the financial assistance and the possibility to apply funding from the state.

Trade Unions and other interest groups have the right to a tax deduction of membership fees, this right has raised some debate. Interest groups also provide support for the election of certain parties and candidates, meaning that the membership fees are also channeled to the election funding. In Finland, the right for tax deduction of membership fees concerns all interest organizations – trade unions, employer's unions as well as agricultural and other entrepreneur's organizations.<sup>529</sup>

### **Resources: practice**

*To what extent do CSOs have adequate financial and human resources to function and operate effectively?*

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<sup>529</sup> Jäsenmaksujen verovähennysoikeus koskee kaikkia : <http://www.sak.fi/suomi/ajankohtaista.jsp?location1=1&lang=fi&ao=tyomarkkinauutiset&sl2=3&id=33529>



Score: 50 (Good)

In international comparison, the level and amount of voluntary actors in Finland is relatively high. The state and municipalities have increased their support for associations for the past 50 years, but the cost-saving measures have hindered and decreased the support associations have received. Civil society actors have expressed, that they do not have sufficient resources to secure their operations and work. Due to the aging of their members, and the difficulties to find members willing to commit into long-term activities, there are practical challenges, however, there is no exact research data on this.

The main revenue of funding sources vary from NGO groups. Public support is significant in youth and cultural associations, as well as in exercise and sports associations. In the latter group, cooperation with private companies is as important as public support.

Slot Machine Association (RAY), in particular, supports the social and health care organizations activity. For the future of the civil society, Ray's contributions are important, in that sense, the present Lottery Act and monopoly should be maintained. RAY is under the steering of Social and health ministry.

Oy Veikkaus Ab's funds are directed to association working in the field of education and culture. Funding system in Finland has been considered as a good one due to RAY's contributions. RAY has emphasized the co-operation between the public sector and civil society.

Tax exemption of donations is limited in Finland. In a survey analysing the current state of associations, it was considered, that the tax deductibility of donations should be improved and expanded. This measure would facilitate the fund-raising of organizations. In general, the legislation and public policies should encourage the donations to civil society organisations.

### **Independence: law**

*To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?*

Score: 100 (Excellent)

In legal terms, the independence of the civil society is guaranteed well. International competition law, however, causes problems to the organizations that offer services, since their position is weaker than the commercial organizations'. NGO's are often forced to switch to business forms, even if this contradicts their original aims and causes additional challenges to their practical activities.<sup>530</sup>

Non-profit organizations should be redefined so that it would reflect the principles of Finnish civil society without contrasting international competition law. This would strengthen the independence of the organizations as well as their possibilities to continue functioning as associations.<sup>531</sup>

### **Independence: practice**

*To what extent can civil society exist and function without undue external interference?*

Score: 75 (Excellent)

The Finnish authorities very seldom interfere with the civil society activities, thus respecting the independence of NGO's.<sup>532</sup> The above mentioned competition law, however, causes certain challenges. There are examples in Finland about too little supervision by authorities; for instance, after the 2007 Parliamentary elections, when certain foundations had provided election funding.

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<sup>530</sup> Haastattelu 6.6.2011.

<sup>531</sup> Harju & Niemelä (2011). Järjestöjen taloudelliset toimintaedellytykset. Oikeusministeriö.

<sup>532</sup> Haastattelu 6.6.2011.

National Board of Patents and Registration in Finland has demanded clarifications from several foundations about their activities' compliance with their own rules. Some foundations provided election funding, even though this was not in line with their rules..<sup>533</sup>

Funding from public sources covers approximately one third of the civil society organization's budget. 60 percent of their funding comes from the organization's own fundraising. In European comparisons the Finnish organization's are self-sustainable and less dependent of public funds.<sup>534</sup>

### **Transparency: practice**

*To what extent is there transparency in CSOs?*

Score: 50 (Good)

Associations have different policies in their communication, information and reporting on their activities. Larger associations usually operate in a transparent manner and have regular reporting and communication system. In general, the communication and transparency of associations has improved significantly with the use of internet, and in practice most organizations, provide data and information on their website. However, press and other media report on civil society activities less often, even if the associations themselves aim at active communication about their work and role.

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<sup>533</sup> YLE (2010) Patentti- ja rekisterihallitus vaatii säätiöiltä uusia vaalirahaselvityksiä.  
[http://yle.fi/uutiset/teksti/kotimaa/2010/09/patentti-\\_ja\\_rekisterihallitus\\_vaatii\\_saatioilta\\_uusia\\_vaalirahaselvityksia\\_2016831.html](http://yle.fi/uutiset/teksti/kotimaa/2010/09/patentti-_ja_rekisterihallitus_vaatii_saatioilta_uusia_vaalirahaselvityksia_2016831.html)

<sup>534</sup> Raninen ym. (2007). Mathildan muodonmuutos. Kansalais- ja vapaaehtoistoiminnan uudet kasvot.

## Accountability: practice

*To what extent are CSOs answerable to their constituencies?*

Score: 50 (Good)

According to the expert, the need for accountability is realized quite well through audit report and activity reports. The Associations Act has been amended so that smaller organizations can conduct activity reports instead of audit reports.<sup>535</sup>

According to the law, a registered association is in charge for all its liabilities. In unregistered associations, the members carry personal responsibility.<sup>536</sup>

Those organizations that raise their own funds are accountable and liable for their supporters. According to the internal expert, the so-called governance of associations is traditionally weak in Finland, and the boards of the associations tend to trust too much in the efficiency and honesty of the employees. The practice (of having a board) is getting outdated, and many board members do not even know their obligations. The principles of accountability and responsibility are realized through board meetings.<sup>537</sup>

According to the Associations Act, the board of the association is responsible for the bookkeeping and finances.<sup>538</sup>

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<sup>535</sup> Yhdistyslaki 503/1989. Tilintarkastuslaki.

<sup>536</sup> Yhdistyslaki 503/1989. Yhdistysopas-maahanmuuttajille.

<sup>537</sup> Haastattelu 6.6.2011.

<sup>538</sup> Yhdistyslaki 503/1989.

## **Integrity: practice**

*To what extent is the integrity of CSOs ensured in practice?*

Score: 50 (Good)

The integrity of civil society actors is primarily maintained through self-regulation. The association Act defines incompetence due to the likelihood of bias, for example a member of the board cannot participate in decision-making, in which his/her private interest may conflict with the interests of the association.

Those associations, that are engaged in fundraising, have created guidelines for good governance, that are to some extent similar to the corporate governance guidelines of non-listed companies. It appears, that self-regulation is not always effective, because in practice there are cases of malpractice and other unethical elements, for example misuse of position of trust.

## **Hold government accountable**

*To what extent is civil society active and successful in holding government accountable for its actions?*

Score: 25

The experts' views on the 'watchdog\*' role of the civil society differ. Some say that in Finland the media is expected to carry this role. On the other hand there is traditionally a strong respect towards

authorities. Some experts underline the role of the media and internet, when one takes a look at the relationship between civil society and power. The self-assessment with regards corruption can be too positive as well.<sup>539</sup>

Transparency International Finland is the only NGO, that is directly involved with anti-corruption activities in Finland. Transparency International is an international organization, whose core idea is imported from abroad. It can be said, that there has been little anti-corruption initiative taken by the Finnish civil society. Especially watchdog activities have been quite limited, even though, thanks to the media and the Internet, numerous organizations have been established in order to supervise the activities of politicians and civil servants.<sup>540</sup>

Finnwatch supervises the activities of both Finnish companies, and companies that are strongly related to Finland, in developing countries. Finnwatch has published reports about among other things the ethics and ethical criteria in public procurement.<sup>541</sup>

## **Policy reform**

*To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?*

Score: 25

Finnish civil society has traditionally not been very interested in preventing corruption and grey economy. It is worth noting, that corruption has not been perceived as a major problem in Finnish society, and partly it has been stated that corruption is imminent in those areas with weak transparency.<sup>542</sup> Even though the Finnish civil society has not been very active in promoting anti-corruption reform, one can rightly suppose, that thanks to the recent corruption scandals the civil society will be more actively engaged in reform. The more conflicts of interest within the political elites and public power, the more likely it is for the civil society to get active in discussions about political morale and activities.

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<sup>539</sup> Haastattelut 5.6.2011 & 6.6.2011.

<sup>540</sup> Haastattelu 5.6.2011.

<sup>541</sup> <http://www.finnwatch.org/>

<sup>542</sup> Haastattelu 6.6.2011.



## 6.13. BUSINESS

Figure. Overall score of the different parts of the business sector.



Capacity = resources, independence; governance = transparency, accountability, integrity mechanisms; role = anti-corruption policy engagement, support for/engagement with civil society.

### Summary

The right to free enterprise works fairly well in Finland, compared internationally, and the business environment can be considered supportive. However, entrepreneurs find some of the legislation is complicated and feel that business activities are regulated in too much detail. Reforms like the one to the Finnish Companies Act in 2006 (now named the Limited Liability Companies Act) have been aimed at clarifying the norms that apply to businesses.

Legislation creates a framework for the interaction between businesses and officials, for example in licence and audit practices. The basic principles of business activities are safeguarded in accordance with ethical rules of the game, and bribery is rare. Relationships like the “old boy” network have become an unethical problem between the business sector and public authority. The ethical rules of the game of international business should be improved by investing in education and thus increasing awareness of ethical issues. Black economy is a growing concern, and businesses should be



equipped with better tools to prevent it. Having more cooperation between the state and the business sector would probably be useful for preventing black economy and also for other anti-corruption activities.

Businesses strive to promote good governance in their activities. Listed companies must comply with the Finnish Corporate Governance Code and its Comply or Explain principle. The Corporate Governance Code supplements legislation, especially the Limited Liability Companies Act. Other companies comply with corporate governance recommendations on a voluntary basis. Auditing principles mainly follow international recommendations. It is due to Finland's corporate structure that corporate governance codes and statutory audits only apply to a fraction of Finnish companies. Few businesses have separate ethical codes, but it seems that the activities of Finnish businesses are quite ethical and honest in practice.

## Structure and Organisation

The table below includes information on the structure of Finnish businesses, namely the number of companies, ownership, and lines of business.<sup>543</sup> It also lists some of the central legislation on business activities.<sup>544</sup> Since the state's role as an owner has decreased in the past few decades, state-owned companies are not assessed as a separate pillar.<sup>545</sup>

Table 1. Information on Finnish companies.

Size and number of companies (2009)	Number of listed or state-owned companies (2010)	Lines of business (2010)	Current legislation (2010)

<sup>543</sup> Federation of Finnish Enterprises & Statistics Finland (2009).

<sup>544</sup> Central Chamber of Commerce (2011).

<sup>545</sup> Government Institute for Economic Research VATT (2008). State-owned companies 1975-2008.

<ul style="list-style-type: none"> <li>- large companies, 608 (&lt; 1%)</li> <li>- medium companies, 2,334 (approx. 1%)</li> <li>- small companies, 14,486 (approx. 5%)</li> <li>- micro companies, 246,331 (over 90%)</li> </ul>	<ul style="list-style-type: none"> <li>- listed companies: 126</li> <li>- companies where state has minority ownership: 20</li> <li>- companies where state is the majority owner (state-owned companies): 32</li> </ul>	<ul style="list-style-type: none"> <li>- services 36%</li> <li>- commerce 18%</li> <li>- construction 15%</li> <li>- vocational, technical, scientific activity 12%</li> <li>- industry 9%</li> </ul>	<ul style="list-style-type: none"> <li>- the Limited Liability Companies Act</li> <li>- the Accounting Act</li> <li>- the Auditing Act</li> <li>- the Securities Markets Act</li> </ul> <p>Other relevant legislation:</p> <ul style="list-style-type: none"> <li>- competition laws</li> <li>- employment laws</li> <li>- consumer protection laws</li> <li>- industrial rights</li> </ul>
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## Resources (Law)

*To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?*

Score: 75 (Very good)

The right to engage in commercial activity is a basic right protected by the Constitution of Finland.<sup>546</sup> The Act on the Right to Carry on a Trade (122/1919), which has been amended to comply with obligations set by ETA, further regulates the right to commercial activity. In Finland, corporate law and community law define the activities of companies and create an enabling environment for business.<sup>547</sup> The most important piece of legislation regulating the activities of companies is the Limited Liability Companies Act (624/2006), which was amended to be more clear and comprehensive in 2006. Industrial rights and immaterial rights are well safeguarded.

The stages of starting up and closing down a business are regulated in considerable detail. Consequently entrepreneurs need to be familiar with the law and other requirements for business activities. Experts agree that it is quite easy and not time-consuming to form a business in Finland. The process of starting up a business begins with the creation of a business plan, for which help is available in e.g. start-up company centres (Uusyrityskeskus) and Centres for Economic Development, Transport and the Environment. After arranging for funding and choosing the form of business, an entrepreneur must file a start-up notification with the National Board of Patents and Registration of Finland and find out whether the business requires a trade licence (licensed trades include e.g. health services and the restaurant business). Tax Administration is notified of new companies. Accounting and insurance must be organised appropriately and in compliance with legislation.<sup>548</sup>

Even though there are various sources providing targeted guidance and support for entrepreneurs, experts criticise the practice of having to notify several different officials. This makes the “regulations jungle” complex and the system quite bureaucratic from an entrepreneur’s point of view.<sup>549</sup> The internal expert criticises Finnish administrative culture for “creating administration for administration’s sake” and for the fact that it has been necessary to create a special support service

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<sup>546</sup> The Constitution of Finland, Section 18.

<sup>547</sup> Ministry of Employment and the Economy 2011. <http://www.yrityssuomi.fi/web/enterprise-finland>

<sup>548</sup> Interviews on May 6, 2011 and May 13, 2011, Ministry of Employment and the Economy 2011. The Accounting Act.

<sup>549</sup> Interview on May 6, 2011.

in Centres for Economic Development, Transport and the Environment for the purpose of advising businesses and entrepreneurs.

If a business carries on a licensed trade, entrepreneurs are responsible for purloining the required licences and certificates. This may be a slow process. The responsibilities and statutory requirements connected to hiring employees may be challenging for new entrepreneurs. For many, hiring the first employees is an important decision and a big investment.<sup>550</sup>

### **Resources (Practice)**

*To what extent are individual businesses able in practice to form and operate effectively?*

Score: 75 (Very good)

It is fairly easy to form a new business in practice as well. As mentioned above, various sources offer help and advice with creating a business plan. It is also possible to purchase a limited liability company from a special company that takes care of the arrangements that come with forming and starting up a business.<sup>551</sup> The interaction between entrepreneurs and Tax Administration seems to have improved in recent years.<sup>552</sup> The online "palkka.fi" system, for example, is a step towards solving some of the problems linked with salary payment and towards promoting smoother interaction between businesses and Tax Administration.<sup>553</sup>

One must keep in mind that whether or not an operating environment is enabling is open to interpretation, especially in relation to public authority and bureaucracy. The state offers businesses financial support in the form of different kinds of start-up money and business subsidies. In 2010, for example, the state paid over 600 million euros in business subsidies.<sup>554</sup> According to a survey<sup>555</sup>

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<sup>550</sup> Interview on May 6, 2011.

<sup>551</sup> Interview on May 13, 2011. See e.g. Töölön Osakeyhtiötoimisto <http://www.yrityksen-perustaminen.fi/?gclid=CLiRxebxqKkCFci-zAod5EKeKg> (in Finnish)

<sup>552</sup> Interview on May 6, 2011.

<sup>553</sup> [www.palkka.fi](http://www.palkka.fi) (in Finnish)

<sup>554</sup> Compare with previous years: the amounts are increasing.

<sup>555</sup> PK toimintaympäristökysely 2011. (SME operating environment survey 2011.)

commissioned by the Confederation of Finnish Industries, one in three small and medium companies has received direct support from public organisations. According to the surveyed business managers, the subsidies are especially important for expansive companies, and there should be more encouragement towards expansion.

The respondents felt that on the one hand, the atmosphere for entrepreneurship is reasonably supportive in Finland, but on the other hand they felt that it limited expansiveness and risk-taking. The complexity of the employment legislation and the collective bargaining agreements is felt to be challenging, which is why the clarity of contract texts should be improved. Two in five respondents believed that Finnish culture supports entrepreneurship, though only one in five felt that it was easy to be an entrepreneur in Finland. The respondents and the experts<sup>556</sup> were also critical of how difficult it is to restart business activities even if the entrepreneur has previously carried out completely honest business.<sup>557</sup>

The Heritage Foundation's Economic Freedom Index<sup>558</sup> ranked Finland 17<sup>th</sup> internationally and 8<sup>th</sup> in Europe. The World Economic Forum's (WEF) Global Competitiveness Report<sup>559</sup> listed Finland in 7<sup>th</sup> place and as one of the innovation-driven countries. The WEF report supports the view that certain basic pillars of society, such as rule of law, independent courts, and a responsible public sector, create an enabling environment for business. The macroeconomic operating environment was also assessed to be favourable. In addition, WEF found Finland's public institutions to be well-functioning and highly transparent. The report ranked Finland 2<sup>nd</sup> in protecting property rights, though when trust in politicians, favouritism, and wastefulness of government spending were assessed, Finland ranked considerably lower (9<sup>th</sup> to 14<sup>th</sup>).<sup>560</sup>

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<sup>556</sup> PK toimintaympäristökysely 2011 (SME operating environment survey 2011), interviews on May 6, 2011 and May 13, 2011.

<sup>557</sup> PK toimintaympäristökysely 2011. (SME operating environment survey 2011.)

<sup>558</sup> Heritage Foundation Economic Freedom 2011.

<sup>559</sup> World Economic Forum Global Competitiveness Report 2011

<sup>560</sup> World Economic Forum Global Competitiveness Report 2011.

Business managers feel that taxation practices, employment legislation, tax legislation, and bureaucracy are the most harmful things to the business sector. However, corruption is considered a minor issue in Finland's operating environment.<sup>561</sup>

### **Independence (Law)**

*To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?*

Score: 100 (Excellent)

The independence of legal business activities is protected by law. Officials perform inspections within their jurisdiction, for example health and safety inspections and environmental or tax inspections. The law specifies the duties and requirements of entrepreneurs. Entrepreneurs who commence a licensed trade must be aware of the legal requirements and their duties and responsibilities. Local and state officials are in charge of inspections. According to experts, there have been very few examples of unwarranted interference in the activities of private businesses by representatives of public authority.<sup>562</sup> Both the Heritage Foundation index and the WEF index support the experts' view that the conduct of officials and the judiciary in relation to the business sector has been excellent and ethically impeccable.<sup>563</sup>

The legal protection of businesses is safeguarded by legislation. Those who wish to file a complaint on an official's decision may file either an administrative complaint or a municipal complaint.<sup>564</sup>

### **Independence (Practice)**

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<sup>561</sup> World Economic Forum Global Competitiveness Report 2011.

<sup>562</sup> Interviews on May 6, 2011 and May 13, 2011.

<sup>563</sup> Heritage Foundation Economic Freedom Index 2011.

<sup>564</sup> The Administrative Judicial Procedure Act 586/1996, the Administrative Procedure Act 434/2003, the Local Government Act (365/1995).

*To what extent is the business sector free from unwarranted external interference in its work in practice?*

Score: 75 (Very good)

As mentioned earlier, there have been very few cases of unwarranted interference in the independent activities of private businesses by representatives of public authority in Finland, and businesses can function quite independently in practice. However, a practical problem emerges from the fact that licence practices may vary between municipalities and regions, since officials have different practices and different interpretations of the law.<sup>565</sup> For example, in spring 2011 the city of Helsinki refused to grant a café truck an operating licence, though the licence was later granted after a public outrage. Matters and decisions regarding city planning give rise to conflicting opinions on official interference in business sector activities.<sup>566</sup> The external expert sees city planning permission practices as one area of interaction between municipal administration and business sector actors that is very prone to corruption. There is often public discussion about differences of opinion in city planning matters.<sup>567</sup>

One problem for independence lies in the troubles that the market situation has caused e.g. the transportation business. Due to the bad market situation, small businesses in particular have been forced to accept unfavourable contract terms.<sup>568</sup>

## **Transparency (Law)**

*To what extent are there provisions to ensure transparency in the activities of the business sector?*

Score: 100 (Excellent)

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<sup>565</sup> Interviews on May 6, 2011 and May 13, 2011.

<sup>566</sup> Interview on May 13, 2011.

<sup>567</sup> Interview on May 13, 2011.

<sup>568</sup> Interview on May 13, 2011, SKAL Kuljetusbarometri 2011. (Finnish Transport and Logistics SKAL transportation barometre 2011.) [http://www.skall.fi/files/8131/SKAL\\_Kuljetusbarometri\\_1-2011.pdf](http://www.skall.fi/files/8131/SKAL_Kuljetusbarometri_1-2011.pdf) (in Finnish)

According to the Trade Registers Act (129/1979), anyone has the right to receive information on notifications that have been sent to the Trade Register. The information regarding owners, persons in charge, and financial statements is public. The experts assess that transparency is quite high in Finland. The system itself is also fairly good. Basic information on businesses is recorded in the joint information system of Tax Administration and the National Board of Patents and Registration.<sup>569</sup>

External auditors audit businesses annually. The Auditing Act was amended in 2007, and so-called non-authorised audits were given up in favour of professional audits. However, the amendment released small companies (approx. 60% of companies) from statutory audits. The Finnish limit for statutory audits is quite low, and EU regulations would allow a higher limit. If a company's balance sheet is under €100,000, the turnover is under €200,000, and there has been an average of 3 employees<sup>570</sup> for the previous two years, audits are voluntary. The reform has caused discussion about whether non-authorised audits would be a better option than a complete lack of audits.<sup>571</sup>

In Finland, consolidated financial statements of listed companies are drawn up in compliance with the International Financial Reporting Standards (IFRS). The accounting obligation of smaller companies is based on national regulation<sup>572</sup>. Finland also follows the International Standards on Accounting (ISA), which are a result of joint development work within the private sector.<sup>573</sup>

According to the internal expert, there have been demands for more transparency in listed companies in particular, both due to national legislation and the increasing self-regulation by companies.<sup>574</sup> The Securities Markets Act<sup>575</sup> includes regulations on the reporting and supervision of the profits of listed companies. In Finland the Financial Supervisory Authority (FIN-FSA) is tasked with supervising that listed companies and others who release securities disclose information

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<sup>569</sup> Interviews on May 6, 2011 and May 13, 2011. The Business Information Act 244/2001.

<sup>570</sup> Two of the three conditions must be met. The Auditing Act, Section 4.

<sup>571</sup> Interview on May 13, 2011.

<sup>572</sup> The Accounting Act (1336/1997), the Auditing Act 459/2007.

<sup>573</sup> International Standards on Auditing, Ministry of Employment and the Economy 2008 memo.

<sup>574</sup> Interview on May 6, 2011.

<sup>575</sup> The Securities Market Act 495/1989.



continuously and regularly. FIN-FSA also monitors compliance with International Financial Reporting Standards (IFRS) and potential insider trading.<sup>576</sup>

According to the external expert, the transparency of the business sector would have been severely weakened if the proposed amendments to the Securities Markets Act had been passed. The reform would have enabled business owners and shareholders to hide their identities behind an administrative register, making it much more difficult for officials and the media to access information about them. The proposed reforms were heavily criticised by the police and Tax Administration as well.<sup>577</sup>

### **Transparency (Practice)**

*To what extent is there transparency in the business sector in practice?*

Score: 50 (Good)

There are varying degrees of transparency in practice, states the external expert.<sup>578</sup> On the one hand, the transparency requirements are comprehensive, and profits and financial statements are public information. However, one might ask whether it is truly purposeful to publish the income information of all entrepreneurs. On the other hand, the publicity of the Trade Register's financial statement information does not work well in practice.<sup>579</sup>

The actions of auditors are supervised by the auditing boards<sup>580</sup> (TILA, TIVA) that are connected to the Central Chamber of Commerce and the Chamber of Commerce. The auditing boards promote transparency in practice.

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<sup>576</sup> Liljeblom & Löflund (2006). Developments in corporate governance in Finland. *International Journal of Disclosure and Governance* 3, 277-287; Financial Supervisory Authority (2011) <http://www.finanssivalvonta.fi/en/>.

<sup>577</sup> Interview on May 13, 2011. The Union of Journalists in Finland 2011.

<sup>578</sup> Interview on May 13, 2011.

<sup>579</sup> Interview on May 13, 2011.

<sup>580</sup> Central Chamber of Commerce (2011).

The Register of Contractor Responsibility and Liability has also not fully reached its goals, since its use is entirely voluntary. The Register's purpose was to enable businesses and public entities to check that personnel agencies or subcontractors fulfil their statutory obligations and follow the rules.<sup>581</sup>

If listed companies depart from the recommendations of the Corporate Governance Code, they must report the departure both on their website and in their annual report on their management and guidance system.<sup>582</sup> In practice, this means that it is possible to comply with the Corporate Governance Code even when departing from it. The Comply or Explain principle guides the distribution of information to the investors in particular.<sup>583</sup>

It is the purpose of the Financial Supervisory Authority (FIN-FSA) to ensure that investors have access to all the necessary information on the activities and results of listed companies.<sup>584</sup> However, FIN-FSA has been criticised for inadequately safeguarding integrity and transparency. For example, FIN-FSA did not make any reports to the police in the year 2009. In 2010, FIN-FSA reported three violations to the police, but none of them led to a sentencing.<sup>585</sup>

Businesses vary in diligence when it comes to reporting their corporate responsibility and sustainable development. In the Global Reporting Initiative's (GRI) listing assessing this issue, Finland was ranked tenth.<sup>586</sup>

The internal expert feels that many officials distribute information slowly. The problem is that due to security reasons, officials cannot always give out information when it would be needed e.g. to prevent black economy. This raises the question of whether the blocks to information distribution do more to aid dishonest activities than honest activities.<sup>587</sup>

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<sup>581</sup> Interview on May 13, 2011, [www.tilaja.fi](http://www.tilaja.fi), the Act on the Contractor's Obligations and Liability when Work is Contracted Out 1233/2006.

<sup>582</sup> The Finnish Corporate Governance Code 2010.

<sup>583</sup> Huovinen (2009). *Läpinäkyvyyden mantra ja corporate governance-suositukset*. (The mantra of invisibility and corporate governance recommendations.) Defensor Legis.

<sup>584</sup> Financial Supervisory Authority (2011) <http://www.finanssivalvonta.fi/en/>.

<sup>585</sup> See e.g.: <http://fifi.voima.fi/voima-artikkeli/2011/numero-3/veronkiertotempu-kuinka-se-tehdaan> (in Finnish)

<sup>586</sup> Global Reporting Initiative (2011).

<sup>587</sup> Interview on May 6, 2011

## Accountability (Law)

*To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?*

Score: 100 (Excellent)

Businesses are accountable to their owners or shareholders. The relationship between the management and the shareholders is defined in the Limited Liability Companies Act. Accountability to the state is linked with statutory accounting obligation and responsibility, in other words playing by the rules.

According to the Accounting Act (1336/1997), everyone who carries out a trade or a commercial activity has a statutory accounting obligation. The Limited Liability Companies Act (624/2006) defines the duties of the managing director and the board and their responsibility to shareholders. Managing directors are accountable to the shareholders, and if they lose the shareholders' confidence they can be dismissed.

The Auditing Act (459/2007) is the most important piece of legislation on the supervision of businesses. Looking at the numbers, the majority (60%) of businesses are left outside statutory audits.<sup>588</sup>

Accountability can be seen both as accountability as it is defined in law and as an ethical principle. Experts believe that accountability happens from the "bottom-up". There is quite a lot of binding legislation in different areas of business activities.

The Finnish Corporate Governance Code<sup>589</sup> compiled by the Securities Market Association<sup>590</sup> is strongly based on corporate law, especially the Limited Liability Companies Act. Its aim is to promote compliance with high-quality international corporate governance. The Corporate

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<sup>588</sup> Interview on May 13, 2011.

<sup>589</sup> The Finnish Corporate Governance Code 2010.

<sup>590</sup> The Securities Market Association is a cooperation body established in December 2006 by the Confederation of Finnish Industries EK, the Central Chamber of Commerce of Finland, and NASDAQ OMX Helsinki Ltd.  
<http://cgfinland.fi/en/>

Governance Code supplements statutory practices and includes recommendations e.g. on the roles of the company board and the managing director and on the principles of rewards. In the European practice, the Corporate Governance Code stresses the strong role of the board.<sup>591</sup> A comparative study of corporate governance contents suggests that the Finnish Corporate Governance Code puts quite a lot of emphasis on recommendations on internal governance and the forming of the board.<sup>592</sup>

There are also recommendations for improving the governance of unlisted companies, though compliance is voluntary. These recommendations also help supplement statutory practices.<sup>593</sup>

### **Accountability (Practice)**

*To what extent is there effective corporate governance in companies in practice?*

Score: 75 (Very Good)

In practice, assessing accountability has many dimensions and depends on how widely one defines accountability in relation to shareholders and interest groups. The board's role is emphasised when we assess accountability in practice and how it is supervised. Managing directors are responsible and accountable for their actions and decisions to the company board, and they are not employed by the company in the traditional sense.<sup>594</sup>

According to the internal expert, legislation alone is not enough to guarantee accountability, but effective self-regulation promotes accountability and its supervision.<sup>595</sup> Good governance and accountability help to make companies successful, and it is consequently in companies' best interest to follow corporate governance recommendations and ethical principles.<sup>596</sup>

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<sup>591</sup> Liljeblom & Löflund (2006).

<sup>592</sup> Wieland (2005). Corporate Governance, Values Management, and Standards: A European Perspective. *Business Society*, 44:1, pp. 74-93. European Corporate Governance Codes (2008).

<sup>593</sup> Central Chamber of Commerce (2006). *Listamattomien yhtiöiden hallinnoinnin kehittäminen*. (Developing the corporate governance of unlisted companies.)

<sup>594</sup> Virtanen (2010). *Corporate Governance and Accountability*.

<sup>595</sup> Interview on May 6, 2011.

<sup>596</sup> Interview on May 6, 2011. Nyström (2010). Wieland (2005).

In practice, markets improve the accountability of companies, both through shared responsibility and through interest groups. The Finnish Corporate Governance Code is also based on self-regulation by companies, and it clarifies the principles of accountability. Listed companies follow the Code's Comply or Explain principle; generally they should comply with all recommendations, but if they depart from a recommendation they must explain and account for their actions.<sup>597</sup> This means that in practice, companies comply with the Code even when they depart from individual recommendations, as long as they explain their reasons.<sup>598</sup> The recommendations for unlisted companies also include the Comply or Explain principle.

One must note that the majority of businesses are in practice so-called one-man companies or family companies, meaning that there is no separate governance to speak of. The external expert believes that even in larger companies it is possible for the board and the managing director to operate quite independently and without the shareholders' knowledge. There have been fairly few cases of unethical abuse of authority by company management in Finland. However, suspicions and reports to the police regarding abuse of positions of trust have been steadily increasing in the 2000s.<sup>599</sup> (For example, the confusions regarding the use of management authority in Destia and the Blood Service of the Finnish Red Cross.) The external expert criticises the ineffective supervision of the governing boards of large companies, since there is no intervention in cases of abuse until there is an external impulse to act. The media, for example, calls attention to possible anomalies or abuses.<sup>600</sup>

According to the external expert, the limit for statutory audit could be changed to allow auditing to reach a greater percentage of businesses. At present, over half of Finnish businesses are not required by law to have their accounts audited.<sup>601</sup>

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<sup>597</sup> Interview on May 6, 2011. The Finnish Corporate Governance Code 2011.

<sup>598</sup> The Finnish Corporate Governance Code 2011.

<sup>599</sup> Liljeblom & Löflund (2006). Developments in corporate governance in Finland. Katsaus korruptiorikollisuuteen 2011. (A report on corruption crime 2011.)

<sup>600</sup> Interview on May 13, 2011.

<sup>601</sup> Interviews on May 6, 2011 & May 13, 2011.

## **Integrity Mechanisms (Law)**

*To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?*

Score: 75 (Very Good)

Private businesses have legal responsibility for their activities. Finland's Criminal Code contains regulations regarding bribery crimes in business activities. On the other hand, the law is considered fairly narrow in scope and the punishments it contains are felt to be too light. The Criminal Code was amended in 2010 to better comply with international recommendations. Nevertheless, Finland received a mediocre assessment on the progress in implementing the recommendations.<sup>602</sup>

The Auditing Act and international recommendations safeguard integrity in practice. Corporate governance recommendations function as self-regulation by companies and include instructions on e.g. rewarding company management and on other benefits.

However, the majority (approx. 98%) of businesses do not have rules or codes beyond legislation to safeguard integrity. This discrepancy is due to the large number of small companies.<sup>603</sup> The Confederation of Finnish Industries has published recommendations for responsible business activities, which deal with the principles of responsible action on a general level. These recommendations discuss corruption and the integrity of activities in connection with foreign trade.<sup>604</sup>

## **Integrity Mechanisms (Practice)**

*To what extent is the integrity of those working in the business sector ensured in practice?*

Score: 50 (Good)

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<sup>602</sup> OECD (2010): Finland: Phase 3. GRECO:n suosituksset. Transparency International (2011). Progress Report 2011.

<sup>603</sup> Interview on May 13, 2011.

<sup>604</sup> The Confederation of Finnish Industries EK 2011.

It is difficult to assess private sector corruption. This makes it problematic to assess integrity in practice. According to the Annual Report on the Corruption Situation (2009), corruption in the business sector is most often found in the fields of industry and construction. Between 2003 and 2008 the police recorded 15 reports of giving or receiving bribes in business activities. However, the majority of bribery and corruption crimes are beyond of the authorities' reach.<sup>605</sup> Cases of suspected criminal abuse of positions of trust have increased in the 2000s and are a serious threat to businesses.<sup>606</sup>

One area that safeguards the integrity of business activities is auditing and auditing regulations. Finland follows the international recommendations on good auditing (ISA and IFRS).<sup>607</sup> Listed companies are bound by corporate governance codes. However, in practice this means that the majority of Finnish companies do not have binding rules or codes of conduct.<sup>608</sup>

The purpose of auditing is to bring possible abuses to the awareness of the management, the board, or the shareholders. In the external expert's opinion, auditing has fairly limited powers of observation and reporting abilities in this respect.<sup>609</sup>

Only a few companies use separate ethical codes or guidelines. The use ethical codes is rare in Finnish companies compared to e.g. American, British, or German companies. This does not mean that Finnish companies operate less ethically, but rather that the practice is still new. Many companies also combine their ethical codes with their corporate responsibility and values. In a random sample of 50 Finnish companies, 13 companies had an ethical code or guideline (if ethical codes are separated from company strategy or other plan of operations).<sup>610</sup> Ethical codes should be value-based guidelines that also include instructions for solving ethical problem situations, not just lists of company values and possible sanctions for unethical activities.<sup>611</sup>

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<sup>605</sup> National Bureau of Investigation (2009-2010). Korruptiotilannekuvat. (Reports on the corruption situation.)

<sup>606</sup> Katsaus korruptiorikollisuuteen 2011. (A report on corruption crime 2011.)

<sup>607</sup> Ministry of Employment and the Economy 2011, the Auditing Act.

<sup>608</sup> Interview on May 13, 2011.

<sup>609</sup> Interview on May 13, 2011

<sup>610</sup> Lindfelt (2004). Ethics Codes in Finnish Business.

<sup>611</sup> Webley & Werner (2008). Corporate codes of ethics: necessary but not sufficient.

Black economy has become a problem in Finland, especially in the construction industry, where the ethical rules of the game are often broken. Officials have been criticised for the lack of adequate supervisory resources to root out black economy, and in practice it seems that the problem is not being taken seriously.<sup>612</sup>

Even though there have only been a few corruption cases in Finland, structures like the old boy network are problematic and difficult to verify.<sup>613</sup> One form of unethical activity that has been criticised is excessive hospitality and large gifts between private businesses and representatives of public authority. The principle should be that if an official can honestly and openly disclose having received a gift from a company, this should fulfil the requirements for maintaining integrity.<sup>614</sup>

Based on practical examples, it is possible to divide the integrity violations and corruption-prone areas of Finnish business into eight categories: 1) unwarranted interference with officials by companies, often connected to taxation, city planning, and licences, 2) internal corruption in the business sector, 3) corruption of public entities, 4) black economy in the construction industry, 5) “buttering-up” in the medical industry, 6) bribery and unwarranted interference in connection with international trade, 7) ethical problems in the eastern trade related to a corruption-prone environment, e.g. dealing in receipts, and 8) abuse of positions of trust, especially in public companies, equivalent to private sector embezzling and fraud.

The internal expert is very critical of the Act on Public Contracts, stating that it may make competitive bidding more prone to corruption as the price competition intensifies.<sup>615</sup> In a survey by the Federation of Finnish Enterprises, business-owners were very critical of municipal contract policies and contract expertise.<sup>616</sup>

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<sup>612</sup> Interviews on May 6, 2011 and May 13, 2011. Hirvonen, Markku et al. (2010). Suomen kansainvälistyvä harmaa talous. (Finland’s increasingly cross-border black economy.) Report by the Parliamentary Audit Committee 1/2010.

<sup>613</sup> Salminen & Ikola-Norrbacka (2009). Kuullaanko meitä: Eettinen hallinto ja kansalaiset. (Are we being heard: ethical governance and citizens.) Publications of the University of Vaasa. Studies 288.

<sup>614</sup> Interview on May 6, 2011.

<sup>615</sup> Interview on May 13, 2011.

<sup>616</sup> Elinkeinopolitiikan mittaristo (2010). (Industrial policy indicators 2010.)



It is challenging for companies that operate abroad to maintain their integrity in different cultures, where offering bribes to officials may be almost the way of the land.<sup>617</sup> A 2010 OECD report criticised Finland for having inadequate practices regarding informing or whistleblowing and for doing little to promote awareness of corruption-related issues.<sup>618</sup> Even if a business has an ethical code, its impact is minimal without commitment from employees and without sufficient ethical training.<sup>619</sup>

Experts criticise how little is being done to train business sector employees and to increase awareness of corruption.<sup>620</sup> In the future, it would be useful to consider developing cooperation with civil society actors.

### **Anti-Corruption Policy Engagement**

*not assessed for Finland*

### **Support for and Engagement with Civil Society (Law & Practice)**

*To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?*

Score: 25 (Satisfactory)

Experts agree that there is very little anti-corruption cooperation between the business sector and civil society in Finland.<sup>621</sup> Transparency Finland has held seminars on the subject and has published materials together with the Central Chamber of Commerce that deal with anti-bribery business

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<sup>617</sup> Interview on May 6, 2011.

<sup>618</sup> OECD (2010). Phase 3 Finland.

<sup>619</sup> Webley & Werner (2008). Corporate codes of ethics: necessary but not sufficient.

<sup>620</sup> Interviews on May 6, 2011 and May 13, 2011.

<sup>621</sup> Interviews on May 6, 2011 and May 13, 2011.

principles.<sup>622</sup> These principles need to be updated to meet the challenges of the operating environment. The guidelines should outline the challenges of international business activities and possible ways to promote the role of whistleblowing. Different whistleblowing mechanisms should be developed in the business sector along with ensuring adequate source protection for whistleblowers.<sup>623</sup>

The internal expert states that business employees should be made more aware of corruption-prone situations and how to act in such situations. The operating culture in e.g. Russia differs from the Finnish in the sense that many practices are very different.<sup>624</sup> It would be quite useful to organise more joint training with civil society organisations.

*Questions to consider*

*Does the business sector need more principles of fair competition and related clarifications?*

*How should one react to corruption in international business and its whistleblowing mechanisms?*

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<sup>622</sup> Lahjonnanvastaiset periaatteet - soveltamisohjeet (2002). (Anti-bribery principles – application guidelines 2002.); Lahjonta on rikos - lahjonnan vastaiset liiketoiminnan periaatteet (2002). (Bribery is a crime – anti-bribery business principles 2002).

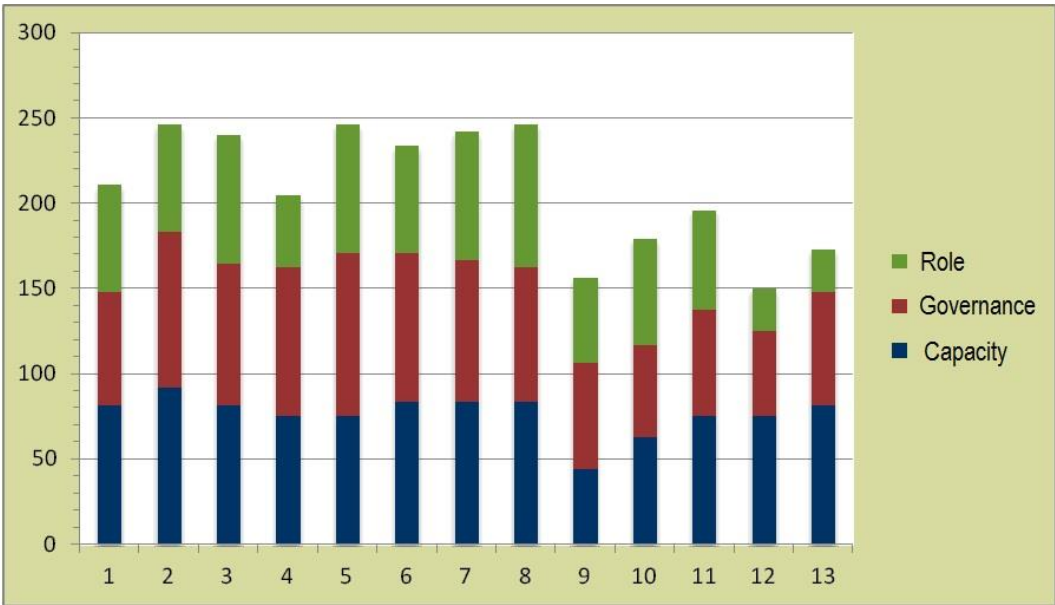
<sup>623</sup> OECD (2010). Phase 3 Finland.

<sup>624</sup> Transparency International (2010): Corruption Perception Index. Korruptiotilannekuva (2009). (Report on the Corruption Situation 2009.)

## 7. CONCLUSION

This assessment report has discussed the effectiveness of Finland's national integrity system, its strengths and weaknesses, and its ability to react against corruption. The assessment was based on interviews, central research and source material, and legislation. Each institution or pillar was described, evaluated, and then given a score on a five-point scale from mediocre to excellent, as described at the beginning of this report. The following summary is based on the table and figure below and on Annex 2 (summary of the pillars). The first summary is condensed into the table below.

Table. Summary of pillar scores: capacity, governance, and role.



1= Legislature, 2= Executive, 3= Judiciary, 4= Public Sector, 5= Law Enforcement Agencies, 6= Electoral Management Body, 7= Ombudsman, 8= National Audit Office, 9= Anti-Corruption Agency, 10= Political Parties, 11= Media, 12= Civil Society, 13= Business.

The overall picture that is formed shows the general level of Finland's integrity system and how each actor emerges from the assessment. Comparisons can be drawn between pillars on a general level, but one must keep in mind that each actor has its own tasks and needs for improvement, which are not directly comparable with the situations of other actors.

The overview also shows that there are fairly large differences between pillars. This is partially due to the fact that there were several assessment criteria, which were further divided into assessing law and assessing practice. Lack of evidence also hindered the assessment slightly: on occasion, interviews or other collected material were not sufficiently informative and did not form the best possible basis for assessment.

As the table shows, there is a fair amount of variation in the sub-sections of the pillars. While capacity scores seem relatively uniform, more differences are formed in the other two sub-sections, governance and role. Some institutions reach a fairly high overall score, ca. 250 points (300 being the maximum). These include the executive, law enforcement agencies, and the national audit office. The table shows that over half of the pillars scored over 200 points, and no pillar scored fewer than 150 points. The anti-corruption agency and civil society received the lowest number of points in the assessment.

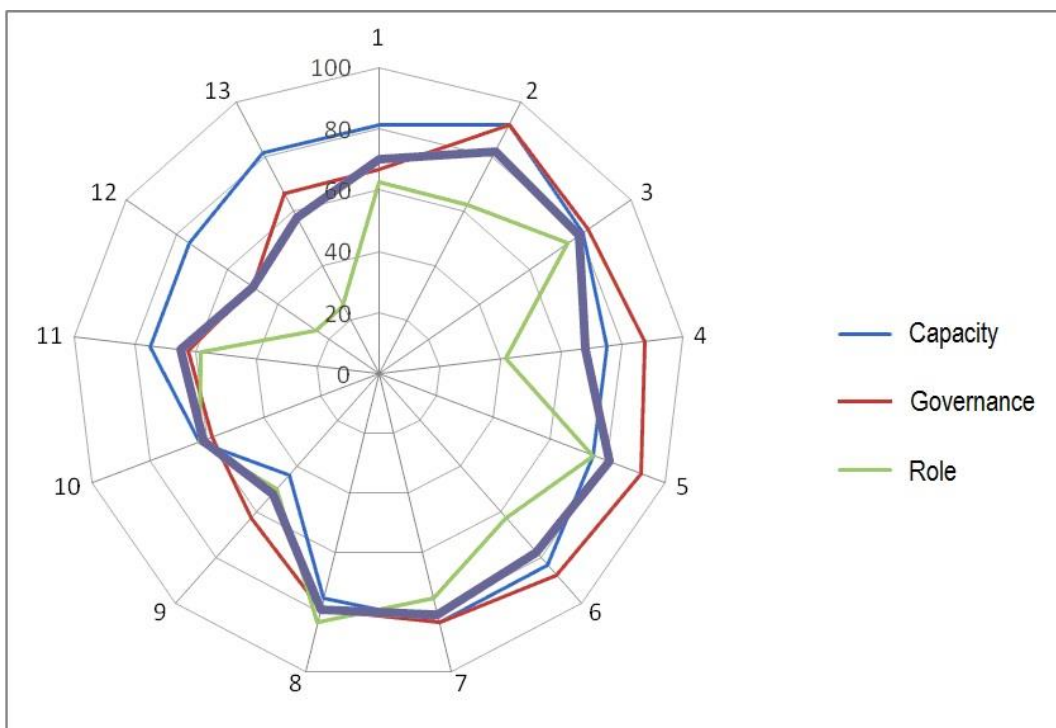
It is also worth noting that in several pillars it is the role in anti-corruption activities that receives the lowest score. This is also explained by the fact that corruption is not considered a serious problem or a threat to society. If anti-corruption activities are to be improved in the future, the role of different institutions and actors should be strengthened.

The sub-sections can also be described through averages. The figure below illustrates pillar averages for capacity, governance, and role. The thickest line in the figure shows the average of these sub-sections. The curves of capacity and governance reach beyond the average in several pillars, whereas the curve indicating role is below average.

The third summary concerns the summary in the annex. Annex 2 includes a more precise verbal summary of each pillar's score, based on the assessment scale given at the beginning of this report. There are nearly 150 (148) scores altogether.

On the whole, the assessment results were fairly positive. The majority (104) of individual scores settled in the upper end of the scale, in other words in the criteria “very good” or “excellent”. There were 35 “good” scores and only a few (9) “satisfactory” scores. No sub-section received a “mediocre” score.

Figure. Sub-section averages.



In conclusion, we may ask what challenges were revealed in pillar-specific assessments. One central challenge is resources. Anti-corruption activities receive few resources and are seldom targets of active initiatives in Finland. It seems that corruption is not considered a significant problem, and consequently integrity issues cannot be expected to emerge as central development targets. Nevertheless, anti-corruption activities need to be more strongly prioritised, starting with different social actors such as political parties, civil society, but also institutions of public authority.

The assessment also raises the question of whether there should be an anti-corruption agency in Finland. Finland does not have an actual anti-corruption agency that fits the international recommendations, but it is essential to first assess what kind of agency or unit would best strengthen Finland's national integrity system. This and similar opportunities apply to administrative reorganisation (such as the administrative position of the courts) and management development.

The media plays a very central role in investigating and revealing corruption cases and informing the public about them. In order to safeguard the media's role as a watchdog of those in power, Finland should invest more in investigative journalism. The recent changes to media earnings models and operating procedures create challenges but also threats to media activities. Nevertheless, new channels of influence and forms of information distribution also open new possibilities for the public to take part in producing information.

Even though the legalistic administrative tradition and public sector values improve the administration's integrity, many Finnish institutions need to develop their ethical codes, invest in ethical training, and for example clarify their disqualification regulations. Integrity and openness must be safeguarded in municipal decision-making and services. Key concerns include responsibility for securing services and following the rules of fair play in public contracts.

All in all, the Finnish integrity system can be considered reasonably strong and balanced. Political institutions, the relationships between different social groups and the political system, the socio-economic situation, and the prevailing ethical values and norms all support an effective national integrity system. On the other hand, inequality is predicted to increase in the future. If the aim is to maintain trust between the Government and the citizens, the problems arising from these issues should be addressed. The gap between the so-called political elite, i.e. the decision-makers, and the public must not be allowed to grow too wide.

## **ANNEXES**

### **Annex 1. The Interviewees.**

Hienonen, Jukka, CEO/Managing Director, Helsinki.

Interview on May 6, 2011.

Hirvonen, Markku, verotusneuvos (Finnish honorary title), Helsinki.

Interview on May 13, 2011.

Jääskeläinen, Arto, Director/Electoral Administration, Ministry of Justice.

Interview on May 3, 2011.

Keinänen, Anssi, Professor of Legislative Studies, University of Eastern Finland.

Interview on May 24, 2011.

Konttinen, Esa, Professor of Social Politics, University of Jyväskylä.

Interview on May 6, 2011.

Koskela, Pauliine, President of the Supreme Court.

Interview on August 26, 2011.

Meklin, Pentti, Professor Emeritus of Local Public Economics, University of Tampere.

Interview on May 24, 2011.

Mäenpää, Olli, Professor of Administrative Law, University of Helsinki.

Interview on May 18, 2011.

Nordenstreng, Kaarle, Professor Emeritus of Journalism and Mass Communication, University of Tampere.

Interview on June 30, 2011.

Norrback, Ole, Government Minister, Vaasa.

Interview on September 5, 2011.

Oilinki, Juuso, Criminal Inspector, National Bureau of Investigation.

Interview on May 9, 2011.

Paloheimo, Heikki, Professor of Political Science, University of Tampere.

Interview on May 15, 2011.

Paunio, Riitta-Leena, Parliamentary Ombudsman 2002–2009.

Interview on June 1, 2011.

Perttula, Pekka, former Party Secretary of the Centre Party, Järvenpää.

Interview on July 6, 2011.

Pohjolainen, Teuvo, Professor Emeritus of Public Law, University of Eastern Finland.

Interview on June 21, 2011.

Prättälä, Kari, leading attorney, Association of Finnish Local and Regional Authorities.



Interview on May 2, 2011.

Pöysti, Tuomas, Auditor General of Finland.

Interview on May 6, 2011.

Rossi, Erkki, Criminal Inspector, National Bureau of Investigation.

Interview on May 11, 2011.

Stenbäck, Pär, Government Minister, Helsinki.

Interview on June 6, 2011.

Tarasti, Lauri, Government Minister, Helsinki.

Interview on May 5, 2011.

Temmes, Markku, Research Director, Professor Emeritus, University of Helsinki.

Interview on May 30, 2011.

Uimonen, Risto, Chairman, Council for Mass Media in Finland.

Interview on May 11, 2011.

Vigren, Tuija, Senior Inspector, Tax Administration.

Interview on June 8, 2011.

Anonymous interview, May 17, 2011.

## Annex 2. Summary of pillar scores.

Score:	Legislature	Executive	Judiciary	Public Sector	Law Enforcement Agencies
<b>Resources (Law)</b>	Excellent	--	Excellent	--	--
<b>Resources (Practice)</b>	Very Good	Excellent	Good	Good	Good
<b>Independence (Law)</b>	Very Good	Excellent	Excellent	Excellent	Excellent
<b>Independence (Practice)</b>	Very Good	Very Good	Very Good	Very Good	Very Good
<b>Transparency (Law)</b>	Very Good	Excellent	Very Good	Excellent	Excellent
<b>Transparency (Practice)</b>	Very Good	Very Good	Very Good	Very Good	Excellent
<b>Accountability (Law)</b>	Very Good	Excellent	Excellent	Excellent	Excellent
<b>Accountability (Practice)</b>	Very Good	Excellent	Very Good	Very Good	Excellent
<b>Integrity (Law)</b>	Good	Excellent	Excellent	Satisfactory	Excellent
<b>Integrity (Practice)</b>	Good	Very Good	Very Good	Good	Very Good
<b>Role 1</b>	Very Good	Very Good	Very Good	Good	Very Good
<b>Role 2</b>	Good	Good	Very Good		
<b>Role 3</b>					

<b>Score:</b>	<b>Electoral Management Body</b>	<b>Ombudsman</b>	<b>Supreme Audit Institution</b>	<b>Anti- Corruption Agency</b>
<b>Resources (Law)</b>	--	--	--	Good
<b>Resources (Practice)</b>	Very Good	Very Good	Good	Satisfactory
<b>Independence (Law)</b>	Very Good	Very Good	Excellent	Good
<b>Independence (Practice)</b>	Excellent	Excellent	Excellent	Good
<b>Transparency (Law)</b>	Excellent	Very Good	Excellent	Very Good
<b>Transparency (Practice)</b>	Excellent	Excellent	Very Good	Satisfactory
<b>Accountability (Law)</b>	Very Good	Very Good	Very Good	Good
<b>Accountability (Practice)</b>	Very Good	Very Good	Very Good	Very Good
<b>Integrity (Law)</b>	Very Good	Very Good	Very Good	Very Good
<b>Integrity (Practice)</b>	Excellent	Excellent	Very Good	Very Good
<b>Role 1</b>	Good	Very Good	Very Good	Very Good
<b>Role 2</b>	Very Good	Very Good	Excellent	Good
<b>Role 3</b>			Very Good	Satisfactory

<b>Score:</b>	<b>Political Parties</b>	<b>Media</b>	<b>Civil Society</b>	<b>Business</b>
<b>Resources (Law)</b>	Very Good	Excellent	Very Good	Very Good
<b>Resources (Practice)</b>	Good	Good	Good	Very Good
<b>Independence (Law)</b>	Very Good	Excellent	Excellent	Excellent
<b>Independence (Practice)</b>	Good	Good	Very Good	Very Good
<b>Transparency (Law)</b>	Very Good	Very Good	--	Very Good
<b>Transparency (Practice)</b>	Satisfactory	Good	Good	Good
<b>Accountability (Law)</b>	Good	Very Good	--	Very Good
<b>Accountability (Practice)</b>	Good	Good	Good	Very Good
<b>Integrity (Law)</b>	Very Good	Very Good	--	Very Good
<b>Integrity (Practice)</b>	Good	Good	Good	Good
<b>Role 1</b>	Very Good	Very Good	Satisfactory	--
<b>Role 2</b>	Good	Good	Satisfactory	Satisfactory
<b>Role 3</b>	Satisfactory	Good		

### **Annex 3. Concepts referred to in the report.**

**Accountability.** Following rules and instructions, and oversight thereof. Persons who hold public office are accountable to the public, their superiors, the higher levels, etc. Doing the right thing based on one's honesty and reliability.

**Conflict of interest.** A conflict exists between public duty and private interest. Private interest interferes with fulfilling public duty.

**Corruption.** Misuse of public power and authority for private gain. A trait of moral decay that leads to bribery and other unethical ways of behaviour and may give birth to a system of bribery.

**Ethical code.** A code is a system of signs used to transfer information. An ethical code is an instruction on how to act. A professional code is meant to be the basis of a professional group's ethical behaviour.

**Ethics.** Ethical norms and moral rules. Public duties are founded on civil service ethics and public service ethics.

**Forms of corruption.** Wide-scale structural corruption of a political system is considered grand corruption; interference with the work of public servants through unethical or condemnable means is considered petty corruption. Forms of grand corruption include e.g. bribery and misuse of public funds. Other forms of corruption include e.g. systems of favourites and forgery of documents. Bad administration as a trait of corruption or of corruptive activities refers to e.g. neglect of duties, mistreatment of staff, and bad management.

**Informing.** Whistle-blowing. Reporting and revealing unethical activities.

**Integrity.** Integrity refers to many ethical characteristics such as independence, inviolability, incorruptibility, and immunity. Integrity is understood to be honest and consistent action according to one's principles.

**Integrity violations.** These are connected to the ethical themes mentioned above and violations of them. Dishonest ways of behaviour. Ethical rules are broken on levels of individuals or organisations. At worst, this leads to corruption.

**Legal.** Based on law. Compliant with current legislation. Public activities must be based on law.

**Lobbying.** Interest groups trying to influence decision-makers. Inappropriate lobbying and interference points towards secretiveness and “pinching”.

**Morals.** Individuals commit to ethical values and ethical principles. The ability to tell good from evil is called moral consciousness.

**Old Boy network.** An informal system of favouritism and preferential treatment. Members of the network use their influence to bypass official decision-making processes and to gain unfair advantages for members of the network.

**Regulation.** More or less binding regulation according to laws, instructions, or codes.

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