



**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties
due in 1984

Addendum

FINLAND */

[18 June 1985]

*/ For the initial report submitted by the Government of Finland, see CCPR/C/1/Add.10; for its consideration by the Committee, see CCPR/C/SR.30 and the Official Records of the General Assembly, Thirty-second Session, Supplement No. 44 (A/32/44), paras. 123-126. For the supplementary report containing additional information submitted in reply to questions put by the Committee during consideration of the initial report, see CCPR/C/1/Add.32; for the consideration of this report, see CCPR/C/SR.170 - SR.172 and the Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 40 (A/34/40), paras. 390-437.

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PART I: GENERAL

1. As mentioned in the initial report of the Government of Finland (CCPR/C/1/Add.10) and in the supplementary report submitted subsequently (CCPR/C/1/Add.32), the general framework within which the civil and political rights recognized in the International Covenant on Civil and Political Rights are protected in Finland is based on the Constitution of the country. The influence of the doctrine of the separation of powers is clearly discernible in the democratic structure of the form of government. Thus, sovereign power rests with the people, represented by their delegates assembled in Parliament. Legislative, executive and judicial powers are exercised by separate organs in accordance with the provisions of the Constitution Act.

2. It should be noted again that in Finland classical human rights and fundamental freedoms were already guaranteed by the Constitution before the ratification of the Covenant. On points where the Constitution is silent, the Covenant supplements the Constitution so that together they establish a safeguard of the rights and freedoms recognized by them. An independent judiciary, effective hierarchical control of the administrative system, the right to appeal against the decisions of courts and administrative authorities to competent higher bodies and the institutions of the Chancellor of Justice and the Parliamentary Ombudsman combine to secure the enjoyment of these rights and freedoms.

3. In connection with the ratification of the Covenant, the existing legislation of Finland was carefully examined in order to ascertain whether it was in keeping with the provisions of the Covenant. In cases where discrepancies were discerned and it was not possible to amend the legislation immediately, a reservation was made, although some of these discrepancies were felt to be mainly of a technical nature and some of them due to structural characteristics of Finnish law rather than any essential deficiency or violation of the spirit and objectives of the Covenant. It was the Government's purpose to withdraw at least some of the reservations as soon as certain legislative reforms had been carried out.

A detailed account of the reforms having relevance to the reservations will be given below in part II of this report. In this context it may be mentioned that the reservation concerning the provision of article 13 of the Covenant became unnecessary due to the enactment of the Aliens Act (No. 400) of 26 April 1983, which came into force on 1 March 1984. Similarly, the reservation concerning the provision of article 14, paragraph 1, of the Covenant lost its meaning due to the enactment of the new Act on Publicity of Jurisdiction (No. 945) of 21 December 1984, which came into force on 1 April 1985. Both reservations have now been withdrawn. A government Bill concerning pre-trial investigation was introduced in Parliament on 15 February 1985. At the moment it is premature to predict when its consideration will be completed, but if the Bill on the subject becomes an Act in its present form, it will make the reservations concerning the provisions of article 9, paragraph 3, and article 14, paragraph 3 (d), of the Covenant unnecessary. The reservation concerning the provisions of article 10, paragraph 2 (b) and paragraph 3, of the Covenant was, perhaps, superfluous from the beginning and was made only for the sake of accuracy as a result of scrupulous examination of the existing legislation.

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PART II: INFORMATION IN RELATION TO EACH OF THE ARTICLES
IN PARTS I, II AND III OF THE COVENANT

5. In this part account is taken of questions raised in the Human Rights Committee on the examination of the initial report of the Government of Finland and the supplementary report submitted subsequently. Mention is also made of new legislation relevant to the Covenant.

Article 2

6. Since the provisions of the Covenant, in so far as they contain stipulations falling within the domain of legislation, were incorporated into Finnish law they can be applied by courts in the same way as other pieces of legislation. It is characteristic of court practice in Finland, however, that the provisions of an international convention incorporated into Finnish law, as well as those of the Constitution Act, are seldom cited directly by courts in connection with ordinary lawsuits, but instead, reference is made to the relevant provisions of ordinary law regulating the subject-matter concerned.

7. The significance of the Constitution Act and the international conventions ratified by Finland is that they have to be taken into consideration by Parliament when passing new laws which must be compatible with the Constitution Act and the international conventions concerned. Thus, the constitutionality of new laws, as well as their compatibility with the international obligations of the State stemming from the conventions ratified by Finland, is carefully examined at the drafting stage of the legislative process by the Constitutional Committee of Parliament. As a result, such a question is normally no longer raised in connection with a lawsuit before the court. It is clear that in dubious cases all laws are to be interpreted in the light of the Constitution Act and of the conventions concerned, as the case may be, so as to ensure that their spirit and objectives are not violated.

8. In Finland ordinary courts of law deal with civil and criminal cases. In the field of administration, there is a parallel administrative court system, in the last instance the Supreme Administrative Court. The lawfulness of various administrative acts is controlled by the competent superior bodies in the hierarchical system, and an appeal against individual decisions can be made to the appropriate administrative court.

9. The lawfulness of administrative acts is controlled also by the Chancellor of Justice and by the Parliamentary Ombudsman. Petitions to them can be made by anyone who feels that his/her rights have been encroached upon. Both of these authorities may take action also on their own initiative and they have the power to initiate a process to remedy the situation.

Article 3

10. In Finland there is equality between the sexes regarding access to public office and acquisition of Finnish citizenship. Some restrictions exist only as regards certain posts in the army, the police and the prison institute, due to the nature of the task. Reference in this regard is made to the additional information (CCPR/C/1/Add.32, p.4) submitted after the initial report of Finland.

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Article 7

11. Medical experimentation on human beings without their consent is prohibited. It would be considered a violation of the mental and physical integrity of the person and as such punishable under the Penal Code. Detailed ethical rules concerning medical practice are issued by the National Board of Health, functioning directly under the Ministry for Social Affairs and Public Health.

12. Organ transplants are regulated by Act No. 260 on the Use of Organs of Deceased Persons for Medical Purposes, of 8 July 1957. Under this Act, such transplants are permitted only in the hospitals expressly authorized for this purpose by the National Board of Health and only provided that there is no reason to presume that the deceased or his/her next of kin objected to it.

13. Genocide in all its various forms, as defined in the Convention on the Prevention and Punishment of the Crime of Genocide, is specifically outlawed in land and punishable under article 4 of chapter 13 of the Penal Code, as amended by Act No. 987 of 20 December 1974.

Article 10

14. Under article 92, paragraph 1, of the Constitution Act, in the exercise of public functions, both in judicial and administrative practice, the law must be strictly followed under penalty prescribed by law. As mentioned above, the constitutionality of laws is carefully examined in connection with the legislative process, which guarantees that a law in itself cannot involve a violation of human rights. This applies also to administrative acts which must be based on law. The lawfulness of administrative acts again is controlled, as mentioned above, by the competent superior bodies and by the Chancellor of Justice and the Parliamentary Ombudsman. Under article 92, paragraph 2, of the Constitution Act, a provision of an administrative decree shall not be applied by the court or another authority if the decree is contrary to a constitutional or other law.

15. In the penal system of Finland, there is no cruel, inhuman or degrading treatment or punishment. The penalties available under the Penal Code are imprisonment, fine, dismissal and removal from office. In penal establishments and in the army certain disciplinary punishments can be used in accordance with the regulations governing such measures. They take place under the surveillance of the competent authorities. The Parliamentary Ombudsman makes inspection tours to these institutions at regular intervals.

16. A sentence of the court cannot be out of proportion to the offence concerned since the law provides a limited latitude adapted for each particular type of offence. In determining the penalty, the court is also bound by article 1 of Chapter 6 of the Penal Code, according to which the penalty must correspond to the harmfulness and dangerousness of the offence in question and to the culpability shown by the offender. Furthermore, there is always a possibility to appeal against the decision of the court to the competent higher instance as regards the severity of the penalty.

17. The use of arms by law enforcement officers is strictly regulated by the general instructions issued by the Ministry of the Interior. Under article 8 of chapter 3 of the Penal Code, a policeman, if meeting resistance when discharging his official duties, is entitled to use such means of force as may be deemed justified, taking into consideration the nature and dangerousness of the resistance and other circumstances.

18. In the penitentiary system of Finland great emphasis is laid on social rehabilitation. To this end, opportunities to carry on study and training are arranged for prisoners. They are also granted leave for contacting members of the family and for taking care of urgent private affairs. The conditions of penitentiary confinement meet generally accepted norms and requirements also at the international level, as defined by the instruments in this field. The penal establishments are administered and supervised by the Prison Department of the Ministry of Justice.

Article 13

19. Under the new Aliens Act of 26 April 1983, which came into force on 1 March 1984, an alien lawfully in the territory of Finland may be expelled from the country only on a specific ground based on national security or public order and safety or when the alien has been convicted of a particularly heinous crime.

20. When considering the expulsion of an alien, the Ministry of the Interior shall pay attention to all relevant facts and to the circumstances as a whole, such as the length of the alien's sojourn in the country and his/her ties with Finland. The alien is entitled to submit the reasons against his/her expulsion. If the alien is dissatisfied with the decision of the Ministry concerning his/her expulsion, he/she has the right to appeal against it to the Supreme Administrative Court.

Article 14

21. Under the new Act on Publicity of Jurisdiction, of 21 December 1984, which came into force on 1 April 1985, the public, including the press, shall be excluded from the trial in a suit at law if a public hearing might endanger the external security of the State or worsen its relations with another State or with an international community.

22. At the request of the party to a suit at law or for a specific reason, the court may decide that the public be excluded from the trial:

- (a) When the court is dealing with a sexual offence, a defamation or another offence concerning a particularly delicate matter which is connected with a person's private life;
- (b) When the court is dealing with a case concerning marriage, paternity, the custody and visiting right regarding a child, guardianship or another such case where particularly delicate matters connected with a person's private life are presented;
- (c) When a person under 18 years of age is accused of an offence.

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23. The court may also decide that the public be excluded from a relevant part of the trial:

- (a) When a document which has to be kept secret is presented or information subject to professional secrecy is disclosed;
- (b) When the court has ordered someone to inform it of a fact or to present to it an object or a document or to answer a question, which the person concerned would otherwise be entitled to refuse to do; or
- (c) When the court is hearing a person who is under 15 years of age or who is legally incompetent on some other ground.

24. In general, the public is entitled to be present when a judgment in a criminal case or in a suit at law is pronounced. However, if the trial has taken place, in whole or in part, behind closed doors, the court may decide that the pronouncement of the judgment should also take place without the presence of the public. Nevertheless, the law applied and the judicial decision shall be made public in such cases.

Article 17

25. Under article 12 of the Constitution Act, the secrecy of postal, telegraphic and telephonic communications shall be inviolable, unless exceptions are provided by law. The relevant provisions of the Penal Code are quoted in the additional information submitted by the Government of Finland to its initial report (CCPR/C/1/Add.32, pp. 15-19). As regards postal items, they may be opened only by the competent authorities if it is suspected that they contain drugs, dangerous objects or products which are under import or export ban. Both the sender and the addressee shall be informed of the opening and an official record shall be made of it.

26. State organs and public authorities are bound by article 12 of the Constitution Act to the effect that any interference with the privacy, family, home or correspondence by public authorities may take place only in circumstances specifically provided by law. Reference is made to what is said above under article 2.

27. Under the Police Act of 18 February 1966, as amended subsequently, the task of the police is to protect the legal governmental and social system based on the Constitution and to maintain public order and security. The function of the police is strictly regulated by the Act and by the Police Decree of 14 February 1969, as amended subsequently. The supreme command of the police is vested in the Ministry of the Interior.

28. The Security Police is a section of the police and subject to the same regulations as other sections of the police. Its task is specifically to detect plans which may be suspected of being directed against the legal governmental and social system and of endangering public order and security. In discharging its duties the Security Police has no other powers than those possessed by the other sections of the police.

Article 19

29. The freedoms of expression and information are guaranteed by article 10 of the Constitution Act. Against the infringements of these freedoms the same remedies are available as for other rights and freedoms guaranteed by the Constitution Act.

30. Under the Freedom of the Press Act of 4 January 1919, there shall be no prior censorship for publishing printed writings, pictorial presentations, maps or compositions with a text, nor for plays to be publicly performed even though they are not printed. When the provisions of the Act have been broken or the content of printed matter is criminal, the Ministry of Justice shall order that a charge be brought against the person responsible for printing. The Ministry may also order that the printed matter be seized. This order is submitted to the consideration of the court within three days or, if the seizure has taken place in another locality, within eight days. If the seizure has not been submitted to the court within such time-limit or if the court has not confirmed or cancelled the seizure within four days of the submission, the seizure shall be withdrawn.

31. The latest seizures based on the Freedom of the Press Act took place in 1968 and 1969, one in each year. The objects of these seizures were pornographic publications. The latest charges on the order of the Ministry of Justice were brought in 1976 and 1981, one in each year. They also related to pornographic publications.

32. As regards abuse of the freedom of expression in a way which amounts to defamation, reference is made to the additional information submitted by the Government of Finland to its initial report (CCPR/C/1/Add.32, pp. 16-18). It may be mentioned in addition that a blasphemous statement relating to God or to another matter considered sacred by a religious community in Finland is punishable under articles 1 and 2 of chapter 10 of the Penal Code. Furthermore, abuses of the freedom of expression which amount to such offences as instigation to high treason or treason, or to discrimination against a certain racial, national, ethnic or religious group, or to public incitement to commit a crime, or to a defamation of a foreign State thereby endangering the relations of Finland and the foreign State, or to defamation of public authorities, are punishable under the Penal Code. In conformity with the principle followed in Finnish criminal law, all these offences are accurately defined in chapters 11 to 16 of the Penal Code.

33. Under the Film Censorship Act No. 299, of 29 May 1965, films may be publicly shown only after having been approved by the Board of Film Censors. A film which is obviously against the law or good morals and manners or is harmful to mental health or which endangers public order and security of the State or worsens its relations with other States may not be publicly shown.

34. The Board of Film Censors consists of a chairman, a vice-chairman and a necessary number of members appointed by the Council of State for three years at a time. One of the members shall represent the Ministry of Education and one the Ministry of Finance. In the appointment of the members due regard shall be paid to ensuring that expertise in mental health, educational and social matters and cinematic art is represented in the Board which, moreover, shall be composed of both men and women.

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35. Appeal may be made against the decision of the Board of Film Censors to the State Board of Cinematics which consists of 11 members appointed by the Council of State for a term of three years. One of the members shall represent the Ministry of Justice, one the Ministry of Education, one the Ministry of Finance and one cinematic art. As a whole, the same expertise shall be represented in this body as in the Board of Film Censors. Similarly, it shall be composed of both men and women. It is possible to appeal to the Supreme Administrative Court against the decision of the State Board of Cinematics.

36. The production, sale, import, delivery and renting of video cassettes containing cruel violence are punishable under article 26 of Chapter 16 of the Penal Code, as amended by Act No. 283 of 18 March 1983.

37. The dissemination of pornographic publications is punishable under Act No. 23 of 28 January 1927, which was enacted in connection with the ratification of the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, of 12 September 1923. The supervision of the observance of the Act is vested in the Supervisory Board which consists of a chairman and at least four members appointed by the Council of State for a term of at most three years.

38. Radio and television broadcasts require a licence granted by the Council of State. The guiding principles and directions to be followed in this function are embodied in the licence. In addition, certain rules to be observed in the programmes are approved and supervised by the Administrative Council elected by Parliament. According to these rules, all political parties shall be treated equally, and different political and ideological views shall be given publicity in the programmes to be broadcast. As a whole, the programmes shall promote democracy, freedom of expression, human rights, tolerance towards minority groups, an ethical view of life and a sound way of life.

39. Under Act No. 83 on the Publicity of Official Documents, of 9 February 1951, the documents prepared or issued by public authorities and the documents sent or given to them are public documents and available to all Finnish citizens. Their availability to aliens is left to the discretion of the authority concerned in each particular case. Upon request, the authority possessing the document in question shall give an official copy or extract of it or, when possible, allow its reading and copying on the premises of the authority.

40. A document may be kept secret only when so provided by law. Official certificates concerning pastoral cases and notes made by authorities concerning persons who are in the custody of a penal establishment, a reformatory, an institution for care or a hospital, as well as other certificates comparable to them, may be given to a third party only with the consent of the person concerned.

Article 21

41. As regards the right of peaceful assembly, reference is made to what is said in the additional information submitted by the Government of Finland to its initial report (CCPR/C/1/Add.32, pp. 21-22). As mentioned in this information, the competent police chief or his deputy is entitled to attend public meetings. They do not have such rights regarding private meetings. However, this does not prevent the police from discharging its duties when requested to restore order or when it comes to apprehending a person to be arrested or to perform a lawful search and seizure.

Article 23

42. The annulment of marriage is governed by the Marriage Act of 13 June 1929, as amended subsequently. The relevant provisions read as follows:

"(Art. 67) If a marriage has been entered into by persons, one of whom already was married or who must not get married to each other because of kinship, the marriage shall be annulled by decision of the court.

"The demand for annulment in cases mentioned in paragraph 1 shall be made by the public prosecutor. Such action may also be brought by one of the spouses or, if the marriage is to be annulled on the ground that one of the spouses already was married, by his/her spouse in the earlier marriage.

"(Art. 68) A spouse may demand that the marriage be annulled:

(1) If he/she, at the time of marriage, was insane or deeply mentally deficient, and a permission envisaged in article 11 was not granted;

(2) If he/she, at the time of marriage, was suffering from a temporary mental disturbance or another condition comparable to it;

(3) If he/she, at the time of marriage, did not know that the other spouse was insane or deeply mentally deficient;

(4) If he/she was brought to the marriage without the other spouse informing him/her of a bad disease or another particularly important fact concerning him/her, which would have restrained the first mentioned spouse from entering into the marriage, or has misinformed him/her of such fact, or if the first mentioned spouse otherwise, through no fault of his/her own, was mistaken about such fact; or

(5) If he/she was forced into the marriage.

"When the guardian of the spouse who is insane or deeply mentally deficient demands annulment of the marriage on the ground mentioned above in paragraph 1, the marriage shall not be annulled if it is considered that there are prerequisites for its continuation.

"When a disappeared person who has been declared dead is later discovered to be alive, the marriage, into which his/her spouse has entered, may also be annulled as provided for separately.

"(Art. 69) When a marriage is annulled on the ground of a fact which was known to one of the spouses at the time of marriage, but was not known to the other spouse, the latter shall be entitled to compensation for the damage caused to him/her by entering into the marriage, in accordance with what is deemed reasonable taking into consideration the financial condition of the spouses and other circumstances. The same right belongs to the spouse who was forced into a marriage and the other spouse was aware of it.

"Then compensation may be ordered to be paid once for all or at regular intervals."

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43. As regards the regulation of matrimonial property, reference is made to what is said in the additional information submitted by the Government of Finland to its initial report (CCPR/C/1/Add.32, p. 24).

Article 24

44. The Nationality Act of 28 June 1968 was amended by Act No. 584, of 10 August 1984, which came into force on 1 September 1984. The relevant provisions concerning the nationality of a child read as follows:

"(Art. 1,1) A child acquires Finnish citizenship at birth:

- (1) If the mother is a Finnish citizen;
- (2) If the father is a Finnish citizen and married to the child's mother;
- (3) If the father has died but at his death was a Finnish citizen and married to the child's mother;
- (4) If the child is born in Finland and does not acquire the nationality of any other State at birth.

"...

"(Art. 3) If a man who is a Finnish citizen marries a foreign woman, their common child who was born before the wedlock becomes a Finnish citizen if:

- (1) The custody of the child belongs to both parents or to one of them; and
- (2) The child has not reached the age of 18 years and is not married.

"(Art. 3 a) A child who has not acquired Finnish citizenship under articles 1 or 3 will acquire such citizenship upon request if:

- (1) The child's father, at the birth of the child, was and still is a Finnish citizen;
- (2) The custody of the child belongs to the father alone or together with another custodian of the child;
- (3) The child lives permanently in Finland; and
- (4) The child has not reached the age of 18 years and is not married.

"(Art. 3 b) A foreign child who has been adopted will acquire Finnish citizenship upon request if:

- (1) At least one of the adoptive parents is a Finnish citizen, and the custody of the child belongs to him/her alone or together with another custodian of the child;

(2) The adoption is valid in Finland; and

(3) The child has not reached the age of 17 years and is not married.

"(Art. 4) When an alien is granted Finnish citizenship, it shall be determined in the same decision whether his/her child who is under 18 years of age and unmarried becomes a Finnish citizen at the same time.

"...

"(Art. 7) When an alien acquires Finnish citizenship under articles 5 or 6, his/her child acquires that citizenship at the same time if:

(1) The parent who becomes a Finnish citizen does not oppose his/her child becoming a Finnish citizen;

(2) The custody of the child belongs to him/her alone or together with another custodian of the child;

(3) The child lives permanently in Finland; and

(4) The child has not reached the age of 18 years and is not married."

Article 27

45. In the Finnish Parliament only political parties and not the various minority groups as such are represented. Exception is made only as regards the population of the autonomous Åland Islands which is entitled to have one member elected to Parliament under Act No. 391 on the Election of the Members of Parliament, of 13 June 1969. Nevertheless, the Swedish People's Party, which is one of the registered political parties in Finland, attends particularly to the interests of the Swedish speaking minority.