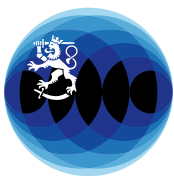




FINLAND AND THE RESPONSIBILITY TO PROTECT

FIFTEEN YEARS SINCE THE ADOPTION OF THE RESPONSIBILITY TO PROTECT PRINCIPLE





This publication is based on the Responsibility to Protect policy adopted by Finland in 2016.

2020 Ministry for Foreign Affairs

FINLAND AND THE RESPONSIBILITY TO PROTECT – Fifteen years since the adoption of the Responsibility to Protect principle.

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The Responsibility to Protect, Finland's policy decision 2016 in Finnish
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Foreword

Adopted by the General Assembly of the United Nations in 2005, the responsibility to protect is a political commitment striving to prevent genocide, war crimes and crimes against humanity. This commitment also applies when a state fails to protect its population against an imminent humanitarian disaster. The responsibility to protect underscores the responsibility of states towards individuals and communities of people as part of the concept of sovereignty. The responsibility of the international community comes into play if the territorial state fails to fulfil its obligations related to the protection of its people.

Mass atrocity crimes are not an internal affair of any state. The entire international community has a responsibility to prevent such crimes and to protect population groups at risk. If a state, with the support of the international community, is unable to prevent an impending genocide, crimes against humanity or war crimes in its territory, or if it participates in their commission, the exceptional powers conferred on the Security Council under the UN Charter should be deployed. A consensus on this was reached at the UN summit of more than 160 heads of state or government in 2005.

Over the last 15 years, the principles of the responsibility to protect have evolved and been consolidated. The responsibility of each state has been emphasised, and methods of early warning have been developed. The principle of the responsibility to protect has also been taken into account in development policy and crisis management. The UN Security Council has made efforts to implement these principles in its decisions, while the resistance of a few countries has become abundantly clear. During the Syrian war, which has continued for almost ten years, for example, the proposed resolutions aimed at alleviating the plight of civilians and bringing those guilty of war crimes to justice have been rejected by the use of the veto right a total of 14 times.

While the world has changed in 15 years, the need for invoking the responsibility to protect, or its relevance, has unfortunately not decreased. Atrocity crimes have been reported in several present-day conflicts, affecting not only Syria but also Yemen, the Democratic Republic of the Congo and the Rohingya people of Myanmar. There are, furthermore, several countries in which the situation raises serious concerns over a slide into uncontrolled violence.

The question of what triggers the international responsibility to protect is ultimately also a political one. When I served as the EU Special Representative in Sudan and Darfur between 2005 and 2007, whether or not the criteria for genocide were met in this region was a frequently debated question.

Finland emphasises prevention in the implementation of the responsibility to protect, and participates in developing relevant tools both in the UN and the European Union. Supporting universal human rights is part of this work.

We work to eliminate discrimination, increase transparency and strengthen social inclusion. Promoting women's and girls' rights and gender equality plays an important role in these efforts.

It is also crucial to pay attention to vulnerable population groups. The tasks of peacekeeping and civilian crisis management missions may also include supporting humanitarian aid activities and protecting the civilian population.

The civil society plays a major role in defending human rights. This may include the provision of humanitarian aid or the work carried out by human rights defenders. Finland believes that reinforcing the civil society and the rule of law is crucial in preventing large-scale atrocities. A strong civil society contributes to the realisation of human rights and is an important factor in preventing the break-out of a conflict.

Finland values the work of human rights defenders, and the Ministry for Foreign Affairs has published guidelines on supporting and protecting human rights defenders. The independence and impartiality of humanitarian activities must not be jeopardised in situations of armed conflict.

Finland has supported the establishment and operation of the International Criminal Court (ICC) from the outset, as well as many other projects to counter impunity. Reinforcing the status of the ICC and fighting impunity in connection with the most serious international crimes continue to be key objectives for Finland.

Finland firmly believes that realisation of human rights, open and well-functioning governance and a non-discriminatory society that strengthens social inclusion contribute to the reduction of violence. For effectively preventing violent radicalisation and extremism, broad-based cooperation and good coordination are required. In Finland, efforts to prevent violent extremism are based on broad cooperation between local and national authorities, civil society organisations, religious communities and business life.

Preventing situations from escalating into serious human rights violations is the best way to implement the responsibility to protect.

Helsinki, 15 September 2020

Pekka Haavisto
Minister for Foreign Affairs

1. What does the responsibility to protect mean?

The responsibility to protect (R2P) is a concept that underlines the responsibility of every state and the joint responsibility of the international community to prevent, suppress and halt mass atrocity crimes (genocide, war crimes, crimes against humanity and ethnic cleansing).

The evolution of the responsibility to protect concept has progressed through three significant milestones. It was first used in the report of the International Commission on Intervention and State Sovereignty (ICISS) in 2001. The ICISS proposed that the responsibility to prevent and combat impending humanitarian disasters rests in the first place with each state, and in the second place with the international community. The UN summit of 2005 adopted the responsibility to protect principle, formulating a more specific definition for it and specifying that any use of force should take place within the competences of the UN Security Council as laid down in the UN Charter. The third important document was a report of the UN Secretary-General in 2009, which focused on the implementation of the responsibility to protect, highlighting prevention and capacity building. The Secretary-General has since issued several reports dealing with the implementation of the responsibility to protect and its various aspects.

The most authoritative reference to the responsibility to protect so far is contained in the final document of the UN Summit of 2005, paragraphs 138 and 139 of which state that

- Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including their incitement.
- The international community should encourage and help States to exercise this responsibility.
- The international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help to protect populations from these crimes. If a State manifestly fails to protect its population, the international community must be prepared to take collective action in accordance with the UN Charter.

The 2009 report of the Secretary-General made an effort to structure the implementation of the responsibility to protect and the related debate by dividing the content of the concept into three pillars based on the UN Summit's definition:

- I Every State has the responsibility to protect its populations.
- II The international community has the responsibility to encourage and assist individual States in meeting this responsibility.
- III If a State is failing to protect its populations, the international community must be prepared to take appropriate collective action.

Over the past fifteen years, the responsibility to protect has taken on concrete content in the areas of all three pillars. The responsibility to protect provides a coherent thematic framework within which existing tools can be used more effectively to combat genocide, war crimes and crimes against humanity and to prevent ethnic cleansing. It is essential that the responsibility to protect is implemented using a wide range of means. Which particular tools are needed is a question that has to be considered separately in each concrete situation.

DEFINITIONS

Genocide means acts committed with the intent to destroy a national, ethnic, racial or religious group: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction, or imposing measures intended to prevent births within the group and forcibly transferring children of the group to another group. Violence is inflicted on the victims because they are members of the group.

Crimes against humanity include murder, extermination, enslavement, deportation or forcible transfer of a population, imprisonment or other severe deprivation of physical liberty, torture, grave forms of sexual violence, persecution against a group or collectivity, enforced disappearance, the crime of apartheid and other inhumane acts of a similar character as part of a widespread or systematic attack directed against any civilian population.

War crimes include grave breaches of the Geneva Conventions or other serious violations of the laws and customs applicable in international armed conflict targeted at injured or sick combatants, prisoners of war or civilians.

The responsibility to protect is not a legal term and does not create new legal obligations. Instead, it relies on the existing rules of international law and seeks to strengthen their effective implementation. The implementation of the responsibility to protect must always be consistent with international law.



Picture: Finnish Defence Forces

The UN Summit's reference to the responsibility to protect in 2005 was a political commitment which did not create new legal obligations. An indication of this is the use of the term 'responsibility' instead of 'obligation'. At the same time, the implementation of the responsibility to protect is also about fulfilling existing legal obligations. Genocide, serious war crimes and crimes against humanity are the most serious international crimes involving international criminal responsibility. While ethnic cleansing is a term that does not have a similar clear definition, it refers to serious human rights violations, which may involve crimes against humanity. Such large-scale crimes are often associated with armed conflicts or post-conflict situations, or persecution against ethnic minorities. A common feature of all these categories of crimes is that rather than individual acts, they comprise extensive violence usually inflicted systematically on the victims.

The International Criminal Court (ICC) plays a key role in promoting accountability through reducing impunity for the most serious crimes. Over the years, the ICC

has established its position as the most important global actor in the fight against impunity. Over 120 countries have ratified the Rome Statute of the International Criminal Court, and many of them have reformed their criminal law to cover the most serious international crimes. Finland has supported the establishment and operation of the International Criminal Court from the outset, as well as several other projects against impunity. Finland is one of the largest and most long-standing donors to the ICC's Trust Fund for Victims and has served on the Board of the Trust Fund for years. Finland has also chaired the Executive Board of the intergovernmental Justice Rapid Response network. Key objectives for Finland's foreign policy are to strengthen the status of the ICC and to reduce impunity for the most serious international crimes.

States have a treaty-based obligation to prevent genocide and war crimes. In the case of genocide, this obligation is based on Article IX of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, under which the parties must take action to prevent genocide. For war crimes, it is based on the common Article 1 of the Geneva Conventions on armed conflicts, under which the parties undertake to ensure respect for the Convention in all circumstances. While these obligations apply to all parties, the means for implementing them also depend on the actual possibilities states may have to intervene in the situation and prevent any breaches of the Convention.

The collective action cited in the third paragraph of the definition of the responsibility to protect refers to the competence of the UN Security Council to take restrictive and ultimately military action under Chapter VII of the UN Charter. The 2005 agreement on the responsibility to protect was particularly significant in that it resolved the controversial issue of the legitimacy of humanitarian intervention, which was debated at the turn of the millennium, and limited any use of force for humanitarian purposes to the exercise of the competence conferred on the Security Council by the UN Charter. Since then, the debate on and work to develop the responsibility to protect has stressed, on the one hand, actions within the competence of the Security Council, which may also include the use of military force as a last resort. On the other hand, national actions of states and international cooperation aimed at strengthening the stability and resilience of states against developments leading to violence have been in the forefront.

In 2011, the Security Council authorised armed intervention in Libya, making reference to the responsibility to protect. While the operation in Libya was successful in combating the regime's widespread violence against the population, it also sparked critical discussion on how the responsibility to protect should be implemented. This discussion was motivated by the perception that the objective of regime change became mixed up with the protection of civilians as the operation progressed. In this context, the need to ensure that the consequences of any military intervention are carefully assessed before it is launched in the name of the responsibility to protect was also stressed. It is essential that the implementation of the responsibility to protect is always consistent with international law.



Picture: Finnish Defence Forces

2. Finland and the responsibility to protect

Promoting the R2P is one of the priorities in Finland's UN policy. Finland works to consolidate the concept, to strengthen its broad acceptance and to ensure its effective implementation. Finland supports the efforts to limit the use of the right of veto in relation to efforts to prevent or suppress mass atrocities.

The objective of the responsibility to protect of suppressing and preventing large-scale atrocity crimes is in line with and contributes to the achievement of Finland's security, human rights and development policy objectives. The work to consolidate the responsibility to protect is also underpinned by section 1 of the Finnish Constitution, under which Finland participates in international cooperation for the protection of peace and human rights and for the development of society.



Picture: United Nation

In recent years, Finland has invested in the promotion of the responsibility to protect. Finland's first policy decision on the responsibility to protect was adopted in autumn 2013 and updated in summer 2016. Under the UN Strategy of the Finnish Foreign Service, adopted in 2013, providing stronger support for the responsibility to protect is one of the priorities of Finland's UN policy. Finland promotes the consolidation and practical implementation of the responsibility to protect at the international and national level. Finland has regularly contributed to the UN Secretary-General's responsibility to protect reports with material on foreign policy and national developments and has participated annually in open and interactive debates at the UN General Assembly. Finland also joined the efforts to include the responsibility to protect as an official agenda item at the UN General Assembly. This objective was achieved at the 72nd session of the General Assembly in September 2017.

Finland finds that dividing the responsibility to protect into three pillars has facilitated the discussion on the implementation of the principle. It should nevertheless be pointed out that rather than having a specific implementation sequence, measures under the different pillars, insofar as they can be separated, are equal and complementary, and resorting to them must be possible at any stage. In general, Finland emphasises the importance of prevention in the implementation of the responsibility to protect and welcomes the fact that this point of departure is widely shared.

Under the UN Charter, the Security Council has the primary responsibility to maintain international peace and security and thereby has an undisputed role in taking actions under the 'third pillar' of the responsibility to protect. The Security Council is the only body that can authorise a military intervention in order to fulfil the responsibility to protect if a state fails to protect its population from large-scale atrocities. Military action should nevertheless be seen as a last resort to be used when other measures have failed. Since 2006, the Security Council has referred to the responsibility to protect principle dozens of times in its resolutions. Furthermore, UN peacekeeping missions, which increasingly have a mandate to protect

the civilian population, as well as to undertake transitional justice initiatives, are of importance for the practical implementation of the responsibility to protect.

The right of veto exercised by the permanent members is one of the factors that may hamper timely responses of the Security Council. Finland supports initiatives on restricting the right of veto on a voluntary basis in the case of the most serious international crimes. Finland has also welcomed the drawing up a similar code of conduct for all UN Member States.

Finland supports the work of the Secretary-General's Special Advisers on the Responsibility to Protect and on the Prevention of Genocide and participates in the cross-regional Group of Friends of the Responsibility to Protect in New York and Geneva. Finland is also actively involved in the Global Network of R2P Focal Points. Finland's national Focal Point is located in the Ministry for Foreign Affairs.

In 2007, the UN Secretary-General appointed a Special Adviser on Responsibility to Protect, who has promoted international consensus on implementing the responsibility to protect and on the mainstreaming of it in the UN. The Special Adviser is supported by an Office shared with the Special Adviser on the Prevention of Genocide. Finland supports strengthening the Office on Genocide Prevention and the Responsibility to Protect. Finland participates actively in the work of the Group of Friends of the Responsibility to Protect in New York and Geneva.

EARLY WARNING MECHANISMS

Motivated by the responsibility to protect, the UN has taken efforts to develop more consistent and systematic early-stage interventions in factors and tensions that may lead to the commission of the most serious international crimes. A deterioration in the human rights situation can be the first sign of a development that involves a risk of such crimes. The UN's human rights mechanisms produce information that can be crucial as an early warning in relation to the responsibility to protect. In this respect, the UN Secretary-General's Human Rights Up Front initiative, which aims to improve the UN system's ability to detect early warning signs of violent development, is also an important step.

Another important tool is the analytical handbook drawn up by the Secretary-General's Office on the Responsibility to Protect, which discusses factors that may indicate susceptibility for large-scale atrocity crimes (Framework of Analysis for Atrocity Crimes). Such risk factors may include situations of armed conflict or other forms of instability, records of serious violations of human rights and humanitarian law, weakness of state structures, specific political or economic motives including past grievances, revenge or interests, ideologies based on the supremacy of a certain group, availability of arms and ammunition, including links with non-state armed groups. Equally important risk factors are the absence of mitigating factors, such as empowerment processes and support networks, lack of exposure to international attention, limited cooperation of the state with international human rights mechanisms and the lack of a strong civil society. The Handbook highlights the process-like nature of the most serious international crimes: they require long preparation and planning, which makes early intervention possible.

It is essential that states acknowledge their responsibility to prevent crimes that fall within the scope of the responsibility to protect. International cooperation mechanisms, such as the Global Network of R2P Focal Points, play an important role in raising awareness of this responsibility. The network of national Focal Points provides a forum for exchanges of experiences and discussions between the participating countries as well as with civil society organisations active in this field. At the national level, the Focal Points have a coordinating role. Finland appointed an R2P contact person in 2013 and participates actively in the Global Network of R2P Focal Points. In June 2018, Finland co-hosted together with Mexico the annual meeting of the Global Network R2P Focal Points in Helsinki.

3. The EU's role in implementing the responsibility to protect

Finland considers it important that the European Union (EU) continues to provide active support to the promotion of the responsibility to protect while creating and promoting cross-regional partnerships. The EU should use the available early warning, crisis management, development policy and other tools effectively to prevent and suppress mass atrocity crimes. Finland supports the activities of the EU's Focal Point for R2P.

The EU and other regional organisations play an important role in implementing the responsibility to protect and raising awareness of the concept. EU Member States contributed importantly to the adoption of the responsibility to protect principle at the UN summit of 2005 and have since participated actively in efforts to strengthen the concept and to achieve its objectives, also through the UN Security Council. The EU is committed to promoting the effective implementation of the responsibility to protect. As the world's largest donor of development aid and a major player in foreign and security policy, the EU is well placed to promote the responsibility to protect globally.

Finland considers it important that the EU continues its active support for promoting the responsibility to protect and also strengthens cross-regional cooperation and partnerships. Efforts must be made to dispel the erroneous idea of the responsibility to protect as a 'Western' concept and to also exchange experiences of best practices with countries that are less active in this area. Mainstreaming the responsibility to protect in the EU's common foreign and security policy and in the common security and defence policy is important for Finland. The EU's foreign and security policy instruments should be used to prevent mass atrocity crimes and to detect their first signs. A particular challenge in these efforts lies in improving the information flows and coordination between different actors.



Picture: Laura Rantanen

In 2015, the EU was the first regional organisation to appoint an R2P Focal Point. The Focal Point not only raises awareness of the EU's work to prevent and combat large-scale atrocities but also plays a role in stepping up the EU's internal work on attaining the objectives of the responsibility to protect.

4. Human rights, mediation and development policy support the responsibility to protect

In the implementation of the responsibility to protect, Finland emphasises preventive measures and international cooperation, which build the capacity of states to prevent and combat mass atrocity crimes. In this respect, reinforcing the rule of law and civil society and measures promoting respect for human rights as well as better use and observation of the analyses produced by human rights mechanisms are the key.

In keeping with the responsibility to protect principle, the international community shall assist and support states in fulfilling their responsibility to protect. In 2014, Finland organised a regional conference in Helsinki on implementing the responsibility to protect through development policy instruments. The human rights-based approach in Finland's development policy and development cooperation is well placed to embrace the key objectives of the responsibility to protect. The policy focuses on fragile states and, among other things, on support to the development of democracy and the rule of law.

Finland advocates the use of international human rights instruments and institutions in the implementation of the responsibility to protect. Furthermore, reinforcing civil society and strengthening the rule of law importantly contribute to the prevention of large-scale atrocities. Attention must be paid to the position of women, and all discrimination must be tackled early. Civil society and non-governmental organisations play an important role in promoting the responsibility to protect, both internationally and nationally. *The Global Center for R2P*, which is a cooperation project between five international non-governmental organisations serves as the secretariat for the Global Network of R2P Focal Points, while the *International Coalition for R2P* is another significant actor. A strong civil society contributes significantly to the realisation of human rights and conflict prevention.

When used properly, peace mediation is an effective tool at all stages of the conflict cycle. Finland promotes the use of mediation as one of the most vital tools of conflict prevention. Finland stresses the use of existing UN mechanisms and instruments in translating the responsibility to protect into practical terms. These include not only peace mediation but also early warning systems and economic sanctions.

The protection of civilians is increasingly a part of the mandate in peacekeeping missions. Its aim is to protect the civilian population from violations of international human rights, international humanitarian law and refugee law in armed conflicts. In Finland's view, not jeopardising the independence and impartiality of humanitarian activities is vital. It is also necessary to build consensus and find opportunities for cooperation between different actors in efforts to protect vulnerable population groups in armed conflicts.

The responsibility to protect principle is also reflected in the Finnish Act on Military Crisis Management (211/2006), under which Finland may participate in international military crisis management "with the purpose of supporting humanitarian assistance operations or protecting the civilian population". According to the preliminary work on the Act, the objective of this provision is to support Finland's efforts to develop the international community's responsibility to protect and to promote solutions that can improve the protection of civilian populations and prevent humanitarian disasters.



Picture: Finnish Defence Forces

CRISIS MANAGEMENT TRAINING

In its crisis management work, Finland is committed to protecting civilians; the training of every person sent out on peacekeeping missions includes preparedness to support, as part of his or her tasks, the target states' capacity building related to the responsibility to protect. Finland has also participated in many training operations in which local armed forces regularly learn about human rights, international humanitarian law and codes of conduct approved by the authorities, safeguarding the rights of civilians and the importance of children's rights and needs. The crisis management training funded by Finland thus also strengthens the implementation of the responsibility to protect. In Finland's military crisis management operations, particular attention is paid to protecting children's rights and taking the special position of women into consideration.

The responsibility to protect principle and the protection of civilians are also prominent in the Defence Forces' practical training activities and international training cooperation related to crisis management. The responsibility to protect is included in courses organised by the Finnish Defence Forces' International Centre (FINCENT) in training modules related to the protection of civilians. Within the framework of Nordic Defence Cooperation (NORDEFCO), Finland is responsible for training packages on the protection of civilians.

5. What can Finland do at home to promote the responsibility to protect?

While Finland is not a high-risk country for the responsibility to protect, efforts are required both from the central government and civil society organisations to prevent social exclusion, support the status of minorities, prevent mounting confrontations in migration issues and combat violent radicalisation and extremism. At the national level, Finland's work to promote the responsibility to protect is preventive. Finland's national operating models may also attract international interest and have significance as 'best practices' of implementing the responsibility to protect.

While Finland is one of the safest countries in the world, no country is free of risks. Racism and toughening attitudes towards minorities and immigrants can be seen as the greatest threat to implementing the responsibility to protect in Finland. It requires efforts both from the central government and civil society organisations to prevent social exclusion, support the status of minorities and prevent escalating confrontations in migration issues. The work to promote the responsibility to protect in Finland is preventive. In addition to the Ministry for Foreign Affairs, key actors include the Ministry of the Interior, the Ministry of Justice, the Ministry of Defence, the Ministry of Economic Affairs and Employment and the Ministry of Social Affairs and Health. Finland's national operating models may also attract international interest and have significance as 'best practices' of implementing the responsibility to protect.

Implementing the responsibility to protect is closely associated with the realisation of human rights. States carry the primary responsibility for respecting, protecting and promoting all human rights and fundamental freedoms, and the international community has to help and support them in fulfilling this responsibility. Effective implementation and use of human rights instruments and monitoring mechanisms are important in preventive work. Human rights violations must be tackled effectively, and those responsible must be brought to justice. Finland's national legislation contains a number of safeguards that are significant for the preventive work related to the responsibility to protect. They include the non-discrimination legislation, constitutionally guaranteed fundamental rights, legislation on the rights of minorities and political rights, and policy programmes and strategies that promote the equality and inclusion of population groups, such as the disability policy programme and the National Roma policy. These programmes are prepared, implemented and reported on in cooperation with representatives of the relevant population groups. Different minority and language groups have established channels of participation in Finland, and they are supported by dedicated expert bodies.

Finland's basic policy is that the motivation to use violence may be reduced through the realisation of human rights, open and effective governance, and a non-discriminatory society that builds social inclusion. Broad cooperation and clear coordination are necessary for effective prevention of violent radicalisation and extremism. In Finland, efforts to prevent violent extremism are made in broad-based local and national cooperation between the authorities, civil society organisations, religious communities and business life.

PREVENTION OF SOCIAL EXCLUSION

Several ministries participate in the work to prevent inequalities and social exclusion in Finland. For example, the exclusion of the most vulnerable persons and population groups is prevented by measures that promote and maintain social welfare, safety and inclusion as well as social and support services. Access to help and support for those in the most difficult position can be ensured by committed social work. Where necessary, universal services and measures are complemented with targeted actions. A social security system which strives to secure a basic income for all helps prevent social exclusion. Integration measures, local police activities, cooperation with communities, multi-authority cooperation and collaboration between law enforcement authorities also play an important preventive role in this regard.



Picture: City of Helsinki/Nilla Varpunen

INTEGRATION

Both the public sector and civil society actors participate in the integration of immigrants in Finland. The priorities of integration policy include supporting immigrant families, promoting the employment of adult immigrants, settling immigrants as residents in municipalities, smooth and controlled placement of international protection beneficiaries in municipalities, good cooperation between the central government and municipalities, and involving civil society in integration work. In addition to official measures, integration can be promoted in everyday situations and local communities, such as day-care centres, schools, recreational activities and workplaces.

Good ethnic relations promote the integration of immigrants and social cohesion. Equality for all and attitudes that welcome immigrants to participate in society are prerequisites for integration. At the national level, the Advisory Board for Ethnic Relations (ETNO) is an important body working to promote ethnic relations. This Advisory Board is appointed by the Government and coordinated by the Ministry of Justice. In addition to the National Advisory Board on Ethnic Relations, there are seven regional boards.



Picture: Hanna Öunap/Ministry for Foreign Affairs



Picture: Laura Rantanen



Picture: Hanna Öunap/Ministry for Foreign Affairs



Picture: Defence Forces