

The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

FRANET national research in Finland

Final Report

Contractor's name: Institute for Human Rights, Åbo Akademi University

Authors' name: Katarina Frostell, Katri Gadd, Raija Hanski

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1. Introduction

This final report describes the basic structuring and important factors regarding the role of national bodies with a human rights remit in applying the fundamental rights conditionalities to EU funds in Finland. Our objective is to identify the key elements of the bodies' activities in relation to the application of the conditionalities to selected EU funds, and to discover the barriers and critical success factors at each stage of the funding cycle. Furthermore, we have tried to find out the way in which the national bodies with a human rights remit could be involved in the funding process in order to guarantee the successful implementation of the Charter and the CRPD conditionality in the 2021–2027 funding period, and where their interventions in the process could bring most effect. Some capacity gaps have been identified regarding the possibilities of the national bodies with a human rights remit to be actively involved during the funding cycle.

The research is composed of three phases. The first phase is a desk study. We have reviewed the various national policy programmes, their implementation and, where available, evaluations and other assessments of programmes during the previous funding cycle (2014–2020). We have also studied the documentation pertaining to the new funding cycle 2021–2027. This includes relevant legislation and the preparatory works of the main national legislative acts, which complement the relevant EU regulations. The research team has searched information on the webpages, administered by the national authorities managing the various EU funds and which contain information on the programmes and the programming period. In addition, searches have been made on the webpages of national bodies with a human rights remit as well as relevant civil society organisations, including organisations for persons with disabilities. In addition, academic databases have been used, for searches of both relevant literature and case law or decisions by human rights bodies.

The second phase of the research consisted of 10 online or face-to-face semi-structured interviews, which were conducted with a mixture of the key national interlocutors. Three interlocutors represented the managing authorities, two on national level and one on regional level, four represented the national bodies with a human rights remit and three civil society (two academic and one civil society organisation). The objective was to obtain the views of these key interlocutors on the role of national bodies with a human rights remit in the EU funding cycle in the case of Finland. The interlocutors shared their view on firstly, the role and tasks of different authorities and bodies in relation to the

selected funds covered by the study. Secondly, they reflected on the relevance of human rights throughout the programmes and project cycles. During the course of the interviews, it became apparent that quite a few of the interviewees were not well familiar with the EU funding cycle or the EU funds covered in the Common Provisions Regulation. They had difficulties in responding to the detailed questions in the interview template. However, it should be noted that when the interviews were conducted in late spring 2022, the EU funding programmes were not yet fully operational in Finland. While there was general information about the funding programmes available at the time, the more targeted information or training of the implementing actors was still forthcoming.

In the last, third, phase we organised a diagnostic roundtable event. The aim of the event was to have an interactive discussion and generate ideas how to proceed to the future and which practical steps and concrete operational measures could be applied in the Finnish context. Originally, the plan was to organise the roundtable event already in June 2022, but it turned out to be impossible. None of the invited persons registered for the event. Thus, it was necessary to postpone the event, which finally took place on 25 August 2022. In total 24 invitations were sent to different people in various institutions. Out of the nine registered participants, five eventually attended the roundtable event. The small number of participants enabled an intimate environment to discuss the role of the national bodies with a human rights remit in the EU funding cycle. On the other hand, many of the participants claimed they did not possess sufficient knowledge of the EU funding cycle. Therefore, the discussion was more generally on EU and project funding, on the one hand, and national human rights monitoring bodies on the other, rather than focusing on the specific role of these bodies in the EU funding cycle.

2. The implementation of EU funds: challenges and opportunities for fundamental rights

In our initial desk research, we reviewed the European Regional Development Fund (ERDF), European Social Fund Plus (ESF+), and European Maritime, Fisheries and Aquaculture Fund (EMFAF) of the structural funds, and Asylum, Migration and Integration Fund (AMIF) and Internal Security Fund (ISF) of the home affairs funds. The Instrument for Financial Support for Border Management and Visa Policy (BMVI) and the Just Transition Fund (JTF) are new, so no comparison could thus be made with previous funding cycles. Finland does not receive funding from the Cohesion Fund.

We then chose to focus on ESF+ and AMIF. This allowed us to study one fund from each main cluster of EU funds in Finland. ESF+ forms part of the structural funds managed by the Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringsministeriet*) and AMIF of the home affairs funds managed by the Ministry of the Interior (*sisäministeriö/inrikesministeriet*). Moreover, both funds target a broad range of actors, including civil society organisations. They are in their programmes addressing issues of significant fundamental rights relevance. The implementation of the new structural funds programme commenced earlier as compared to the other funds. Therefore, our choice to focus on ESF+ was expected to provide us with relevant information on the realization of the enabling conditions in Finland.

All the Finnish national programmes 2021–2027 (ERDF, ESF+, EMFAF, AMIF, ISF, BMVI) have been prepared in line with the partnership principle in broad-based working groups, which consisted of representatives of ministries, regional bodies, and other relevant authorities and stakeholders. Non-governmental organisations have also been involved, such as nature conservation organisations in the preparation of the EMFAF and ERDF/ESF+ programmes and humanitarian organisations (e.g., International Organization for Migration (Finland), the Finnish Red Cross, the Finnish Refugee Council) in the preparation of the AMIF and ISF programmes. The representatives of the Sami people and the Roma people were consulted during the preparation of the ERDF/ESF+ programme.¹ In addition, various types of working meetings and workshop were convened to support and coordinate the preparation in the broad-based working groups. For example, in preparation of the new regional

¹ Finland, [Uudistuva ja osaava Suomi 2021–2027](#), programme document (ERDF/ESF+), p. 105.

and structural policy programme, the Ministry of Economic Affairs and Employment arranged workshops, which focused on the topic of equality, specific programme objectives and indicators. Meetings were also set up with stakeholders to hear their views on the programme objectives.

In Finland, the relevant EU regulations on EU funding are supplemented by national legislation, which outlines in more detail the national implementation, coordination and administration of the funding. Act (756/2021) on the implementation of the regional and structural policy programmes and Act (757/2021) on the financing of the programmes came into force on 1 September 2021.² Additional provisions on the implementation of the acts have been issued by government decrees.³ The regional and structural policy programme, Innovation and Skills in Finland 2021–2027 (*Uudistuva ja osaava Suomi 2021–2027*) was approved by the government on 21 October 2021.⁴ At present, it covers the ERDF and ESF+. The proposed Just Transition Fund (JTF), which is meant to halve the energy use of peat by 2030, will be attached to the structural policy programme later. The Innovation and Skills in Finland programme aims to renew the regional economic structure, improve employment and skills, and increase inclusion. Its overarching themes include sustainable development, gender equality, non-discrimination, digital development, internationalisation, climate change and innovation. The managing authority is the Ministry of Economic Affairs and Employment. The audit authority is the Ministry of Finance (*valtiovarainministeriö/ finansministeriet*). The funding is disbursed through regional intermediate bodies (i.e., regional councils and Centres for Economic Development, Transport and the Environment).

² Finland, Act No. 756/2021 ([laki alueiden kehittämisestä ja Euroopan unionin alue- ja rakennepolitiikan toimeenpanosta](#)) and Act No. 757/2021 ([laki alueiden kehittämisen ja Euroopan unionin alue- ja rakennepolitiikan hankkeiden rahoittamisesta](#)).

³ Finland, Government Decrees (*valtioneuvoston asetukset/statsrådets förordningar*) Nos. [797/2021](#) (programme authorities and their tasks), [866/2021](#) (eligible costs) and [867/2021](#) (aid procedures).

⁴ Finland, Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringsministeriet*), '[Innovation and skills in Finland 2021-2027 promotes regional vitality, employment and wellbeing](#)', press release, 21 October 2021. The programme has a website, [Rakennerahastot.fi](#), where the programme document has been published, along with other material, in Finnish and Swedish.

The government adopted the 2021–2027 programmes for home affairs funds (AMIF, ISF and BMVI) on 11 November 2021.⁵ Act (1125/2021) on the home affairs funds came into force on 22 December 2021.⁶ Government decree of 10 February 2022 contains additional provisions on programme administration and funding.⁷ The Ministry of the Interior issued more detailed implementation plans for all three programmes in May 2022.⁸ For all three programmes, the Ministry of the Interior is the managing authority and the Ministry of Finance the audit authority. Funding is applied from the Ministry of the Interior and it can be provided to public bodies or private legal persons.⁹

The government has appointed one joint monitoring committee for the ERDF, ESF+ and JTF programmes and one for each of the home affairs funds programmes.¹⁰ The relevant acts and subsequent government decrees define the composition and tasks of the monitoring committees.¹¹ The committee for the ERDF, ESF+ and JTF programmes consists of 28 members, including representatives of various ministries, regional intermediate bodies and central business and labour market organisations. The National Human Rights Institution (NHRI) is a permanent expert member in the monitoring committee. Of the committee members, the Council for Gender Equality (*Tasa-arvoasiain neuvottelukunta/Delegationen för jämställdhetsärenden*, TANE) and the Finnish Federation for Social Affairs and Health (*Suomen sosiaali ja terveystyö ry*, SOSTE) have been appointed to represent organisations engaged in social inclusion,

⁵ Finland, Ministry of the Interior (*sisäministeriö/inrikesministeriet*), '[New programmes adopted for EU Home Affairs Funds for the 2021-2027 programming period](#)', press release, 11 November 2021. There is a website for all home affairs funds, [EU:n sisäasioiden rahastot 2021–2027](#), in which the programme documents have been published, along with other material, in Finnish and Swedish.

⁶ Finland, Act No. 1125/2021 ([laki sisäasioiden rahastoista ohjelmakaudella 2021–2027](#)).

⁷ Finland, Government Decree No. 119/2022 ([valtioneuvoston asetus sisäasioiden rahastoista ohjelmakaudella 2021–2027](#)).

⁸ The implementation plans are available on the website of the home affairs funds, [EU:n sisäasioiden rahastot 2021–2027](#), in Finnish and Swedish.

⁹ Finland, [EU:n sisäasioiden rahastot 2021–2027](#), website (home affairs funds).

¹⁰ Finland, Government (*valtioneuvosto/statsrådet*), '[Monitoring committee appointed for the EU's regional and structural policy programme in 2021–2027](#)', press release, 17 September 2021; Finland, Ministry of the Interior (*sisäministeriö/inrikesministeriet*), '[Seurantakomiteat asetettu EU:n sisäasioiden rahastojen ohjelmille](#)', press release, 17 March 2022.

¹¹ Finland, Act No. 756/2021 ([laki alueiden kehittämisestä ja Euroopan unionin alue- ja rakennepolitiikan toimeenpanosta](#)), Government Decree No. 797/2021 ([valtioneuvoston asetus alueiden kehittämisestä ja Euroopan unionin alue- ja rakennepolitiikan toimeenpanosta](#)), Act No. 1125/2021 ([laki sisäasioiden rahastoista ohjelmakaudella 2021–2027](#)), Government Decree No. 119/2022 ([valtioneuvoston asetus sisäasioiden rahastoista ohjelmakaudella 2021–2027](#)).

fundamental rights, rights of persons with disabilities, gender equality and non-discrimination. TANE consists of representative of parliamentary parties and has representatives of central organisations in the field of gender equality as advisory members. SOSTE is an umbrella organisation of social affairs and health NGOs.

The three monitoring committees for the AMIF, ISF and BMVI programmes consist of representatives of ministries, the police, the Finnish Border Guard, and the Immigration Service, among others.¹² In the AMIF monitoring committee, there are also representatives from, e.g., TANE, the Finnish Red Cross, the Finnish Refugee Council, the Central Union for Child Welfare, the Coalition of Finnish Women's Associations and Moniheli ry, which is a cooperation network of organisations working on integration and immigration issues.

Effective application and implementation of the Charter and the CRPD are horizontal enabling conditions in all the new programmes. According to the programme documents, the relevant Charter and CRPD provisions shall be taken into account, for example, in the selection and monitoring of the projects. Project application, selection and monitoring will take place in a digital management system, where the managing authority can follow up the projects, their progress and their compliance with the Charter and the CRPD. The managing authority will also obtain information on Charter and CRPD compliance through its cooperation with intermediate bodies. The managing authority reports to the monitoring committee any relevant cases and complaints regarding Charter and CRPD non-compliance, including possible individual communications to the CRPD Committee.¹³

The new ERDF/ESF+ and AMIF programme documents refer to the training of the authorities involved in the process in human rights and the CRPD. Further according to the programme documents, the managing authority (AMIF) or the

¹² Finland, Ministry of the Interior (*sisäministeriö/inrikesministeriet*), '[Seurantakomiteat asetettu EU:n sisäasioiden rahastojen ohjelmille](#)', press release, 17 March 2022. Also, [EU:n sisäasioiden rahastot 2021-2017](#), website (home affairs funds), with information on the composition of the three monitoring committees, in Finnish and Swedish.

¹³ Finland, Uudistuva ja osaava Suomi 2021–2027, [Annex](#) (enabling conditions) to the programme document (ERDF/ESF+), p. 11–13 and 18, [Euroopan meri-, kalatalous- ja vesiviljelyrahasto 2021–2027 Suomen ohjelma](#), programme document (EMFAF), 14 February 2022, p. 98–105, [Ohjelmaesitys, turvapaikka-, maahanmuutto- ja kotouttamisrahasto](#), programme document (AMIF), p. 52–57, [Ohjelmaesitys, sisäisen turvallisuuden rahasto](#), programme document (ISF), p. 44–49, [Ohjelmaesitys, rajaturvallisuuden ja viisumipolitiikan rahoitustukiväline](#), programme document (BMVI), p. 40–45.

regional intermediate bodies (ERDF/ESF+) advise the implementers of funded projects in the terms concerning the rights of persons with disabilities. The programme documents do not explicitly refer to Charter training, but it is expected that all funded projects and those involved in the process respect fundamental rights and that no projects infringing upon fundamental rights are funded.¹⁴ Both the regional and structural policy programme and the programmes for home affairs fund have their own websites, which provide information on the programmes and the application process.¹⁵ The managing authorities or the regional intermediate bodies arrange workshops and information meetings, also online, for potential applicants.

During the previous funding cycle 2014–2020, the ERDF/ESF and AMIF/ISF programmes were evaluated by external experts, representing public authorities, consultancy firms and universities. The evaluation reports were commissioned by the managing authorities, that is, the Ministry of Economic Affairs and Employment (ERDF/ESF) or the Ministry of the Interior (AMIF/ISF). The National Audit Office (*valtionalouden tarkastusvirasto/statens revisionsverk*) conducted, at its own initiative, an audit of the funding process, allocation of funds and follow-up of ESF projects.

In the evaluation of the structural funds (ERDF/ESF), one of the main concerns identified was the integration of the horizontal principles (gender equality, equality and non-discrimination, and sustainable development) in the whole project lifecycle.¹⁶ As compared to previous funding periods, there was an enhanced focus on the horizontal principles in the application phase of the 2014–2020 programme period. However, the principle of equality and non-discrimination was not always understood correctly by project implementers. This could arguably have a negative impact on the effective implementation of the principles. The evaluators recommended that the horizontal principles should be more clearly defined and they should be observed not only in the

¹⁴ Finland, Uudistuva ja osaava Suomi 2021–2027, [Annex](#) (enabling conditions) to the programme document (ERDF/ESF+), p. 12, [Ohjelmaesitys, turvapaikka-, maahanmuutto- ja kotouttamisrahasto](#), programme document (AMIF), p. 53, [Ohjelmaesitys, sisäisen turvallisuuden rahasto](#), programme document (ISF), p. 45, [Ohjelmaesitys, rajaturvallisuuden ja viisumipolitiikan rahoitustukiväline](#), programme document (BMVI), p. 41. Also confirmed by an interviewee representing a managing authority (FI/NFM/2).

¹⁵ Finland, [Rakennerahastot.fi](#), website (regional and structural funds); [EU:n sisäasioiden rahastot 2021-2017](#), website (home affairs funds).

¹⁶ Heikkinen, B., Hirvonen, T., Jolkkonen, A., Kahila, P., Kurvinen, A., Mayer, M., Nyman, J., Pitkänen, S., Ranta, T., Sillanpää, K., Ålander, T. (2019), [Final evaluation report of the 'Sustainable Growth and Jobs' structural funds programme](#), Ministry of Economic Affairs and Employment, p. 4, 39.

application phase but throughout the project life cycle.¹⁷ Within our research project, this same issue was raised by the interviewees (FI/NHRB/2,4, FI/CSO/1) and the participants in the roundtable event regarding the 2021–2027 funding cycle. Insufficient knowledge of the relevant Charter or CRPD provisions among project implementers could potentially lead to unintentional neglect or disregard of these fundamental rights instruments. The participants emphasised the need for increased guidance and communication between the authorities granting the funding and project implementers.

In its auditing report of the ESF projects (2014–2020), the National Audit Office discussed the composition of the groups benefitting from the projects.¹⁸ The report considered it problematic that the unemployed, as well as people in a weak labour market position and at risk of exclusion, constituted only 20 % of the participants in the ESF projects. This was the case even if the unemployed are the key target group of the ESF fund. The low participation of various vulnerable groups was highlighted also in other evaluation reports, for example, regarding persons with disabilities in ESF projects and children in AMIF projects.¹⁹ Likewise, the issue was discussed in the roundtable event of our research project. The participants raised the concern that quantitative indicators tend to dominate in project assessment and evaluation. The success of a project depends on the number of beneficiaries the project implementer has managed to involve or reach. This may result in a situation where projects focus on easy-to-reach target groups, leaving out more challenging groups such as those with multiple vulnerabilities.

A structural issue discussed in all evaluation reports was the question of smaller project implementers. In the first interim evaluation report of the structural funds programme 2014–2020 it is noted that despite efforts to simplify the fund administration through, e.g., new payment models, it is still often perceived as difficult and complex. According to the evaluation report, this can

¹⁷ Auri, E., Hirvonen, T., Kahila, P., Ranta, T. (2018), [Hallinnon monet kasvot. Kestävää kasvua ja työtä rakennerahasto-ohjelman toimeenpanon ja hallinnon arviointi](#), Ministry of Economic Affairs and Employment, p. 82–83.

¹⁸ Finland, National Audit Office (*valtionalouden tarkastusvirasto/statens revisionsverk*) (2020), [Tuloksellisuustarkastuskertomus. Euroopan sosiaalirahaston tukien myöntö, seuranta ja vaikutukset ohjelmakaudella 2014-2020](#), Valtionalouden tarkastusviraston tarkastuskertomukset 6/2020, Helsinki, p. 7.

¹⁹ Auri, E., Harkko, J., Heikkinen, B., Hirvonen, T., Jolkkonen, A., Kahila, P., Kurvinen, A., Makkonen, T., Mayer, M., Nyman, J., Pitkänen, S., Ranta, T., Sillanpää, K., Ålander, T. (2019), [Vaikutusten jäljellä. Kestävää kasvua ja työtä rakennerahasto-ohjelman vaikuttavuuden arviointi](#), Ministry of Economic Affairs and Employment, p. 165–166. KPMG (2017), [AMIF Interim Evaluation Report](#), Ministry of the Interior, p. 27.

deter potential new applicants.²⁰ Simultaneously, there is a core group of project implementers with broad experience of structural funds, who do not have any major difficulties in complying with the funds' administrative requirements. These project implementers are located unevenly across the country, primarily in regional cities and centres.²¹ In the AMIF and ISF interim evaluation reports, the main concern was the financial requirements, which mean that only accrued expenses are covered.²² This affects the possibility of small civil society organisations (CSO) to be able to afford the EU funding. In the course of our study, the interviewees (FI/NHRB/2, FI/CSO/2, FI/CSI/2) and the participants in the diagnostic roundtable event recognised this same challenge. It was stated several times that small CSOs have limited possibilities to get involved in the funding process and to get funding. This is because they do not have enough knowledge of the EU funds nor of the national implementation of the funds in line with the partnership principle. The application process is heavy, time-consuming and requires expertise, being far from the everyday work of most CSOs.

3. The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

In the national context of Finland, the national bodies with a human rights remit relevant for this study include the Chancellor of Justice (*oikeuskansleri/justitiekanslern*), Parliamentary Ombudsman (*eduskunnan oikeusasiamies/riksdagens justitieombudsman*), Non-Discrimination Ombudsman (*yhdenvertaisuusvaltuutettu/diskrimineringsombudsmannen*), Ombudsman for Equality (*tasa-arvovaltuutettu/jämställdhetsombudsmannen*), Ombudsman for Children (*lapsiasiavaltuutettu/barnombudsmannen*), Data Protection Ombudsman (*tietosuojavaltuutettu/dataombudsmannen*) and Ombudsman for the Elderly (*vanhusasiavaltuutettu/äldreombudsmannen*). The National Human Rights Institution consists of the Parliamentary Ombudsman, the Human Rights Centre (*ihmisoikeuskeskus/människorättscentret*) and its Human Rights Delegation.

²⁰ Auri, E., Hirvonen, T., Kahila, P., Ranta, T. (2018), [Hallinnon monet kasvot. Kestävää kasvua ja työtä rakennerahasto-ohjelman toimeenpanon ja hallinnon arviointi](#), Ministry of Economic Affairs and Employment, p. 9.

²¹ Auri, E., Hirvonen, T., Kahila, P., Ranta, T. (2018), [Hallinnon monet kasvot. Kestävää kasvua ja työtä rakennerahasto-ohjelman toimeenpanon ja hallinnon arviointi](#), Ministry of Economic Affairs and Employment, p. 9.

²² KPMG (2017), [AMIF Interim Evaluation Report](#), Ministry of the Interior, p. 25 and [ISF Interim Evaluation Report](#), Ministry of the Interior, p. 35.

At the first stage of the new funding cycle (2021–2027), the Finnish partnership agreement²³ was drafted by a working group, which was led by the Ministry of Economic Affairs and Employment and consisted of representatives of ministries, regional bodies and other relevant stakeholders, such as labour market organisations and the Finnish Federation for Social Affairs and Health. National bodies with a human rights or equality remit were not involved as working group members. Three of our interviewees representing national human rights bodies also confirm this (FI/NHRB/2,3,4).

As explained above (section 2), the regional and structural policy programme and the home affairs programmes were also prepared in broad-based working groups. At this stage of the funding cycle, the national bodies with a human rights or equality remit have had a role, albeit still not a very prominent one. The draft programmes were open for comments in an online service administered by the Ministry of Justice (*oikeusministeriö/justitieministeriet*). The programme documents and the summaries of statements through the online service do not especially bring forth the role of national bodies with a human rights or equality remit. The ERDF/ESF+ programme mentions in general terms that ‘experts on gender equality’ have participated in the preparation process.²⁴ The AMIF programme refers to ‘experts on equality and inclusion’ without any further definition.²⁵ However, our interviewee (FI/NHRB/2) from the Office of the Non-Discrimination Ombudsman confirmed that they were consulted in the preparation of the home affairs funds programmes. Similar contacts with other national human rights bodies are likely to have occurred.

The draft legislative texts of the Acts (756/2021, 757/2021 and 1125/2021), which outline the national implementation, coordination and administration of the EU funding, were also open for comments in the Ministry of Justice online service. At least the Chancellor of Justice and the Data Protection Ombudsman commented on the drafts. In their statements, they both highlighted the GDPR and the constitutional provisions on the protection of personal data. The

²³ Finland, Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringsministeriet*), [Suomen kumppanuussopimus 2021–2027](#), 5 May 2022.

²⁴ Finland, [Uudistuva ja osaava Suomi 2021–2027](#), programme document (ERDF/ESF+), p. 105.

²⁵ Finland, [Ohjelmaesitys, turvapaikka-, maahanmuutto- ja kotouttamisrahasto](#), programme document (AMIF), p. 59.

Chancellor of Justice also brought up the right to privacy and the need to exclude premises used for permanent residence from monitoring visits.²⁶

Within our research project, all interviewees and the participants in the roundtable overall held that it is important that national bodies with a human rights or equality remit are involved in the programming stage. In their view, this gives the opportunity to assess that the proposed programmes are inclusive, so as to target funding to projects that engage all groups in society. The interviewees and roundtable participants also suggested that at the programming stage, national human rights and equality bodies could see to it that the tools meant to measure the success of the projects actually assess the fulfilment and promotion of fundamental rights in the projects. According to a representative of a managing authority (roundtable), it would be good to hear suggestions on how to improve the programmes before launching them.

Throughout the new funding cycle (2021–2027), the NHRI (represented by the Human Rights Centre) is a permanent expert member in all the monitoring committees set up so far (ERDF/ESF+, AMIF, ISF and BMVI). As an expert member with a consultative status, the NHRI has the right to speak in the monitoring committee meetings, but cannot take part in the decision-making as such.²⁷ The managing authority can hear the NHRI in any fundamental rights issues, and particularly regarding potential cases of Charter or CRPD non-compliance. Such non-compliance can come to the attention of the managing authority through the digital management system for funded projects or through contacts with regional intermediate bodies.²⁸ Furthermore, anyone can alert the managing authority about potential malpractice in the use of project funds.²⁹ The monitoring committee is informed of possible non-compliance but it does not handle any complaints as such. If a risk of Charter or CRPD non-compliance emerges in a funded project, the managing authority or the regional

²⁶ The statements are available through the online service lausuntopalvelu.fi, requests for statements no. [VN/6450/2019](#) (draft acts on the regional and structural policy programmes) and no. [SMDno-2019-572](#) (draft act on home affairs funds).

²⁷ Finland, Ministry of the Interior (*sisäministeriö/inrikesministeriet*), [Turvapaikka-, maahanmuutto- ja kotouttamisrahasto \(AMIF\) seurantakomitean työjärjestys](#) (AMIF monitoring committee, Rules of Procedure), 13 April 2022, section 4.

²⁸ Finland, Uudistuva ja osaava Suomi 2021–2027, [Annex](#) (enabling conditions) to the programme document (ERDF/ESF+), p. 12–13, [Ohjelmaesitys, turvapaikka-, maahanmuutto- ja kotouttamisrahasto](#), programme document (AMIF), p. 53, [Ohjelmaesitys, sisäisen turvallisuuden rahasto](#), programme document (ISF), p. 45, [Ohjelmaesitys, rajaturvallisuuden ja viisumipolitiikan rahoitustukiväline](#), programme document (BMVI), p. 41.

²⁹ Finland, [Rakennerahastot.fi](#), website (regional and structural funds; combating fraud). Also, interviewees FI/NFM/1 and FI/NFM/3.

intermediate body will contact the project implementer and give their advice as to how to avert the problem (FI/NFM/3).

While there is no built-in complaints system in the national funding programmes, appropriate regular complaints mechanisms and remedies are available. For example, regarding effective application and implementation of the Charter, all programmes mention the Parliamentary Ombudsman and his/her task in overseeing legality through investigating complaints, including complaints concerning rights of persons with disabilities. Likewise, reference is made to the complaints system under the Optional Protocol to the CRPD. The ERDF/ESF+ programme speaks of the role of the Ombudsman for Equality in monitoring the Equality Act (609/1986). The AMIF, ISF and BMVI programmes also mention the Non-Discrimination Act (1325/2014). Anyone who claims to have been discriminated against due to gender, gender identity or gender expression can contact the Ombudsman for Equality. Anyone who has experienced or observed discrimination on the basis of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, state of health, disability, sexual orientation or other personal characteristics can bring this to the attention of the Non-Discrimination Ombudsman. Both ombudsmen will in the first place give advice or promote conciliation between the parties, but they can also refer cases to the National Non-Discrimination and Equality Tribunal (*yhdenvertaisuus- ja tasa-arvolautakunta/diskriminerings- och jämställdhetsnämnden*) whose decision is binding. In addition, anyone who suspects that an authority, public official or some other persons performing a public duty has acted unlawfully or failed to fulfil their obligations can file a complaint with the Chancellor of Justice. The Ombudsman for Children and the Ombudsman for the Elderly do not handle complaints. It should be noted that based on our desk study and the evaluation reports from the previous funding cycle, no actual fundamental rights violations have been detected so far. An interviewee representing a managing authority said she was not aware of any fundamental rights complaints during the previous funding cycle (FI/NFM/2).

During the previous funding cycle (2014–2020), the evaluation of the ERDF/ESF and AMIF/ISF programmes was carried out by external experts representing public authorities, consultancy firms and universities. One of the interviewees (FI/NHRB/3) within our research project informed that the Ombudsman for Equality had previously been involved in the evaluation of an EU funded project concerning gender equality in education. Participants in the roundtable as well as two interviewees (FI/NHRB/2,3) considered it important that national bodies with a human rights or equality remit participate in the

evaluation of the programmes or individual projects. Two interviewees (FI/NFM/1, FI/NHRB/2) held that participation of national human rights bodies especially at the interim evaluation phase of programmes would bring best results in safeguarding rights compliance.

The idea of involving national human rights and equality bodies in the monitoring of EU funds, particularly as guardians of Charter and CRPD compliance, is new. The national bodies with a human rights or equality remit may thus yet have difficulties in grasping their potential role and responsibilities in the different stages of the funding cycle. At the time our research was conducted, the 2021–2027 national funding programmes had been up and running for a short period of time only. It was not yet quite clear how the fundamental rights requirements, particularly regarding the Charter, were going to be integrated in the programmes and projects in practice. While the ESF+ and the home affairs programmes already address issues of fundamental rights relevance, it remains to be seen how the fundamental rights aspect is integrated, for example, in the EMFAF (fisheries) or JTF (peat) programmes. During the previous funding period (2014–2020), problems were discovered in the ERDF projects, concerning the correct understanding and implementation of the horizontal principle of equality and non-discrimination.³⁰ Charter implementation, with a somewhat wider fundamental rights perspective, may prove even more challenging.

Another key question is the ways in which the national bodies with a human rights remit can contribute in the different stages of the funding cycle without compromising their independent and impartial role. In that sense, a consultative and advisory role, as foreseen in the new funding programmes (2021–2027), is apparently more acceptable. Whereas it is evident from the statements of our interviewees (FI/NHRB/2,4), that national human rights bodies are less willing to be involved, for example, in the selection of projects or in funding decisions.

4. Critical success factors

This section focuses on critical success factors identified for the involvement of the national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds. In other words, the point of departure is the national

³⁰ Auri, E., Hirvonen, T., Kahila, P., Ranta, T. (2018), [Hallinnon monet kasvot. Kestävää kasvua ja työtä rakennerahasto-ohjelman toimeenpanon ja hallinnon arviointi](#), Ministry of Economic Affairs and Employment, p. 68–71.

bodies with a human rights remit and their engagement in EU funds, rather than the broader question of how to safeguard fundamental rights compliance of EU funds, in general. This latter aspect will be touched upon in the concluding section where also recommendations are presented. As previously noted there are eight bodies that qualify as national bodies with a human rights remit in Finland. The findings presented in this section are based on interviews with representatives of three of these bodies.

A recurrent theme in all interviews with representatives of national bodies with a human rights remit is the question of the independence of the bodies (FI/NHRB/1,2,3,4 and roundtable). All interviewees representing the national bodies with a human rights and/or equality remit emphasised the need to safeguard the independent and impartial status of their respective organisation. As noted by one of the interviewees, the national bodies with a human rights remit have the legal right to decide by themselves how to direct their resources and what their focus of interest is (FI/NHRB/4).

Also, the mandate of the national bodies with a human rights remit affects their possibilities to be involved in EU funds. Whereas the NHRI, composed of the Parliamentary Ombudsman, the Human Rights Centre and the Human Rights Delegation, has a broad mandate both thematically and procedurally, including the right to handle complaints (Parliamentary Ombudsman), most of the other Ombudsmen have narrower mandates. Thus, the Data Protection Ombudsman, the Ombudsman for Children, and the Ombudsman for the Elderly have naturally a more limited role in the implementation of EU funds.

Despite these limitations the study shows that several national bodies with a human rights remit have within their respective mandate been involved or given tasks in previous and/or present EU funding cycles, including in monitoring committees, programming, projects, consultations, evaluations, training activities and complaint handling. At the same time, interviewees representing national human rights bodies have emphasised that in some matters they cannot be engaged. This view was expressed particularly when it comes to the selection of projects to be funded. With reference to the impartiality requirement, this was considered an impossible task for at least the Non-Discrimination Ombudsman and the Human Rights Centre (FI/NHRB/1,2).

With respect to the involvement of national human rights bodies in funded projects, the study has shown that a conflict of interests could potentially occur when national bodies with a human rights remit themselves are involved in

projects funded through EU funds. At least two of the national human rights bodies, that is, the Office of the Non-Discrimination Ombudsman and the Office of the Ombudsman for Equality report that they have either received funding from EU funds or have participated in steering groups of EU funded projects (FI/NHRB/2,3). For example, during the last funding cycle the Office of the Non-Discrimination Ombudsman received funding through AMIF for a project on the monitoring of deportation orders.³¹ It is obvious that the role of the national body in these kind of situations could become problematic, in case the body simultaneously has an active role in the monitoring or evaluation of projects and programmes. It would have to be carefully assessed to what extent national bodies with a human rights remit can take part in the EU funding cycle as expert organisations, if and when, they themselves apply for funding. According to the study, this risk has not materialized so far.

Another critical factor addressed by all representatives of national bodies with a human rights remit concerns the resourcing of their involvement in the monitoring of EU funds (FI/NHRB/1,2,3,4). Also the civil society representatives and representatives of the managing authorities acknowledged the insufficient human resources within national human rights bodies (FI/CSO/3 and FI/NFM/1,2). Based on the interviews, it seems that no earmarked funding has been provided for the engagement of national bodies with a human rights remit in the monitoring of EU funds (FI/NHRB/2). It was repeatedly stated that an effective participation in various stages of the EU funding cycle, such as monitoring committee meetings, requires time. In other words, the national bodies will need staff members who have the possibilities to be involved in the work of the EU funds (FI/NFM/1,2 and FI/NHRB/1,2).

Also in the discussion on the participation of the national human rights bodies in individual projects, the issue of resources was addressed. For example, it was noted that membership in projects' steering groups could be one successful way for the bodies with a human rights remit to be involved in the funding cycle and share their knowledge. In this context, the project applicants could allocate resources in their project plan for the involvement of the expertise of a body with a human rights or equality remit, as reminded by the representatives of the managing authorities at the roundtable event and in the interviews (FI/NFM/1,2).

³¹ Keskitalo, P., Koskenoja, M., Kruskopf, P., Nuutinen, M., Swanljung, M. (2020), [Maastapoistamisen täytäntöönpanon valvonta – havainnot vuosilta 2014-2019](#), Non-Discrimination Ombudsman (yhdenvertaisuusvaltuutettu/diskrimineringsombudsmannen), Helsinki, 6 July 2020.

Another critical success factor is training on EU funds. Whereas national human rights bodies that have run their own EU funds project have a fairly good understanding of the funding system (FI/NHRB/2,4), it seems that others, with less experience, are in need of training. In several of the interviews with representatives of national human rights bodies as well as in the roundtable it was suggested that such training would benefit from being conducted with European partners. For example, the European Network of National Human Rights Institutions and the European Network of Equality Bodies were mentioned as possible fora for enhancing the capacity on EU funds among national bodies with a human rights remit (FI/NHRB/1,2).

Finally, as shown in the previous section, the external fundamental rights complaint mechanism in Finland attached to the EU funding cycle is built on the existing complaint systems maintained primarily by the Parliamentary Ombudsman. Despite this, none of the interviewees were able to highlight this in the interviews and roundtable discussions. Instead, they emphasised the possibility of making use of internal mechanisms, such as the notification of the managing authority (also anonymously) and intermediate bodies about potential fundamental rights problems in individual projects (FI/NFM/3). It goes without saying that in order to safeguard that the external complaint mechanisms do not remain a dead letter more information about their existence need to be shared among all relevant actors (FI/NHRB/4).

5. Conclusion

This research project confirms that the new EU funding cycle (2021–2027), as implemented in Finland, puts a stronger emphasis on fundamental rights compliance than previous funding cycles. This is reflected both in the national regulatory and administrative framework as well as in the stronger involvement of the national bodies with a human rights remit in the EU funds. At the same time, it is still early to say how this will roll out in practice (FI/NFM/1). The study shows that the various actors involved in the EU funds are still figuring out what the implications of the changes in the regulatory and administrative framework are for their own role and work. With the aim of contributing to the further development of the fundamental rights compliance of the EU funds, some concluding reflections and recommendations will be presented below.

As per the guidelines drawn up by the EU Fundamental Rights Agency, the research project has primarily dealt with how the national bodies with a human rights remit could strengthen their role in monitoring fundamental rights

compliance of EU funds. During the course of the study, a wider approach has emerged. The interviewees and, in particular, the participants in the roundtable advocated for enhancing the collaboration between national human rights bodies and other actors involved in the EU funding cycle.

In this context, it can be noted that the monitoring committees have a strong representation of civil society organisations and other actors involved in fundamental rights protection, including the Council for Gender Equality, the Finnish Red Cross, the Finnish Refugee Council and the Central Union for Child Welfare. A multi-actor approach could enable the utilization of a broader spectrum of fundamental rights expertise, with the aim of not only monitoring but also promoting fundamental rights through EU funds.

To exemplify what this could mean in practice for national bodies with a human rights remit, a promising practice presented by one of the interviewees can be helpful. During the previous funding cycle, structural racism was debated in society. To respond to the perceived need for action, different ministries and actors (e.g. civil society organisations, researchers, persons experiencing racism) got together in an ad hoc -manner and planned a call specifically targeting integration in schools, at work and in different stages of studies (FI/NFM/2). In other words, EU funds were successfully used to tackle a concrete fundamental rights problem in a collaborative way involving different actors.

While the national bodies with a human rights remit were not mentioned in this process, their role could potentially be significant in similar situations in the future. For example, they could participate in ad hoc working groups that develop new calls or their reports could be used to identify current fundamental rights challenges, which in turn could be developed into new calls, in collaboration with other actors. In addition, the national human rights bodies are in a good position to distribute to managing authorities information on the findings of international treaty monitoring bodies concerning Finland (roundtable). A systematic use of these existing sources would be a cost-effective way to promote fundamental rights through EU funds.

Furthermore, the question of training on fundamental rights was throughout all interviews addressed as an important area where the national bodies with a human rights remit could and should be involved. We have in the previous section addressed the need among national bodies with a human rights remit themselves to obtain training on the EU funding mechanisms. In addition, there is a pressing need among various actors to get more knowledge and easily

understood information on EU Charter rights, and on how to assess compliance with fundamental rights in concrete projects (FI/CSO/1, FI/NFM/2,3).

The study shows that training directed at the managing authorities, intermediate bodies, project applicants, and others involved in the funding cycle is essential. The input of the national human rights bodies in the training is most acute at the level of the managing authority and intermediate bodies. Whereas the managing authority is responsible for instructing the intermediate bodies and the intermediate bodies for instructing the project applicants/implementers, a training of trainers approach to the training provided by national human rights bodies seems most appropriate. Acknowledging the time constraints of the national human rights bodies, one of the interviewees suggest that a training package could be developed and distributed to different stakeholders (FI/NFM/2). Furthermore, during the roundtable discussion, it was noted that the assistance of the national human rights bodies would be needed for the development of plain language information on the Charter and CRPD for project applicants. Although the Human Rights Centre has already been offering training for EU fund administrators (FI/NHRB/4), it seems that more efforts in this field are still needed. In fact, representatives of the managing authorities and the Human Rights Centre started to plan this already during the roundtable discussion.

Also in this context, international exchanges are viewed as valuable. The roundtable participants representing bodies with a human rights remit and the managing authorities request guidance and training, at EU level, about EU's actual requirements regarding the programmes and projects, as well as about the funding instruments as such in terms of fundamental rights. In addition, the participants note that the managing authorities would benefit from more specified information regarding, for instance, the expectations of the European Commission when it comes to the implementation of the EU fund programmes and projects. According to the representatives of the managing authorities, it would be easier for them to ask for more specified assistance from the national bodies with a human rights remit in case they had a clear vision of the expectations. For example, a checklist to be distributed to the actors operating at each stage of the funding cycle would be useful. It was also suggested that through cooperation between the European Network of National Human Rights Institutions, the EU Fundamental Rights Agency and the European Commission common criteria for the funded projects across all Member States concerning fundamental rights could be developed (FI/NHRB/1). Also at the level of project implementation, exchanges between Member States were considered valuable,

for example, by way of sharing experiences and knowledge on assessing fundamental rights in concrete cases (FI/NFM/1).

With respect to complaint mechanisms, this study shows a clear unfamiliarity with available complaint mechanisms (FI/NHRB/1,4). We therefore recommend that accessible information about such mechanisms is developed and shared with project implementers and fund authorities.