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IHF FOCUS: Freedom of expression and the media; judicial system; intolerance, xenophobia, racial discrimination; protection of asylum seekers and immigrants; conscientious objection.

Concerns were raised about the media's right to receive and disseminate information when a television reporter was banned from entering parliament. A disproportionately harsh sentence for animal protection activists – on the grounds that animal rights activism was equated with membership in organized criminal groups – raised concern about the courts' sentencing policies. Similarly, in a libel case brought by a well-known skier and officials of the Finnish Ski Association, the Finnish News Agency was ordered to pay exceptionally high damages, even to individuals who were not directly involved in the case.

The discriminatory treatment of a foreigner by a credit card company resulted in a court conviction. A study on criminality among foreigners living in Finland faced criticism regarding its accuracy, and was interpreted one-sidedly by the media as portraying foreigners in a bad light. Twelve conscientious objectors were incarcerated for refusing to carry out the long duration of civilian service.

Freedom of Expression and the Media

The Finnish constitution² guaranteed freedom of expression including, for example, freedom to receive and impart information without prior interference from anyone. Furthermore, any restriction on freedom of expression had to be prescribed by a specific and clearly defined law. The Euro-

pean Court of Human Rights has repeatedly pointed out that in addition to being a human right, freedom of expression is also a basic component of a democratic society. The special protection of journalists in seeking and imparting information and the protection of journalistic sources have been at the core of freedom of expression.³

■ On 9 September, a reporter working for the commercial TV channel MTV was declared *persona non grata* in the Finnish house of parliament. The decision was made by the speaker of parliament at the suggestion of the secretary general of parliament (former head of the security police). The reason for the ban was the fact that the reporter had disclosed confidential information on the proposal to harmonize EU asylum policy in preparation for the EU Summit held in Tampere in October. The matter had been discussed in the parliamentary grand committee. The secretary general of parliament admitted that the ban was not based on any specific law or rule. Moreover, he denied that the journalist had been refused entry to the building or that the ban was an administrative decision requiring an explanatory memorandum: he saw it rather as an informal but serious wish on behalf of parliament for the television company to send other reporters to parliament in the future. Interestingly, however, a journalist from the main Finnish daily, who had written an article on the same matter on the basis of the same information, was not banned from parliament. The explanation given by the secretary general was that, unlike the television reporter, the latter had not been instructed of the confidential nature of the information.

Following strong public reaction, the ban was lifted eleven days later. An association

¹ Based on the report from the Finnish Helsinki Committee to the IHF.

² [(731/1999) 12§ (HM 10§)]

³ Martin Scheinin, "Eduskuntaporttikiellon opetus," *Helsingin Sanomat*, 20 September 1999.

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of law journalists submitted a complaint to the parliamentary ombudsman against the secretary general's conduct, stating that the ban violated freedom of expression as safeguarded in the constitution, and in practice constituted preventive censorship. According to the complaint, it appeared that there was no consistent policy among parliament officials regarding the disclosure of confidential information: it appeared that many of them believed that the confidentiality provisions bound both officials and journalists. It was also pointed out that the decision was not made in writing and that there were no legal remedies available to the affected reporter. The decision was therefore regarded as illegal, both in substance and in form. However, the ban was never "tested" by the TV channel by sending the journalist to the parliament house. In this sense it remained unresolved who how strong the "wish" given to him not to enter the parliament house was.

The ombudsman, however, announced in October that he had no powers to examine the matter because the decision had been taken by the speaker of parliament and was later supported by all speakers of parliament. Following the ombudsman's announcement not to take up the issue, the reporter decided not to submit the case to the European Court of Human Rights.⁴

Judicial System

Sentencing Policy

On 5 July, the District Court of Helsinki sentenced an animal protection activist to one year and eight months imprisonment for stealing 11 rabbits from the National Public Health Institute (Kansanterveyslaitos) in January 1997 and for attacks on fur farms in 1996. The sentence includ-

ed an earlier nine-month probation. Three months of the probation were converted to imprisonment because the second offense was committed during the probation period handed down in December 1996 for damage caused by attacks on fur farms in western Finland. In the opinion of the district court, the theft, which took place in the middle of experimentation on the animals, caused FIM 80,000 worth of damage (U.S.\$ 13,275) to the National Public Health Institute. Two other persons were sentenced to one year and two months probation respectively for the theft. Additional two were fined for hiding the rabbits. The accused were ordered to compensate for half of the damage caused and pay legal costs, a total of FIM 50,000 (U.S.\$ 8,300). Moreover, the court issued a warrant for the arrest of the activist to prevent her from escaping the sentence, which seemed likely, and to prevent her from committing new offenses. In the court's view, animal rights activism was equated with membership in organized criminal groups.

The severity of the punishments in comparison with the general punishment practice in Finland prompted severe criticism among legal experts. For example, the average sentence for grand larceny (serious theft) was six to eight months whereby only half of those found guilty had to serve a prison term; involuntary manslaughter and aggravated drunk driving commonly carried sentences of one and a half years; and rapists were sentenced to 1,5–2 years' imprisonment on average. Furthermore, even convicted violent offenders usually remained at liberty until the court made a decision regarding sentencing. On 8 July, only three days after the district court delivered judgment, the Helsinki Court of Appeal overruled the warrant of arrest, disagreeing with both grounds presented by

⁴ *Helsingin Sanomat*, 10 September, 15 September and 9 October 1999; *Iltasanomat*, 21 September 1999; *Journalisti*, 16 September and 14 October 1999.

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the lower court. As of this writing, the activist remained at liberty and the case was still pending.⁵

Compensation for Damages

The basic principle of the law on compensatory damages in Finland was that compensatory damages will only be awarded for actual damage, and punitive damages cannot be awarded.

An amendment to the law on compensatory damages came into effect on 1 February (61/1999). The amendment gave a right to the immediate family of a person who had been killed by murder, manslaughter or gross involuntary manslaughter to claim damages for "mental suffering." According to the *travaux préparatoires* of the law, the compensation for damages should not exceed the amount which was customarily compensated for pain and suffering, which had recently been around FIM 100,000 (U.S.\$ 16,600).

■ In November 1998, the editor-in-chief and a reporter of the Finnish News Agency STT faced charges on public libel. In January 1998, the STT published three news items claiming that a well-known Finnish skier was engaged in doping. It further claimed that leading figures of the Finnish Ski Association had become interested in "the successful experimentation on the hormone." The skier denied all allegations. As a result of demands for proof, and a request for an inquiry, the content of the news was later amended to a considerable degree so that only one influential person of the Ski Association was claimed to have known about the experimentation. The plaintiffs claimed damages of up to FIM 6 million (U.S.\$1,000,770). There were leading politicians among the plaintiffs. In its decision of 15 June 1999, the Helsinki District Court held that the news lacked

evidence and found the editor-in-chief and reporter guilty of public libel on 19 counts, sentencing them to fines and 45 and 30 days of probation, respectively. Furthermore, the news agency was ordered to pay a total of FIM 1,57 million (U.S.\$ 261,860) to the skier and 18 leading figures of the Finnish Ski Association in compensation for mental suffering, although the names of those 18 figures had not been mentioned in the actual news. As of this writing, the case was still pending in the Court of Appeal.⁶

Intolerance, Xenophobia, Racial Discrimination

Discrimination

According to article 11(9) of the penal code, a person who, in the exercise of his/her trade or profession or official authority and without justified reason, refused someone service on the usual terms, refused entry to an event or a meeting, or put someone in a manifestly unequal or substantially inferior position compared to others on the basis of race, national or ethnic origin, color, language or other comparable reason, was guilty of discrimination. Such discrimination could be punished by a fine or imprisonment of up to six months.

■ In March, the District Court of Helsinki found two employees of the Finnish Visa group member Luottokunta guilty of discrimination in trade and sentenced them to pay fines. The case was brought to court by a Turkish Kurd who was refused a credit card despite the fact that he had lived in Finland since 1991 and owned two restaurants. Luottokunta refused to grant the card because the applicant was not a Finnish citizen. The additional information submitted by the applicant regarding his business activities did not alter the court's de-

⁵ *Helsingin Sanomat*, 8 and 9 July 1999.

⁶ *Helsingin Sanomat*, 16 June 1999.

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cision. One of Luottokunta's conditions for granting a credit card was a resident requirement of a minimum of three years. The applicant's nationality was not, however, used as a variable in the company's risk assessment system, and therefore should not have influenced the decision. At that time, the company had several thousand non-Finnish customers. The court held therefore that the vice-credit manager and the employee responsible for managing credit risks had put the applicant in an unequal position on the basis of citizenship without justified reason.⁷

Criminality by Foreigners

In 1999, studies and surveys were published on racist crimes, violent offences committed by foreigners and Finnish attitudes towards foreigners.

The Police Department of the Ministry of the Interior published a report on violent offences committed by foreigners in 1998. According to the ministry, the report was part of the system of monitoring racism and ethnic discrimination launched in 1997.⁸ The report, however, faced severe criticism.

The title of the report was misleading in that it referred to offences in which sus-

pects were of foreign origin, including foreigners who had obtained Finnish citizenship and tourists, but not to court sentences. According to the report, depending on the type of the offence, in 3–5 percent of violent offences committed in 1998, the suspect was a foreigner. In the same year, 2.4 percent of the population was of foreign origin.⁹ According to the Finnish Helsinki Committee, the information provided by the report could not therefore be used as the basis from which to calculate the proportional number of violent offences committed by foreigners living in Finland.

The report sought to understand the motives for violent crimes, and thus find appropriate preventive measures. However, the motives were only discernable in 25 percent of the cases. Half of the cases were related to domestic violence and 5 percent were provoked. A violent offence was most commonly related to an affray between a young foreign man and a young Finnish man in Helsinki, taking place outdoors at night. Most foreign suspects were young men, 50 percent all offenses being committed in the metropolitan area.¹⁰

However, the Finnish human right activists criticized the fact that the report did not highlight the different demographic struc-

⁷ *Helsingin Sanomat, Iltalehti and Iltasanomat*, 20 March 1999.

⁸ *Ulkomaalaisten tekemät väkivaltarikokset Suomessa 1998, (Violent Offences Committed by Foreigners in Finland in 1998), 1999. Previous related publications include: Poliisin tietoon tullut rasistinen rikollisuus Suomessa 1997 (Reported Racially Motivated Crime in Finland in 1997), 1998; Ulkomaalaisiin kohdistuneet väkivaltarikokset Suomessa 1997 alueellisesti tarkasteltuna (Violent Offences against Foreigners in 1997, Examined on a Regional Basis), 1998; and Poliisin tietoon tullut rasistinen rikollisuus Suomessa 1998 (Reported Racially Motivated Crime in Finland in 1998) 1999, all published by the Ministry of the Interior, Policy Department.*

⁹ Jaakkola, Magdalena, *Maahanmuutto ja etniset asenteet (Immigration and the Ethnic Attitudes. The Finns' Attitudes Towards Immigrants in 1987–1999)*, Studies in Labour Policy 213, Ministry of Labour, Helsinki, 1999.

¹⁰ *Ulkomaalaisten tekemät väkivaltarikokset Suomessa 1998, (Violent Offences Committed by Foreigners in Finland in 1998), 1999. 758 out of 1501 cases in total were reported in Helsinki, Vantaa or Espoo. Ibid.*

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ture between foreigners and native Finns: most foreigners in Finland were young men living in big cities. The Finnish Helsinki Committee pointed out that it was a well-known fact that most offences were committed by young men in cities, rather than rural areas. Because of the different demographic structure between native Finns and foreigners living in Finland, the activists believed that no direct comparison should be made.¹¹

The media's interpretation of the report reflected an unfavorable attitude towards foreigners. For example, an article in the main Finnish daily labeled Somalians the most frequent foreign suspects of violent offenses.¹² The article did not mention the fact that although 20 percent of foreigners in Finland were Russian, only five percent of the suspects in the violent offences were Russians.¹³ Reporting revealed that the media only saw immigrants as a problem, or the cause of problems.

Protection of Asylum Seekers and Immigrants

The Slovak Roma

By the end of June, around 1,200 Roma from Slovakia arrived in Finland and sought asylum on grounds of widespread ethnic discrimination and racially motivated violence in Slovakia. Most of them arrived via the Czech Republic, but some ar-

rived from Hungary and Belgium. On 6 July, Finnish authorities responded by imposing a four-month visa requirement on Slovak citizens. When taking the decision, the Finnish government stressed the fact that it was a temporary measure and could be reviewed if it did not prove to be efficient.

The Directorate of Immigration, which was responsible for processing and resolving immigration and refugee matters, regarded the asylum applications as manifestly unfounded and proposed to return the Roma to the Czech Republic and Hungary because they were "safe asylum countries." The authorities stated that they had received a commitment from Czech authorities to allow all Slovak Roma returning to the Czech Republic to begin the asylum process.¹⁴ Belgium, again, was a contracting state to the Dublin Convention. As a result, the Finnish authorities processed the applications according to the accelerated procedure. The Refugee Advice Center (RAC), an expert organization on refugee and alien affairs, voiced concern that the accelerated procedure could endanger the principle of individual examination of each case. The decision on the accelerated procedure was also criticized for being politically motivated.¹⁵

The RAC also criticized the decision describing the Czech Republic as a "safe country of asylum."¹⁶ According to the Eu-

¹¹ *Helsingin Sanomat*, Letter to the Editor by Timo Makkonen (Finnish League for Human Rights) and Professor Karmela Liebkind (Helsinki University), 20 December 1999.

¹² "Ulkomaalaisista somalit useimmin epäiltyinä väkivaltarikoksissa," *Helsingin Sanomat*, 9 December 1999.

¹³ *Helsingin Sanomat*, Letter to the Editor by Timo Makkonen (Finnish League for Human Rights) and Professor Karmela Liebkind (Helsinki University), 20 December 1999.

¹⁴ Letter by the European Roma Rights Center to Finnish and Belgian Prime Ministers, 2 October 1999.

¹⁵ *Helsingin Sanomat*, 18 August 1999.

¹⁶ Letter of 4 October 1999 by the RAC to the the District Administrative Court of the province of Uusimaa.

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ropean Roma Rights Center, the asylum procedure in the Czech Republic was inadequate. Moreover, Slovak Roma in the Czech Republic were in danger of the victimization and discrimination faced by all Roma in the Czech Republic, including the risk of inhuman and degrading treatment and the threat to physical safety.¹⁷ The UNHCR stated that in both the Czech Republic and in Hungary, asylum seekers might not have adequate access to asylum procedures and therefore faced return to Slovakia without the appropriate asylum procedure.¹⁸

The decisions of the Directorate of Immigration on allegedly manifestly unfounded applications made under the accelerated procedure were to be subjected to the District Administrative Court in the Province of Uusimaa.¹⁹ If the court also regards the application as manifestly unfounded, a decision to refuse entry and a residence permit could be implemented. Such a decision could not be appealed.²⁰

As of the end of 1999, most applications which had already been processed were regarded as manifestly unfounded. During 1999, at no point did the authorities take a direct stand on whether the Roma actually faced persecution in Slovakia.²¹

Following the first unfavorable decisions, many Slovak Roma expressed their will to return voluntarily. The procedure, however, took weeks. As of the end of 1999, approximately half of the Slovak Roma had

left Finland, either following a negative decision or canceling their asylum application. The RAC, among others, stressed that the treatment of asylum seekers had to be monitored even after they had returned to their country of origin.²²

The sudden arrival of more than one thousand Slovak Roma asylum seekers prompted an intense public debate on the adequacy of the asylum procedure and the current aliens' act. As of the end of 1999, an amendment to the aliens' act was under preparation in the Ministry of the Interior. One of the aims of the new law was to accelerate the asylum procedure once the asylum applicant entered Finland from a "safe country of origin" or a "safe country of asylum." While welcoming the attempt to improve the efficiency of the asylum procedure, the RAC stressed that it should not result in the weakening of the legal protection of asylum seekers. Moreover, since the number of asylum seekers in Finland remained comparatively low internationally, the RAC noted that the asylum procedure could be made more efficient without amending the law.²³

Conscientious Objection

The amendments to the Conscription Act (19/1998), which came into effect on 1 February 1998, reduced the minimum duration of military service from eight months to six months, the average term being seven months. On 15 December 1998, the Finnish parliament adopted an

¹⁷ Letter by the European Roma Rights Center to Finnish and Belgian Prime Ministers, 2 October 1999.

¹⁸ Statement of the RAC at the press conference organised by the Finnish Helsinki Committee, 15 July 1999.

¹⁹ Now the Helsinki Administrative Court.

²⁰ Government Decision-In-Principle on Immigration and Refugee Policy Programme, 16 October 1997.

²¹ *Helsingin Sanomat*, 29 December 1999.

²² Statement of the RAC at the press conference organized by the Finnish Helsinki Committee, 15 July 1999.

²³ The letter of the board of the RAC to the Minister of the Interior, 13 December 1999.

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act on alternative civilian service, the duration of which remained 13 months.

The failure to shorten the alternative civilian service led to a situation in which the difference between the duration of non-military and military service was no longer based on the concept of equality. Moreover, the duration of civilian service could be regarded as punitive.

In 1999, following the failure to shorten the alternative civilian service, Amnesty International considered six young men imprisoned for refusing to perform the alternative civilian service to be prisoners of conscience. In 1999, a total of 12 conscientious objectors were serving prison sentences. ■■■