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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Report submitted by Finland under article 29 (1) of the Convention, due in 2025*

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* The present document is being issued without formal editing.

Contents

Introduction

1. This report is submitted under Article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance (*the Convention*) which was ratified by the Government of Finland on 24 March 2023 and entered into force in respect of Finland on 23 April 2023.

2. This report has been prepared in accordance with the guidelines of the Committee on Enforced Disappearances (*the Committee*) on the form and content of reports under article 29 to be submitted by States Parties to the Convention.

3. Finland signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007 and ratified it on 24 March 2023. The Convention entered into force in respect of Finland on 23 April 2023 in accordance with Article 29, paragraph 2 of the Convention.

4. The common core document submitted by Finland is an integral part of this report.

I. Preparation of the report

5. The Ministry for Foreign Affairs has prepared this report in cooperation with the Ministry of Justice. A consultation round was organised concerning the draft report between 8 January and 7 February 2025.

6. The government proposal for the adoption and bringing into force of the International Convention for the Protection of All Persons from Enforced Disappearance and for an Act amending chapter 11 of the Criminal Code was prepared at the Ministry for Foreign Affairs. The government proposal was prepared in cooperation with the Ministry of Justice, Ministry of Defence, Ministry of the Interior and Ministry of Social Affairs and Health. A consultation round on the draft government proposal took place from 1 February to 14 March 2022. Comments were requested from key ministries and authorities, the Parliamentary Ombudsman, the Office of the Chancellor of Justice, courts, the Association of Finnish Cities and Municipalities, the Human Rights Centre, and organisations and associations working on human rights and rule of law issues. Comments were also requested from the Data Protection Ombudsman and the Government of Åland. Following the submission of the government proposal, consent to the ratification of the Convention was requested from the Parliament of Åland.

7. Parliament of Finland passed the government proposal for the ratification and bringing into force of the Convention on 20 January 2023.

II. General legal framework under which enforced disappearances are prohibited

8. Under section 7 of the Constitution of Finland (the Constitution), everyone has the right to life, personal liberty, integrity and security. The personal integrity of the individual shall not be violated, nor shall anyone be deprived of liberty arbitrarily or without a reason prescribed by an Act. A penalty involving deprivation of liberty may be imposed only by a court of law. The lawfulness of other cases of deprivation of liberty may be submitted for review by a court of law. The rights of individuals deprived of their liberty shall be guaranteed by an Act. This right is guaranteed, for example, in Article 5 of the European Convention on Human Rights (ECHR), Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and Articles 3 and 6 of the Charter of Fundamental Rights of the European Union.

9. In addition, provisions on deprivation of liberty should also be examined in the light of section 22 of the Constitution, as one of the objectives of the Convention is to improve the status of persons deprived of liberty. According to section 22 of the Constitution of Finland, the public authorities shall guarantee the observance of basic rights and liberties and human rights.

10. In conjunction with the ratification of the Convention, a new section 4c was added to chapter 11 of the Criminal Code (39/1889). Under this section, a person who, as an agent of the State or acting with the authorisation, support or acquiescence of the State, by means of arrest, detention, abduction or any other manner deprives another person of the right to liberty of movement or isolates another person from their environment, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, shall be sentenced for *enforced disappearance* to imprisonment for at least four months and at most four years. The new section 4 c brought national legislation in line with the obligation under Article 4 of the Convention to criminalise the offence of enforced disappearance.

11. In conjunction with the ratification of the Convention, references to chapter 11, section 4c rendering punishable the commission of the offence of enforced disappearance were added to chapter 11, section 12 of the Criminal Code on the responsibility of the superior and to chapter 11, section 13, subsection 1 of the Criminal Code on failure to report an offence of a subordinate. These amendments relate to Article 6, paragraph 1, subparagraph b (i) and (iii) of the Convention.

12. The Act on the International Convention for the Protection of All Persons from Enforced Disappearance was approved on 3 March 2023. The Act entered into force on 23 April 2023, simultaneously with the entry into force of the Convention in respect of Finland. Under the Act, the provisions of the Convention of a legislative nature are in force at the level of an Act, in the manner in which they have been undertaken by Finland.

13. Under chapter 1, section 7, subsection 1 of the Criminal Code, Finnish law applies to such an offence committed outside of Finland where the punishability of the act is, regardless of the law of the place of commission, based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (*international offence*). Further provisions on the application of this section are issued by decree, specifically the Decree on the Application of chapter 1, section 7 of the Criminal Code (627/1996). A reference to the offence of enforced disappearance referred to in the Convention was added to section 1, subsection 1 of the Decree, making it an international offence. The amendment to the Decree, which relates to Article 9 of the Convention, entered into force on 23 April 2023.

14. Other human rights conventions ratified by Finland also contain provisions relating to enforced disappearances. The right to liberty of person is guaranteed under Article 5 of the European Convention on Human Rights (ECHR) (Finnish Treaty Series 18/1990, Finnish Treaty Series 86/1998 (Decree) and Finnish Treaty Series 63/1999), Article 9 of the International Covenant on Civil and Political Rights (ICCPR) (Finnish Treaty Series 7 and 8/1976), and Articles 3 and 6 of the Charter of Fundamental Rights of the European Union. Also relevant are the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (Finnish Treaty Series 59 and 60/1989) and the Convention on the Rights of Persons with Disabilities (CRPD) (Finnish Treaty Series 26 and 27/2016) (Article 14). Finland has ratified the Optional Protocols of the above-mentioned ICCPR, CAT and CRPD concerning individual communications.

15. There is no statistical data on criminal proceedings concerning enforced disappearances.

III. Information in relation to each substantive article of the convention

Article 1

16. By virtue of Article 1, paragraph 1 of the Convention, no one shall be subjected to enforced disappearance.

17. By virtue of Article 1, paragraph 2 of the Convention, no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

18. Under section 7 of the Constitution, the personal integrity of the individual shall not be violated, nor shall anyone be deprived of liberty arbitrarily or without a reason prescribed by an Act of law. A penalty involving deprivation of liberty may be imposed only by a court of law. The lawfulness of other cases of deprivation of liberty may be submitted for review by a court of law. The rights of individuals deprived of their liberty shall be guaranteed by an Act.

19. Enforced disappearance is laid down as an offence in chapter 11, section 4c of the Criminal Code, and is punishable by a sentence of imprisonment for at least four months and at most four years.

20. Fundamental and human rights may, in certain situations, be subject to restrictions in accordance with applicable doctrines and provisions or they may be subject to derogations. Section 23 of the Constitution lays down provisions on basic rights and liberties in situations of emergency. Article 15 of the ECHR and Article 4 of the ICCPR lay down provisions on derogation from obligations under the respective treaties in time of emergency. Even in such emergency situations, the commission of an enforced disappearance could not, however, be deemed to be compatible with the Constitution of Finland or human rights obligations binding on Finland.

Article 2

21. Article 2 of the Convention provides the definition of ‘enforced disappearance’.

22. ‘Enforced disappearance’ as defined in Article 7, paragraph 2 (i) of the Rome Statute of the International Criminal Court was already binding on Finland, even prior to the ratification of the Convention. According to the definition, ‘enforced disappearance’ means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of a State or a political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. The definition in the Rome Statute, which differs somewhat from that in the Convention, relates to crimes against humanity laid down as punishable under chapter 11, section 3, subsection 1, paragraph 3 of the Criminal Code.

23. The definition of ‘enforced disappearance’ relates to the obligation to criminalise enforced disappearance under the Convention, which is addressed in the context of Article 4. Enforced disappearance is laid down as punishable in chapter 11, section 4c of the Criminal Code in accordance with the definition in Article 2 of the Convention.

Article 3

24. Article 3 of the Convention obligates the States Parties to investigate enforced disappearances committed without the authorisation, support or acquiescence of the State. Such acts may be, for example, enforced disappearances committed by an organized criminal group or political organisation or deprivation of liberty taking place in conjunction with human trafficking. The States Parties must also bring those responsible for such acts to justice. The other provisions of the Convention do not apply to the acts referred to in Article 3.

25. Article 3 obligates the States Parties to investigate such offences and bring the offenders to justice. The wording of the Article does not, however, require criminalisation, but also other means of bringing the offender to justice could suffice to fulfil the requirements of the Article. These acts are, however, such that they are included in the scope of application of the Criminal Code in Finland. In this respect, reference is made to the information provided below in the context of Article 4.

Article 4

26. Article 4 of the Convention sets the obligation to criminalise enforced disappearance as defined in Article 2 of the Convention. The Article is one of the central provisions of the Convention.

27. The government proposal on the ratification and bringing into force of the Convention assessed the existing penal provisions and found that there was no penal provision in the Criminal Code corresponding to enforced disappearance. The government proposal regarded the enactment of a separate penal provision as the most justifiable option. As proposed, a new section 4c was added to chapter 11 of the Criminal Code, which concerns war crimes and crimes against humanity. The formulation of the section took account of the principle of legality expressed in section 8 of the Constitution requiring the essential elements of an offence to be precise and clearly circumscribed. Although the essential elements of the offence do not in every respect use the same formulations as the text of the Article, they correspond to the definition in Article 2 of the Convention.

28. Under chapter 11, section 4c of the Criminal Code, a person who, as an agent of the State or acting with the authorisation, support or acquiescence of the State, by means of arrest, detention, abduction or any other manner deprives another person of the right to liberty of movement or isolates another person from their environment, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, shall be sentenced for the commission of an enforced disappearance to imprisonment for at least four months and at most four years. An attempt is punishable.

Article 5

29. By virtue of Article 5 of the Convention, the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

30. Under chapter 11, section 3, subsection 1, paragraph 3 of the Criminal Code, a person who, as part of a widespread or systematic attack directed against a civilian population, imprisons a person or otherwise deprives them of their liberty in violation of fundamental rules of international law or causes the enforced disappearance of a person referred to in Article 7, paragraph 2 (i) of the Rome Statute of the International Criminal Court shall be sentenced for a *crime against humanity*.

31. For the sake of clarity, a reference to Article 7, paragraph 2 (i) of the Rome Statute was added to chapter 11, section 3, subsection 1, paragraph 3 of the Criminal Code in conjunction with the ratification of the Convention. According to the definition in the Rome Statute, ‘enforced disappearance’ means the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or a political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. The definitions of ‘enforced disappearance’ in the Convention and in the Rome Statute differ from each other to some extent.

Article 6

32. Article 6 of the Convention concerns persons to be held criminally responsible for enforced disappearance.

33. By virtue of paragraph 1, subparagraph (a) of the Article, the States Parties shall take the necessary measures to hold criminally responsible at least any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance.

34. By virtue of Article 6, paragraph 1, subparagraph (b) of the Convention, the criminal responsibility also applies to a superior in accordance with the provisions of the subparagraph.

35. By virtue of subparagraph (c) of the same paragraph, subparagraph (b) is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

36. Incitement in accordance with chapter 5, section 5 of the Criminal Code constitutes ordering, soliciting or inducing in accordance with Article 6, paragraph 1, subparagraph (a) of the Convention. Under chapter 5, section 3 of the Criminal Code on complicity in an offence, if two or more persons have committed an intentional offence together, each shall be punished as a perpetrator. Complicity in an offence referred to in the section can be deemed to also cover commission of an offence through an agent under chapter 5, section 4 and abetting under chapter 5, section 6 of the Criminal Code.

37. Due to the limited list of perpetrators in Article 6, paragraph 1, subparagraph (a) of the Convention, even an attempt to commit an enforced disappearance was made punishable. This was in line also with the principles on the punishability of attempted offences applicable in Finland.

38. Chapter 11, section 12 of the Criminal Code lays down provisions on the responsibility of the superior concerning certain offences in the chapter. Under the said section, a military or other superior shall be sentenced for an act referred to in section 1, 3, 4, 4a-4c, 5–7 or 13 or for an attempt at such an act in the same way as the perpetrator or an accomplice, if forces or subordinates that are under the effective authority and control of the superior have committed such an act as a consequence of the failure of the superior to properly supervise the actions of the forces or subordinates, and if 1) the superior knew or, on the basis of the circumstances, he or she should have known that the forces or subordinates were committing or about to commit the said offences, and 2) the superior failed to take the necessary and reasonable measures within his or her power to prevent the commission of the offences.

39. Under chapter 11, section 13, subsection 1 of the Criminal Code, a military or other superior who fails to take the necessary and reasonable measures within his or her power to refer to the authorities for investigation an offence referred to in section 1, 3, 4, 4a-4c or 5–7 or in the said section 13 suspected to have been committed by a person under his or her effective authority and control shall be sentenced for failure to report an offence of a subordinate.

40. Chapter 15, section 10, subsection 1 of the Criminal Code lays down failure to report a serious offence as punishable. Under the subsection, a person who knows of an imminent offence specifically mentioned in the provision and fails to report it to the authorities or the person when there is still time to prevent the offence shall be sentenced for failure to report a serious offence. Punishable offences include failure to report the numerous offences laid down as punishable under chapter 11 of the Criminal Code.

41. In conjunction with ratification of the Convention, section 12 and section 13, subsection 1 of chapter 11 of the Criminal Code were amended by adding to them a reference to the new section 4c of the same chapter concerning enforced disappearance. With these amendments, the scope of the legislation was extended so as to cover the acts referred to in Article 6, paragraph 1, subparagraph (b) (i) and (iii) of the Convention.

42. The prevention or repression of the commission of an enforced disappearance in accordance with Article 6, paragraph 1, subparagraph (b) (iii) of the Convention and the prevention of the commission of an offence in accordance with chapter 11, section 12, paragraph 1 of the Criminal Code can also be carried out by reporting to the authorities or the person in danger, as referred to in chapter 15, section 10, subsection 1 of the Criminal Code. The criminal responsibility of the superior relating to the prevention or repression of an offence in question here does, however, result from chapter 11, section 12 of the Criminal Code specifically concerning the superior, which is regarded as a special provision. Since, under the latter section, the superior shall be sentenced in the same way as the perpetrator or

an accomplice, the resulting criminal responsibility of the superior is also significantly more severe than the punishment for failure to report a serious offence.

43. If a superior only commits an act under Article 6, paragraph 1, subparagraph (b) (iii) of the Convention in a manner whereby the superior fails to submit an enforced disappearance to the authorities to investigate, the superior is guilty of failure to report an offence under chapter 11, section 13, subsection 1 of the Criminal Code.

44. Article 6, paragraph 1, subparagraph (b) (ii) of the Convention refers to acts where a superior can be deemed to be a perpetrator of or an accomplice to or otherwise participate in the commission of an enforced disappearance, which is when the criminal responsibility for the conduct described in the paragraph results pursuant to chapter 11, section 4c of the Criminal Code and, in addition, as regards complicity, pursuant to the application of the provisions of chapter 5 of the Criminal Code. The same outcome is reached in a situation where all of the conditions under subparagraph (b) are fulfilled.

45. Article 6, paragraph 2 provides that no order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance. Of relevance to the said provision are the sections of the Criminal Code which concern the impact of an order or command of a superior for criminal responsibility.

46. Chapter 11, section 14 of the Criminal Code lays down provisions on the conditions under which a person who has committed or attempted to commit a war crime, an aggravated war crime or a petty war crime pursuant to an order of an authority exercising governmental powers or of another entity exercising public authority, or pursuant to a command of a superior, is exempt from criminal liability.

47. Chapter 45, section 26b lays down provisions on acts that a subordinate soldier has committed by order of his or her superior. In such cases, under subsection 1 of the section, a subordinate soldier shall be sentenced to a punishment only if 1) the soldier has understood that by carrying out the order he or she would be violating the law or his or her official duty or service duty; or 2) the soldier should have understood the unlawfulness of the order and of the act it requires, taking into consideration the manifestly illegal nature of the act ordered. If, however, the act has occurred under circumstances in which the subordinate could not have reasonably been expected not to carry out the order, the perpetrator shall be exempt from criminal liability (subsection 2). Chapter 45, section 26b of the Criminal Code also applies to offences other than military offences. However, when considering the contents of subsection 1 of the section, it is quite clear that the recipient of the order in situations of the commission of an enforced disappearance, by taking account of the essential elements of the offence, understands that he or she is violating the law or understands the unlawfulness of the order and of the ordered act.

48. In situations other than those referred to in chapter 11, section 14 or chapter 45, section 26b of the Criminal Code, an order or command does not constitute justification and the recipient of the order or command cannot, as a rule, invoke it.

Article 7

49. Article 7 of the Convention lays down provisions on consequences, severity of punishment as well as mitigating and aggravating circumstances. By virtue of Article 7, paragraph 1 of the Convention, the States Parties shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness. Consequently, the paragraph leaves the penal scale largely to the discretion of the States Parties. The Committee on Enforced Disappearances has, however, repeatedly emphasised ensuring that the extreme seriousness of the offence be taken due account of when considering implementation reports (for example, CED/C/LTU/CO/1, paragraph 16).

50. Under chapter 11, section 4c, subsection 1 of the Criminal Code, the sentence for the commission of an enforced disappearance is imprisonment for at least four months and at most four years. When laying down the penal scale, account has been taken of the deplorable, harmful and dangerous nature of the conceivable manifestations of the offence in question as well as the culpability of the perpetrator manifested by the type of act, that is, the penal value

of the offence. The extent of the penal scale in question ensures that the different levels of seriousness of acts can be appropriately taken into account, whereby factors affecting the imposed sanction may include, for example, the duration of the deprivation of liberty or the conditions where the person was held.

51. As regards the penal scale, it must be borne in mind that the commission of an enforced disappearance only covers the deprivation of liberty and the refusal to acknowledge it or concealment which place a person outside the protection of the law. Any other offences against the victim during the deprivation of liberty, for example, offences against health, are punishable as other offences, in which case the offender is sentenced for all of the offences to a joint sentence of imprisonment under chapter 7, section 1 of the Criminal Code.

52. Under chapter 11, section 3, subsection 1 of the Criminal Code, the sentence for enforced disappearance in accordance with Article 5 of the Convention (*crime against humanity*) is imprisonment for at least one year or for life.

53. By virtue of Article 7, paragraph 2, subparagraph (a) of Convention, each State Party may establish mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance. The Committee on Enforced Disappearances has, when considering implementation reports, recommended that these be specifically included in the law (CED/C/LTU/CO/1, paragraph 16).

54. As regards mitigating circumstances as well as aggravating circumstances discussed below, account should be taken of the fact that, according to the flexible general principle of chapter 6, section 4 of the Criminal Code, the extent of a punishment shall be determined and, under section 3, subsection 3 of the chapter, also the type of punishment shall be decided so that it is in just proportion to the harmfulness and dangerousness of the offence, the motives for the act, and the other culpability of the perpetrator as manifested in the offence.

55. Provisions on grounds for mitigating the punishment are laid down in section 6, and on grounds for mitigating the punishment for reasons of equity in section 7, of chapter 6 of the Criminal Code. Grounds for mitigating the punishment include the perpetrator’s endeavours to prevent or remove the effects of the offence, or the perpetrator’s endeavours to further the investigation of the offence. In addition, section 8a of the same chapter lays down provisions on the application of a reduced penal scale on the basis of a plea of guilty.

56. By virtue of Article 7, paragraph 2, subparagraph (b) of the Convention, each State Party may establish, without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons. National provisions on grounds for increasing the punishment are laid down in chapter 6, section 5 of the Criminal Code.

57. Under chapter 6, section 5, subsection 1, paragraph 4 of the Criminal Code, commission of the offence for a motive based on gender constitutes grounds for increasing the punishment. An act being directed at a child or another particularly vulnerable person may be taken into account in determining and deciding on the punishment in accordance with chapter 6, section 4 and section 3, subsection 3 of the Criminal Code so that the perpetrator is sentenced, due to the said status or young age of the injured party, to a punishment that is more severe than normal.

58. Causing the death of a person is not included in the essential elements of the offence of enforced disappearance and the commission of such a consequence is separately punishable under the provisions of chapter 21 of the Criminal Code, whereby the punishment becomes significantly more severe through the sentencing to a joint sentence of imprisonment for multiple offences as referred to in chapter 7, section 1 of the Criminal Code.

Article 8

59. Article 8 lays down provisions on the application of a statute of limitations in respect of enforced disappearance. By virtue of paragraph 1 of the Article, any term of limitation for criminal proceedings must be of long duration and proportionate to the extreme seriousness of this offence. Any term of limitation must commence from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

60. Provisions on limitation of the right to bring charges are laid down in chapter 8, section 1 of the Criminal Code. Under subsection 1 of the section, the right to bring charges for an offence for which the most severe punishment provided is life imprisonment does not become time-barred. This applies to enforced disappearance in accordance with Article 5 of the Convention, which under chapter 11, section 3, subsection 1, paragraph 3 of the Criminal Code is punishable as a crime against humanity. Otherwise under subsection 2 of the section, the right to bring charges becoming time-barred is, as a general rule, based on the severity of the offence, which is indicated by the most severe punishment laid down for it. The right to bring charges becomes time-barred if charges have not been brought within ten years if the most severe punishment is imprisonment for more than two years and at most eight years. This limitation period also applies to enforced disappearance.

61. Under chapter 8, section 2, subsection 2 of the Criminal Code, if the criminal act involves maintenance of an unlawful condition, the limitation period for the right to bring charges begins to run when such a condition ends. Enforced disappearance is also such a criminal act. The point in time when the act ends is not defined in the Convention. Although the act requires the disappeared person being placed outside the protection of the law, this is also, in practice, limited to the period of the deprivation of liberty. Once this ends, the person may seek legal remedies. This means that the limitation period begins from the end of the deprivation of liberty which, at the same time, is the end of the commission of the offence of enforced disappearance.

62. By virtue of Article 8, paragraph 2 of the Convention, each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation. Public prosecution is possible within the limitation periods laid down. Under chapter 1, section 6 of the Criminal Procedure Act (689/1997), the prosecutor shall bring charges for a suspected offence if the prosecutor deems that the offence is punishable by law, the right to bring charges for the offence has not become time-barred, and there is probable cause to believe that the suspect is guilty of the offence.

Article 9

63. Article 9 of the Convention lays down provisions on the competence of the States Parties to exercise jurisdiction over the offence of enforced disappearance. By virtue of paragraph 1, subparagraph (a) of the Article, each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance (a) when the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State; (b) when the alleged offender is one of its nationals; (c) when the disappeared person is one of its nationals and the State Party considers it appropriate.

64. By virtue of Article 9, paragraph 2 of the Convention, each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognised.

65. Under chapter 1, section 1, subsection 1 of the Criminal Code, Finnish law applies to an offence committed in Finland. The provisions on competence to exercise jurisdiction concerning offences committed on board a Finnish vessel or aircraft and offences suspected as committed by or directed at a Finnish citizen are laid down in chapter 1, sections 2, 5 and 6 of the Criminal Code. In many cases, the application of Finnish law requires, under chapter

1, section 11 of the Criminal Code, that the act is, in accordance with the requirement of dual criminality, also punishable under the law of the place of commission.

66. Article 9, paragraph 2 reflects the principle of 'extradite or prosecute' (*aut dedere aut judicare*), which is specifically addressed in Article 11 of the Convention. Chapter 1 of the Criminal Code does not include any specific grounds for exercising jurisdiction relating to the said principle. As regards the paragraph and the said article, it is, firstly, relevant that, where the offence is within the scope of application of Finnish criminal law, the criminal investigation authorities and prosecutors are obligated to instigate a criminal procedure concerning the offence. In situations where no measures leading to the sentencing of an offender in Finland are taken in Finland, Finnish legislation extensively enables extradition due to an offence.

67. Under chapter 1, section 7, subsection 1 of the Criminal Code, Finnish law applies to such an offence committed outside of Finland where the punishability of the act is, regardless of the law of the place of commission, based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland. The Convention does not expressly provide whether the intention is to apply the universality principle to enforced disappearance. In Finland, the 'extradite or prosecute' principle has, however, been considered to establish an obligation relating to chapter 1, section 7, subsection 1 of the Criminal Code (Government Proposal 1/1996, pp. 22 and 23).

68. In conjunction with ratification of the Convention, it was considered that sections 2, 5 and 6 of chapter 1 of the Criminal Code do not fully correspond to paragraphs 1 and 2 of the Article. When also considering the other differences relating to chapter 1 of the Criminal Code in relation to Article 9 of the Convention, the 'extradite or prosecute' principle provided in the Convention and relevant in respect of section 7, subsection 1 of the chapter, and the objective of the Convention to combat impunity for the crime of enforced disappearance as a human rights violation, it was decided to make the offence of enforced disappearance referred to in the Convention an international offence. This means that the commission of an enforced disappearance falls within the jurisdiction of Finland regardless of, for example, the place of commission of the offence, the nationality of the offender, the nationality of the disappeared person, and the law of the place of commission.

69. The offence was laid down as an international offence by amending the Government Decree on the Application of Chapter 1, Section 7 of the Criminal Code (627/1996), to which a reference is made in the second sentence of subsection 1 of the section. A reference to the offence of enforced disappearance referred to in the Convention was added to section 1, subsection 1 of the Decree.

70. Paragraph 3 of the Article provides that the Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law. This means that the States Parties still have the opportunity to exercise such jurisdiction in accordance with national law. The paragraph did not necessitate any legislative amendments.

Article 10

71. By virtue of Article 10, paragraph 1 of the Convention, if the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure the person's presence at criminal, surrender or extradition proceedings. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at the judicial proceedings. The Article applies to both situations where the State Party itself exercises, subject to the conditions specified in Article 9, jurisdiction over the said offence and to cases where a person alleged to have committed an offence is requested to be extradited to another State Party.

72. By virtue of paragraph 2 of the Article, the State Party shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in Article 9, paragraph 1 of the measures it has taken in pursuance of the provisions

of the Article, including the circumstances warranting those measures, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

73. Under chapter 1, section 1 of the Criminal Investigation Act (805/2011), the criminal investigation of an offence shall be conducted in accordance with the Criminal Investigation Act, unless provided otherwise in another Act. What is separately provided in law regarding the use of coercive measures and the obtaining of information by the criminal investigation authorities otherwise applies. Provisions on the use of coercive measures are laid down in the Coercive Measures Act (806/2011). Chapter 6 of the Criminal Investigation Act lays down provisions on presence in the criminal investigation.

74. The Extradition Act (456/1970) enables temporary taking into custody in order to further an investigation and to secure the enforcement of extradition (sections 19 and 31). A matter concerning the taking into custody shall be urgently taken up for consideration by the district court in accordance with the provisions governing the consideration of a request for remand (section 20).

75. Paragraph 3 of the Article provides for the right of any person in custody pursuant to Article 10, paragraph 1 to communicate immediately with the nearest appropriate representative of the State of which he or she is a national.

76. Chapter 4 of the Criminal Investigation Act lays down provisions on criminal investigation principles and the rights of persons participating in the criminal investigation. Chapter 4, section 17, subsection 3 of the Criminal Investigation Act lays down provisions on notifying a foreign person who has lost his or her liberty without delay of the right to have the diplomatic or consular representative of his or her country be notified of the loss of liberty. The provisions on contacts with consular authorities are, however, laid down in the Act on the Treatment of Persons in Police Custody (841/2006, chapter 2, section 3 and chapter 7, section 6) and in the Remand Imprisonment Act (768/2005, chapter 2, section 3 and chapter 9, section 12). Under chapter 4, section 1, subsection 3 of the Coercive Measures Act, contact with the diplomatic mission referred to in chapter 9, section 12 of the Remand Imprisonment Act may be restricted only for a particularly important reason related to the investigation of the offence.

Article 11

77. Paragraph 1 of the Article lays down the obligation to follow the ‘extradite or prosecute’ principle. The principle and the legislation on extradition are addressed above in the context of Article 9, paragraph 2.

78. By virtue of paragraph 2 of the Article, the authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. The paragraph also provides that, in the cases referred to in Article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply to cases referred to in Article 9, paragraph 1. Paragraph 2 of the Article corresponds to the criminal procedure legislation of Finland.

79. Paragraph 3 of the Article lays down the obligation to guarantee for any person alleged to have committed an offence of enforced disappearance a fair trial before a competent, independent and impartial court or tribunal established by law. The right to a fair trial is guaranteed under section 21 of the Constitution. In addition, Finland is under obligation, in accordance with international human rights treaties, to guarantee the right to a fair trial. The most relevant provisions in this regard are Article 6 of the ECHR, the content of which is specified further in the case-law of the European Court of Human Rights, and Article 14 of the ICCPR, the content of which is specified further in the practice of the United Nations Human Rights Committee. Domestic provisions on criminal procedure are laid down in the Criminal Procedure Act. Unless otherwise provided in the Act, the provisions of the Code of Judicial Procedure (4/1734) also apply to the criminal procedure (chapter 12, section 1 of the Criminal Procedure Act).

80. The Committee on Enforced Disappearances has repeatedly recommended, when considering implementation reports, that all cases of enforced disappearance must remain expressly outside the jurisdiction of military courts (see e.g. CED/C/CHE/CO/1, paragraph 19). In Finland, military court matters are heard in general courts in accordance with the provisions governing criminal matters and, in addition, in compliance with the provisions of the Military Court Procedure Act (326/1983). The commission of an enforced disappearance would not be a military court matter as referred to in section 2 of the Act.

Article 12

81. By virtue of Article 12, paragraph 1 of the Convention, each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given. By virtue of paragraph 2 of the Article, where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities shall undertake an investigation, even if there has been no formal complaint.

82. In Finland, a report of an offence may be submitted by anyone, with the reporting person not required to have any personal interest in the matter. Under chapter 3, section 1 of the Criminal Investigation Act, when an offence or an event that the reporting person suspects is an offence is reported to the criminal investigation authority, the authority shall record the report without delay. The obligation to record the report of an offence also applies to an offence that comes to the attention of the criminal investigation authority in another manner, unless grounds for the measure to be waived exist due to the offence being petty. Under chapter 3, section 3 of the Act, the criminal investigation authority shall conduct an investigation when, on the basis of a report made to it or otherwise, there is reason to suspect that an offence has been committed. The provisions of the Criminal Investigation Act apply in criminal investigations.

83. Threatening a person to be heard in the administration of justice is a punishable offence under chapter 15, section 9 of the Criminal Code. The provision affords witnesses, expert witnesses, other persons to be heard and the parties concerned protection in all stages of the criminal procedure. Chapter 17, section 51 of the Code of Judicial Procedure lays down provisions on when a party heard for evidentiary purposes, a witness or an expert witness may be heard in the main hearing behind a screen or without the presence of a party or other person. Provisions on witness anonymity are laid down in chapter 5, sections 11a to 11e and chapter 11, section 4, subsection 3 of the Criminal Procedure Act and in chapter 17, sections 21, 33, 43, 44 and 53 of the Code of Judicial Procedure. Chapter 17, section 52 of the Code of Judicial Procedure lays down provisions on when a party to be heard for evidentiary purposes and a witness and expert witness may be heard in the main hearing without being present in person by using a video conference or other suitable technical means of communication by which the persons participating in the session have audio and video contact with one another. Provisions on witness protection are laid down in the Witness Protection Programme Act (88/2015). A personal protection plan is drawn up for the protected person under section 4 of the Act. In practice, this may mean surveillance of the protected person's dwelling and its vicinity and, where necessary, even the issuance of a cover identity. The need for a witness protection programme typically relates to organised crime, but the Act is not limited to cover only these.

84. Under chapter 1a of the Parliamentary Ombudsman Act (197/2002), the Ombudsman inspects places where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence. This is part of the Ombudsman's duties as the National Preventive Mechanism referred to in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Ombudsman has extensive access to information for the

purpose of carrying out this duty and may issue recommendations to the subjects of supervision. Section 11h of the chapter lays down separate provisions on the prohibition of imposing sanctions on persons having provided information to the Ombudsman.

85. Paragraph 3 of the Article provides that each State Party shall ensure that the authorities have the necessary powers and resources to conduct the investigation effectively. These rights include access to the documentation and other information relevant to their investigation, and access to any place where there are reasonable grounds to believe that the disappeared person may be present. Where prior authorisation of a judicial authority is required for such access, the authority shall rule promptly on the matter.

86. Under the general rule expressed in section 1 of the Act on the Openness of Government Activities (621/1999; hereinafter the Openness Act), official documents shall be in the public domain, unless specifically provided otherwise in the Act or any other act. Under section 26, subsection 3 of the Openness Act, an authority may grant access to a secret document in order to carry out executive assistance and for the performance of a task that is commissioned by it or otherwise to be performed on its behalf if such access is indispensable for the performance of the task. Section 29 of the Openness Act contains provisions on granting access to secret information to some other authority and section 30 on granting access to secret information to the authority of a foreign state or to an international institution.

87. Provisions on obtaining information from public authorities and from a private organisation or person to investigate an offence are laid down in chapter 4, sections 2 and 3 of the Police Act (872/2011). The police have the right, at the request of a commanding police officer and notwithstanding the obligation of secrecy, to obtain free of charge from a public authority or a body assigned to perform a public function any information and documents necessary to carry out a police duty, unless disclosing such information or documents to the police or using such information as evidence is expressly prohibited or restricted by law.

88. Provisions on the right of police officers to gain entry to premises that are subject to provisions on domestic privacy or privacy relating to public premises and to conduct in such premises a search in dangerous situations or where injury or damage has occurred are laid down in chapter 2, section 6 of the Police Act. Where necessary, the place may be entered using force in accordance with section 7 of the chapter. Provisions on searches of premises, namely a general or special search of a domicile, and a search of an area, are laid down in chapter 8 of the Coercive Measures Act.

89. The Convention requires that the necessary powers be ensured for the authorities to effectively investigate the offence of enforced disappearance. This means that the paragraph cannot be considered as requiring the possibility of the using a specific coercive measure. The government proposal concerning the adoption of the Convention ended up not proposing amendments to provisions on coercive measures.

90. Paragraph 4 of the Article lays down measures to sanction acts that hinder the conduct of an investigation. The States Parties shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation. When the paragraph is compared with the wordings of Article 4 and Article 25, paragraph 1, this paragraph would not appear to specifically require that the acts be laid down as punishable. Therefore, the consequence could perhaps also be a consequence other than a penal sanction, for instance an administrative sanction. However, these acts are of such a nature which in Finland typically fall within the scope of criminal liability.

91. Provisions on offences against the administration of justice are laid down in chapter 15 of the Criminal Code. The said chapter lays down as punishable a false statement in official proceedings and incitement to this (sections 2 and 3), falsification of evidence and its aggravated form (sections 7 and 8), threatening a person to be heard in the administration of justice (section 9) and harbouring an offender (section 11). These are acts specifically hindering the conduct of an investigation referred to in the paragraph. Where the person carrying out the hindering is, for example, a public official involved in the investigation of an enforced disappearance, the provisions of chapter 40 of the Criminal Code on offences in

public office may be applicable. Of these, those mainly relating to the paragraph are sections 7, 8 and 9 on abuse of public office and violation of official duty. In addition, provisions on suspension are laid down in chapter 9 of the Act on Public Officials in Central Government (750/1994). Under section 40, subsection 2, paragraph 1 of the Act, a public official may be suspended for the duration of an indictment and the required investigations if these may affect the official's capacity to attend to their duties.

92. There is no statistical data on criminal proceedings concerning enforced disappearances.

Article 13

93. By virtue of paragraph 1 of the Article, enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

94. Section 6 of the Extradition Act contains the prohibition of granting extradition for a political offence. No uniform national application practice has been established on the conditions under which an offence is to be regarded a political offence. Any political nature of an offence has ultimately been left for the extraditing state to assess (Supreme Court KKO 2010:94). Finland is a party to international agreements defining whether a specific offence is to be regarded as a political offence. In applying section 6, these agreements guide, with regard to the States Parties, the consideration of whether an act on which the request for extradition is based is to be regarded as political. Paragraph 1 of the Article also guides this consideration with regard to the States Parties.

95. By virtue of paragraphs 2 and 3 of the Article, the offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing or subsequently concluded between States Parties.

96. Finnish legislation extensively enables extradition due to an offence, which is addressed in the context of Article 9, paragraph 2. As a general rule, extradition may be granted when the most severe punishment for the offence is at least one year of imprisonment (section 4, subsection 1 of the Extradition Act). Since the maximum sentence for enforced disappearance would be four years, the requirement of the Act is met.

97. By virtue of paragraph 4 of the Article, in relations between States Parties that require the existence of a treaty, the Convention is to be considered as the necessary legal basis for extradition in respect of the offence of enforced disappearance. By virtue of paragraph 5 of the Article, States Parties which do not make extradition conditional on the existence of a treaty shall recognise the offence of enforced disappearance as an extraditable offence between themselves. As described above, Finland has legislation on extradition.

98. Paragraph 6 of the Article further requires that extradition shall be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties. There is a particular reference to conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

99. Finnish law contains grounds for refusal. Under section 9, subsection 3 of the Constitution, Finnish citizens shall not be deported or extradited or transferred from Finland to another country against their will. However, it may be laid down by an Act that due to a criminal act, for the purpose of legal proceedings, or in order to enforce a decision concerning the custody or care of a child, a Finnish citizen can be extradited or transferred to a country in which his or her human rights and legal protection are guaranteed. Finland may extradite or transfer its citizens mainly to European Union Member States (Government Proposal 102/2003, p. 4). Other grounds for refusal are reasons relating to the person, and provisions on these are laid down in Acts concerning extradition (such as section 8 of the Extradition Act). Extradition to conditions violating human dignity is prohibited under section 9, subsection 4 of the Constitution.

100. By virtue of paragraph 7 of the Article, nothing in the Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons. A corresponding prohibition is laid down in section 7 of the Extradition Act.

Article 14

101. Article 14 of the Convention lays down provisions on mutual legal assistance between States Parties in connection with criminal proceedings brought in respect of an offence of enforced disappearance. By virtue of paragraph 1 of the Article, States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings. By virtue of paragraph 2 of the Article, such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance.

102. General provisions on international legal assistance are included in the Act on International Legal Assistance in Criminal Matters (4/1994). The Act enables the provision of legal assistance in criminal matters to a foreign state without necessarily requiring reciprocity. Under section 1 of the Act, international legal assistance includes service of documents relating to criminal proceedings, hearing of witnesses and experts, use of coercive measures in order to obtain evidence or to secure the enforcement of a confiscation order, institution of criminal prosecution, and disclosure of information extracted from criminal records. Provisions on legal assistance between European Union Member States are laid down in the Act on the Implementation of the Directive Regarding the European Investigation Order in Criminal Matters (430/2017). Provisions on legal assistance are also included in certain international agreements, and Finland also has bilateral agreements on legal assistance with certain states.

Article 15

103. Article 15 of the Convention obligates States Parties to cooperate with each other and to afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains. As regards the implementation of the provisions of the Article, reference is made to the information provided above in the context of Article 14. The rights of victims are discussed below in the context of Article 24.

Article 16

104. Article 16, paragraph 1 of the Convention lays down that no State Party shall expel, return (*refouler*), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance. The Committee on Enforced Disappearances has recommended, when considering implementation reports, that enforced disappearance be laid down as explicit grounds for prohibiting an expulsion, return, surrender or extradition (see e.g. CED/C/DEU/CO/1, paragraph 15). Paragraph 2 of the Article lays down provisions on determining whether there are such grounds.

105. A corresponding prohibition of deportation, extradition or return is included in section 9, subsection 4 of the Constitution of Finland, under which a foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity. The prohibition of refoulement

is also included in a number of Finland's international human rights obligations, such as the prohibition of torture and other inhuman treatment under the ECHR. Other significant treaties in this regard include the ICCPR (Article 2 and related General Comment no. 31 [80] and Article 7) and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Article 3).

106. Provisions on removal from the country are laid down in chapter 9 of the Aliens Act (301/2004). Removal from the country refers to refusal of entry, denial of admittance or stay, and deportation.

107. Provisions on refusal of entry are laid down in the Schengen Borders Code (EU) 2016/399. The Schengen Borders Code is directly applicable as a regulation and lays down conditions for refusal of entry, among other things. In Finland, decisions on refusal of entry are, as a rule, made by the border control authority at the external border, but the police and the Finnish Immigration Service also have the competence to make decisions in the matter.

108. Section 148 of the Aliens Act contains provisions on the grounds for denial of admittance or stay. An alien may be denied admittance or stay if, for example, they do not meet the conditions for entry laid down in the Aliens Act, are found guilty of an offence in Finland or have not been issued with a residence permit in Finland. The competence to make decisions on denial of admittance or stay lies with the police, the border control authority and the Finnish Immigration Service. A decision on denial of admittance or stay is always made by the Finnish Immigration Service if it concerns an application for a residence permit or asylum.

109. Section 149 of the Aliens Act lays down provisions on the grounds for deportation. An alien who has resided in Finland under a residence permit, resides in Finland without the required residence permit or is found guilty of an offence in Finland may be deported from the country. Decisions on deportation are always made by the Finnish Immigration Service.

110. Section 147 of the Aliens Act contains provisions on the principle of non-refoulement. According to the section, no one may be denied admittance or stay and sent back, deported or, as a result of refusal of entry, returned to an area where they could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where they could be sent to such an area.

111. Section 146 of the Aliens Act provides that when considering refusal of entry, denial of admittance or stay, deportation or an entry ban and the duration of the entry ban, account must be taken of the facts on which the decision is based and the facts and circumstances otherwise affecting the matter as a whole. Section 31 of the Administrative Procedure Act (434/2003) lays down provisions on the general examination duty of the authorities.

112. Becoming a victim of the offence of enforced disappearance can be deemed to constitute other treatment violating human dignity referred to in section 147 of the Aliens Act. When considering return, other treatment in violation of human dignity is not a single criterion but, instead, a superordinate concept: the returned person may refer to multiple independent grounds, which must be assessed separately. The Convention also does not affect the point in time when any subsequent application for international protection must be made. For example, if the returned person refers to enforced disappearance only during the enforcement stage of the removal from the country and the claim has not been investigated before that, the matter must be referred to the Finnish Immigration Service for decision in the same way as other corresponding applications.

113. Chapter 13 of the Aliens Act contains provisions on requests for review and the enforceability of decisions on removal from the country.

114. Decisions on removal from the country may always be appealed to an administrative court as provided in the Administrative Judicial Procedure Act (808/2019). Moreover, prohibition of enforcement may always be petitioned in the matter.

115. Section 200 of the Aliens Act lays down provisions on the enforceability of decisions on deportation and section 201 on the enforceability of decisions on denial of admittance or stay. As a rule, a deportation decision may not be enforced until it has become final. If the person to be deported appeals against the decision to an administrative court, they are

permitted to stay in Finland while waiting for the decision of the court. The decision of the administrative court may be appealed against to the Supreme Administrative Court, if the Court grants leave to appeal. The appeal does not prevent the enforcement of the decision on denial of admittance or stay, unless otherwise ordered by the Supreme Administrative Court.

116. A decision on denial of admittance or stay made in a matter other than one concerning asylum may be enforced regardless of appeal, unless otherwise ordered by an administrative court (section 201, subsection 1 of the Aliens Act). The enforceability of a decision on denial of admittance or stay made in an asylum matter depends on whether the asylum application was examined in the normal procedure or the accelerated procedure. If the decision was made in the normal procedure, it can be enforced in the same way as the deportation decision referred to above, i.e. after the decision has become final (section 201, subsection 3 of the Aliens Act). If the asylum application was examined in the accelerated procedure, ruled inadmissible or examined as a subsequent application, the decision on denial of admittance or stay can be enforced in an accelerated schedule (section 201, subsections 4 to 9 of the Aliens Act).

117. A decision on the removal of a third-country national from the country may not be enforced within the time limit given for voluntary return under section 147a of the Aliens Act. However, enforcement is permitted when there is a risk of absconding or the person is considered to present a danger to public order or security.

118. Government proposal HE 10/2025 vp, which is being considered by Parliament at the time of preparing this report, proposes that the provisions of the Aliens Act on enforceability be amended, in particular by permitting faster enforcement of deportation decisions in asylum matters and by regrouping the enforceability provisions of the Act.

119. Provisions on the temporary closure of border crossing points, restriction of cross-border traffic and centralization of the submission of applications for international protection are laid down in section 16 of the Border Guard Act. According to subsection 1 of the section, the Government may decide to close border crossing points or restrict cross-border traffic for a fixed period or until further notice, where such measures are deemed essential to prevent a serious threat to public order, national security or public health. Furthermore, according to the subsection 2 of the section, the Government may decide to centralise the submission of applications for international protection at one or more border crossing points on Finland's national border, if this is essential to prevent a serious threat to public order, national security or public health where it involved an exceptionally high number of migrants in a short period of time, or information or a justifiable suspicion that entry is taking place due to the influence of a foreign state or another actor. According to subsection 3 of the section, if the Government has made a decision referred to in subsection 2, international protection may be applied for at Finland's national border only at the border crossing points where the submission of applications for international protection has been centralized. A derogation from this may be made in individual cases, taking into account the rights of children, people with disabilities and other persons in a particularly vulnerable situation. According to subsection 4 of the section, border crossing points shall not be closed, cross-border traffic shall not be restricted or the submission of applications for international protection shall not be centralized more than is deemed essential to prevent a serious threat to public order, national security or public health. Such decisions shall be repealed when they are no longer essential to prevent any of the said threats.

120. At the time of preparing this report, the border crossing points on the land border between Finland and Russia have been closed since 15 December 2023. The border crossing points for maritime traffic at Haapasaari, the port of Nuijamaa and Santio have been closed to leisure boating since 15 April 2024. The government decision to close these border crossing points will remain in force until further notice, but no longer that is necessary. It is only possible to submit applications for international protection at other border crossing points for maritime traffic and at border crossing points for air traffic.

121. In July 2024 the Parliament of Finland approved a new Act on Temporary Measures to Combat Instrumentalised Migration (482/2024), which was adopted as an exceptive Act, requiring a five-sixths majority in Parliament. The aim of the Act is to combat instrumentalised migration and ensure that public authorities have the means to respond to

difficult and exceptional situations at the border. This legislation, under certain exceptional conditions, enables Finland to decide to restrict the reception of asylum applications in a limited area of the border for a maximum period of one month at a time. Such a decision requires that it is known, or reasonable grounds exist to suspect, that a foreign state is seeking to exert influence on Finland in a way that seriously endangers the sovereignty or national security of Finland and that no other means are sufficient to resolve the situation. After such a decision, apart from certain exceptions, applications for international protection will not be received in the area subject to the restriction and instrumentalised migrants will be prevented from entering the country. A migrant who has already entered the country would be removed from the country without delay and instructed to travel to a place where applications for international protection are being received. The legislation includes human rights safeguards, in particular for those in the most vulnerable position. The Act entered into force on 22 July 2024 and is in force for one year. The Act has not yet been applied. A government proposal to extend the validity of the Act until the end of 2026 was presented to Parliament in March 2025.

122. The Article does not lay down any express provisions on the transfer of sentenced persons. Considering the objective of the Convention, it could be justifiable to interpret the prohibition of return included in the Convention as also covering the transfer of sentenced persons where they are in danger of being subjected to enforced disappearance. In practice, the significance of the Convention being subject to interpretation is reduced by the fact that, in such a case, the transfer of the sentenced person would likely be in violation of the international human rights obligations described above in other respects, too.

Article 17

123. By virtue of Article 17, paragraph 1 of the Convention, no one shall be held in secret detention. ‘Secret detention’ is not defined in the Convention, but it would be justifiable to read the concept in the light of the other paragraphs of the Article: there must be legal grounds for the deprivation of liberty and the deprivation of liberty must be carried out in a manner that is verifiable afterwards. In its practice, the Committee has stated that States Parties must take effective measures to ensure, inter alia, that a deprivation of liberty will not at any time become secret detention or an enforced disappearance (*Yrusta and Yrusta v. Argentina*, communication no. 1/2013 (CED/C/10/D/1/2013), paragraph 10.5). This would mean reasons attributable to the authorities for there being no information on the detention or the detained person.

124. Paragraph 2 of the Article lays down provisions on the conditions under which orders of deprivation of liberty may be given under legislation. States Parties shall establish the conditions under which orders of deprivation of liberty may be given. They shall also indicate those authorities authorised to order the deprivation of liberty. States Parties shall guarantee that any person deprived of liberty shall be held solely in officially recognised and supervised places of deprivation of liberty (subparagraphs (a), (b) and (c)). The paragraph also lays down provisions on the right of persons deprived of liberty to communicate, on access by the authorities to the places where persons are deprived of liberty, and on the right to take proceedings before a court concerning deprivation of liberty (subparagraphs (d), (e) and (f)).

125. Paragraph 3 of the Article lays down provisions on the compilation of registers/records on persons deprived of liberty and the minimum information to be contained in these.

126. Finland has several legislative provisions on the conditions for restriction of a person’s liberty. Article 5 of the ECHR lays down provisions on the right to liberty and security and on restrictions on this right. Article 13 of the ECHR also requires that everyone whose rights and freedoms as set forth in the ECHR are violated shall have an effective remedy before a national authority also when the violation has been committed by persons acting in an official capacity. Domestic law already includes provisions on how to appeal or submit a complaint concerning deprivation of liberty. Such provisions are laid down in Acts including the Criminal Investigation Act, the Coercive Measures Act and the Mental Health Act (1116/1990). The processing of personal data is largely based on the General Data

Protection Regulation of the EU and the national Data Protection Act (1050/2018) which supplements the Regulation. In the case of processing of personal data by competent authorities referred to in the Law Enforcement Directive (Directive (EU) 2016/680 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA), falling within the scope of application of the Directive, the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security (1054/2018) applies. At the same time, these general provisions concerning data protection also constitute implementing legislation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 108) and its amending protocol (CETS 223). Finland has ratified the Amending Protocol, which has not yet entered into force internationally. In addition, there is a great deal of special regulation on the processing of personal data in force in Finland, which is described below. The authorities must also take account of the requirements of the Act on Information Management in Public Administration (906/2019) on the arrangement of information management, on information security and on case management.

Police custody

127. Offence-based deprivation of liberty may be based on the provisions of the Coercive Measures Act on apprehension, arrest and remand. Chapter 2, section 1 of the Act lays down provisions on a police officer's right of apprehension and section 2 of the chapter on the official with the power of arrest. A person may also be apprehended under the Police Act (872/2011). This may take place to protect the person (chapter 2, section 2 of the Act). In addition, police officers have the right to apprehend a wanted person who, in accordance with a warrant issued by a competent authority, is to be remanded or taken into custody (chapter 2, section 3 of the Police Act). Under the same provision, police officers have the right to apprehend such other persons, as are under court order to be brought to a court, remanded or taken into custody. Apprehension is also possible in certain other situations (chapter 2, sections 5, 9 and 10 of the Police Act).

128. Provisions on the prerequisites for arrest and release are laid down in chapter 2, sections 5–8 of the Coercive Measures Act. Provisions on the prerequisites for remand are laid down in section 11 of the chapter. Under chapter 2, section 1 of the Act on the Treatment of Persons in Police Custody (841/2006), police custody facilities are approved by the National Police Board of Finland. Provisions on notifying a person close to the arrested person, or another person, of the deprivation of liberty are laid down in chapter 2, section 2 and on the right of a foreign person deprived of liberty to notify the diplomatic mission of their home country are laid down in chapter 2, section 3, subsection 2 of the Act on the Treatment of Persons in Police Custody. Chapter 2, section 2, subsection 3 of the Act lays down provisions on the right to institute proceedings before a court. Under chapter 3, section 19 of the Coercive Measures Act, a person on remand also has the right to appeal against the remand decision.

129. Section 4, subsection 2 of chapter 2 of the Act on the Treatment of Persons in Police Custody on the arrival check and registration of information lays down that provisions on the registration of information concerning persons deprived of liberty taken into custody facilities are provided in the Act on the Processing of Personal Data by the Police (616/2019). Chapter 2 of the said Act contains provisions on the processing of personal data. In addition, provisions on the recording of data are laid down in sections 1 and 3 of the Government Decree on the Treatment of Persons in Police Custody (645/2008). Provisions on recording are also included in the guidelines of the National Police Board on the treatment of persons in police custody (POL 2020/2013/5490).

130. Chapter 6 of the Criminal Investigation Act lays down provisions on the obligation of a person to attend a criminal investigation. Provisions on the right of a party to retain counsel in a criminal investigation are laid down in chapter 4, section 10 of the Act. Provisions on the presence of persons supporting the person being questioned are laid down in chapter 7, section 12 of the Act.

Remand imprisonment

131. The Remand Imprisonment Act applies to the enforcement of remand imprisonment. The Prison and Probation Service is also responsible for the enforcement of remand imprisonment. Provisions on admission to prison and on informing of this are laid down in chapter 2, section 2 of the Act. The admission of a remand prisoner to prison is based on a remand warrant issued by a court, and remand prisoners shall be given an opportunity to inform their close relative or other close person of their admission to prison. Provisions on the placement of remand prisoners are laid down in section 1 and, with regard to a child, in section 5 of chapter 2 of the Act, and provisions on prisons functioning as remand prisons are laid down by decree of the Ministry of Justice (1055/2022). Provisions on transfer of a remand prisoner to another prison and on informing of this are laid down in chapter 3, sections 6–8 of the Remand Imprisonment Act. Chapter 8 of the Act lays down further provisions on correspondence and telephone calls of remand prisoners and chapter 9 on remand prisoners' visits and other contacts with the outside world.

132. Provisions on the right of remand prisoners to contact the diplomatic or consular mission of their home country are laid down in chapter 2, section 3 and chapter 9, section 12 of the Remand Imprisonment Act. The contact rights of remand prisoners under the Remand Imprisonment Act may be restricted pursuant to chapter 4 of the Coercive Measures Act. Provisions on the right to refer to a court a matter concerning the placement of a remand prisoner are laid down in chapter 2, section 1, subsection 4 of the Remand Imprisonment Act.

Persons sentenced to imprisonment

133. Under chapter 2c, section 1 of the Criminal Code, the content of a sentence of imprisonment is deprivation or restriction of liberty. Provisions on the prerequisites for the remand of a convicted person are laid down in chapter 2, section 12 of the Coercive Measures Act. Provisions on the enforcement of a prison sentence and a conversion sentence for unpaid fines are laid down in the Imprisonment Act (767/2005). Provisions on the commencement of enforcement of a prison sentence are laid down in chapter 2 of the Act. Chapter 4, section 2 of the Imprisonment Act lays down provisions on admission to prison and on the opportunity of a prisoner to inform their close relative or another close person of their admission to prison. Chapter 6 of the Imprisonment Act contains the provisions on the transfer of a prisoner from one prison to another and on notification of transfer. Provisions on the organisation for the enforcement of imprisonment are laid down in chapter 1, section 4 of the Act. The Prison and Probation Service, which operates under the Ministry of Justice, is responsible for the enforcement of imprisonment. Provisions concerning the Prison and Probation Service are laid down in the Act on the Prison and Probation Service (221/2022). Provisions on contact rights of prisoners are laid down in chapter 12 of the Imprisonment Act. Provisions on the contacts of foreign prisoners with a diplomatic or consular mission are laid down in chapter 13, section 15 of the Act. Provisions on visits are laid down in chapter 13 of the Act. A prison sentence is based on a court judgment. Once the judgment is final, it is no longer subject to appeal. In exceptional cases, an extraordinary request for a review may be possible.

134. Provisions on the data repository for the processing and enforcement of judicial matters are laid down in the Act on the National Data Repository of the Judicial Administration (955/2020). The Act on the Processing of Personal Data at the Prison and Probation Service (1301/2021) contains provisions on the processing of personal data in the enforcement of sentences, enforcement of remand imprisonment and the performance of other duties laid down for the Prison and Probation Service. Section 29, subsection 1, paragraph 3 of the Openness Act provides that an authority may grant access to a secret document to another authority if the document is necessary for the consideration of a matter pertaining to advance information, a preliminary ruling, an appeal or a complaint against a decision by an authority, an appeal for nullification or a submission regarding a measure taken by an authority, or a complaint made to an international body for the administration of justice or investigation. In addition, chapter 5 of the Act on the Processing of Personal Data at the Prison and Probation Service also contains specific provisions on the transfer of confidential personal data.

Detention of a foreigner

135. The majority of detentions of foreigners relate to ensuring the enforcement of a decision on removal from the country. Provisions on the conditions for detention of a foreigner are laid down in section 121 of the Aliens Act. Provisions on deciding on detention are laid down in section 123 and on the placement of detained foreigners in section 123a of the Act. Provisions on court proceedings are laid down in sections 124 to 129 of the Act. Targeted amendments to provisions on detention are proposed in a government proposal for an Act amending the Aliens Act (Government Proposal 143/2024). Provisions on the treatment of detained persons are laid down in the Act on the Treatment of Detained Aliens and on Detention Units (116/2002). Provisions on detention units are laid down in section 2 and on placement in police custody facilities in sections 9 and 10 of the Act. Provisions on visits and contact rights, including the right to contact a diplomatic mission, are laid down in sections 6 and 6a of the Act. Provisions on restrictions on visits are laid down in section 15.

136. Special provisions on the processing of personal data are laid down in the Act on the Processing of Personal Data in Immigration Administration (615/2020).

Deprivation of liberty in the Border Guard

137. Under section 1, subsection 2 of the Act on Crime Prevention by the Border Guard (108/2018), unless otherwise provided in the said Act, the provisions on criminal investigation and coercive measures of the Criminal Investigation Act and the Coercive Measures Act and elsewhere in the law apply to the criminal investigation of an offence conducted by the Border Guard. Special provisions on the processing of personal data are laid down in the Act on the Processing of Personal Data by the Border Guard (639/2019). Chapter 8 (sections 61 to 64) of the Border Guard Act (578/2005) lays down provisions on the treatment of persons deprived of their liberty at the Border Guard. In addition, the Border Guard Act contains provisions on apprehension (for example, section 32, subsection 1 paragraphs 5, 6, 9 and 12; section 34 a, subsection 3; section 35, subsection 1; section 35d, subsection 3; section 36, subsection 3 and section 37).

Deprivation of liberty in the customs administration

138. Section 17 of the Customs Act (304/2016) lays down provisions on the right of a customs officer to verify a person’s identity and on apprehension in order to verify a person’s identity and section 33 lays down provisions on apprehending a wanted person. Section 42 contains references to the Act on the Treatment of Persons in Police Custody and the Act on Crime Prevention by Customs (623/2015). Under section 1 of the Act on Crime Prevention by Customs, unless otherwise provided in the said Act, the provisions on criminal investigation and coercive measures of the Criminal Investigation Act and the Coercive Measures Act and elsewhere in the law apply to the investigation of a customs offence. Special provisions on the processing of personal data are laid down in the Act on the Processing of Personal Data by Finnish Customs (650/2019). Section 43 of the Customs Act lays down provisions on drawing up a record on the apprehension of a person.

Deprivation of liberty in the Defence Forces and territorial surveillance

139. Provisions on detention under the Act on Military Discipline and Combating Crime in the Defence Forces (255/2014) are laid down in sections 3 and 95 of the Act. According to section 3, subsection 4 of the Act, detention can only be sentenced by a court referred to in sections 5 and 6 of the Military Court Procedure Act (326/1983) in accordance with the procedure set out in the said Act. Provisions on enforcement of detention are laid down in section 77 and on serving of detention in sections 78 to 85. Provisions on resolution of a disciplinary appeal and prohibition of request for review are laid down in section 65 and on extraordinary appeal in a disciplinary matter in section 67.

140. Provisions on coercive measures in disciplinary proceedings are laid down in the Act on Military Discipline and Combating Crime in the Defence Forces (255/2014). Section 24 of the Act lays down provisions on the regional scope of the use of coercive measures. According to section 14 of the Act, in addition to the provisions of the said Act, the Coercive Measures Act (806/2011) lays down provisions on the application of coercive measures and

of the authority authorised to use such coercive measures to offences referred to in section 2 of the Military Court Procedure Act. The Act on Military Discipline and Combating Crime in the Defence Forces, lays down provisions on apprehension in section 15, on the officials and soldiers with the right of apprehension in section 16, on officials with the power of arrest in section 17, on the custody and treatment of apprehended, arrested or detained persons in section 18, and on notification of apprehension and release of an apprehended person in section 19. Provisions of the Act on the Treatment of Persons in Police Custody apply to arrested and apprehended persons. Under section 2 of the Act, besides the provisions of the said Act, provisions on the processing of personal data are laid down in the Act on the Processing of Personal Data by the Defence Forces (332/2019). Its section 4 lays down provisions on the permanent registers of the Defence Forces, which include the military justice register, provisions on the purpose of use and contents of which are laid down in sections 11 and 12 of the Act.

141. Section 19 of the Act on the Defence Forces (551/2007) contains provisions on establishing identity, removing a person and right of apprehension. According to the section, an official who is a guard officer or a duty officer has the right to remove a person from areas permanently used by the Defence Forces and from areas referred to in section 15 subject to certain conditions. Provisions on the general right of apprehension are contained in chapter 2, section 2 of the Coercive Measures Act. An apprehended person, unless covered by chapter 45 of the Criminal Code, must immediately be turned over to the police. This also applies to an apprehended person covered by chapter 45 of the Criminal Code if that person has committed a crime other than that referred to in section 2 of the Military Court Procedure Act (326/1983). Provisions on these cases are laid down in chapter 4 of the Act on Military Discipline and Combating Crime in the Defence Forces (255/2014). Section 22b of the Act on the Defence Forces lays down provisions on apprehension in the protection of the integrity of the Defence Forces' special property transportations. The Act on the Treatment of Persons in Police Custody applies to the treatment of apprehended persons.

142. Provisions on the use of force by the Defence Forces are laid down, for example, in section 4 of the Act on the Defence Forces which concerns the use of military force in situations identified in the section. Several other provisions, such as sections 4b and 12a of the Defence Forces Act, also address use of force. Section 12a of the Defence Forces Act contains provisions on powers and use of force in providing international assistance, in cooperation and in other international activities. Section 4b of the Defence Forces Act contains provisions on powers and use of force when receiving international assistance and in cooperation on Finnish territory. In addition, section 27 of the Act on Military Crisis Management (211/2006) lays down provisions on the use of force, in addition to which the Rules of Engagement for military operations apply.

143. Section 27 of the Territorial Surveillance Act (755/2000) lays down provisions on the right to apprehend of a territorial surveillance authority. Provisions of the Act on the Treatment of Persons in Police Custody apply to apprehended persons. Section 36 of the Territorial Surveillance Act lays down provisions on the registration of apprehension. Further information on the contents of the registration is given in section 26 of the Government Decree on Territorial Surveillance (971/2000). Under section 23 of the Act, the territorial surveillance authorities are the military, border guard, police and customs authorities. Special provisions on these concerning personal data are described above.

Psychiatric inpatient care

144. Subject to the conditions laid down in section 8 of the Mental Health Care Act, a person can be ordered to treatment in a psychiatric hospital against their will. Under sections 11 and 13 of the Act, as a general rule, the decision is made by the chief physician in charge of psychiatric care in the hospital. Provisions on organisation of involuntary psychiatric care are laid down in section 3 of the Act and in section 2 of the Mental Health Decree (1247/1990). Provisions on treatment given in state mental hospitals are laid down in section 6 of the Mental Health Act.

145. Subject to conditions laid down in section 15 of the Act, a person suspected or accused of a crime may be admitted to a hospital and detained there against their will. Subject to conditions laid down in section 21 of the Act, a court may order a person whose sentence has

been waived to be detained in prison until a decision has been given on their need for psychiatric hospital treatment. To assess the need for psychiatric hospital treatment of a person, the Finnish Institute for Health and Welfare may order a person to be examined in a hospital for a maximum of 30 days. Section 22 of the Act lays down provisions on the involuntary treatment of a person whose sentence has been waived.

146. Provisions on contacts are laid down in section 22j of the Mental Health Act. As a general rule, patients are entitled to be in contact with persons outside the hospital and this right may only be limited on the grounds laid down in the Act. Provisions on requests for a review are laid down in section 24 of the Act.

Social services and support for substance abusers

147. Chapter 2 of the Act on Welfare for Substance Abusers (41/1986) lays down provisions on the involuntary treatment of a person based on a health risk. Section 10 of the Act lays down provisions on the conditions for ordering to treatment. Provisions on ordering treatment are laid down in section 11. Provisions on organisation of involuntary treatment due to substance abuse are laid down in section 3. Provisions on requests for a review are laid down in chapter 3 of the Act.

148. There is no legislation on restriction of a patient's freedom of movement or other fundamental rights in voluntary inpatient care. In the absence of further legislative provisions, the practice of the Parliamentary Ombudsman has emphasised the aspects to be taken into consideration (see e.g. Parliamentary Ombudsman EOAK/4180/2020, pp. 14–16).

Care for people with intellectual disabilities in special care units

149. Section 32 of the Act on Special Care for People with Intellectual Disabilities (519/1977) lays down provisions on ordering a person to a special care unit against their will. Section 33 of the Act lays down provisions on examinations for making the order, on keeping under examination and on making an order. Provisions on a decision to end care are laid down in section 37 and on having the conditions for continuation assessed and on a continuation decision in section 38. Provisions on strengthening self-determination, and on the use of restrictive measures in special care are laid down in chapter 3a of the Act. Provisions on requests for a review are laid down in section 81b of the Act.

Child welfare institutions

150. Provisions on arranging and developing child welfare are laid down in section 11 of the Child Welfare Act (417/2007). Chapter 8 of the Act contains the provisions on emergency placement of a child. Section 38 of the Act lays down provisions on the conditions of emergency placement and the decision on emergency placement.

151. Chapter 9 contains the provisions on taking into care. Section 40 of the Act lays down provisions on the duty to take a child into care and provide substitute care. Section 43 of the Act lays down provisions on making decisions on taking a child into care and placement in substitute care. Provisions on custody of children taken into care, including the child's whereabouts, are laid down in section 45. Section 46 of the Act lays down provisions on decisions on the custody of a child and the right to meet the child during care.

152. Chapter 10 of the Act contains general provisions on substitute care and on children's status in substitute care. Under section 49, a child's substitute care means arranging the care and upbringing of a child who has been taken into care, placed urgently or placed on the basis of an interlocutory order referred to in section 83 of the Act away from the child's own home. A child's substitute care may be arranged in the form of family care, institutional care or in some other way required by the child's needs. Subject to certain conditions, a child under the age of three may be placed with a parent who is serving a prison sentence or who is detained on remand, in the family ward of the prison (section 49 subsection 4 of the Child Welfare Act). Section 50 of the Act lays down provisions on choosing a place for substitute care. Provisions on human relations and contacts of children in substitute care are laid down in section 54. Provisions on administrative court processing are laid down in chapter 14 and on requests for review in chapter 15.

153. Chapter 11 of the Act lays down provisions on restrictions in substitute care. Restrictions under the chapter may only be applied to a child if both the general conditions for the use of restrictions laid down in section 61a and the conditions laid down specifically for each restriction in chapter 11 are fulfilled. Section 69 of the Act lays down provisions on restrictions on freedom of movement, section 70 on isolation and sections 71 to 73 on special care. Provisions on recording restrictive measures and on child-specific assessment are laid down in sections 74 and 74a. Section 61b of the Act lays down provisions on the plan for good treatment, which all child welfare institutions must draw up.

Quarantine and isolation based on a generally hazardous communicable disease

154. Section 60 of the Communicable Diseases Act (1227/2016) lays down provisions on quarantine and section 63 of the Act on conditions for isolation and deciding on isolation. Section 66 of the Act lays down provisions on extending and terminating the isolation period. Provisions on conditions during quarantine or isolation are laid down in section 68 and on restricted contact in section 69 of the Act. Section 70 of the Act lays down provisions on urgent decisions on restrictive measures. Provisions on requests for a review are laid down in section 90 of the Act.

155. Provisions on the processing of personal data are laid down in the Act on the Processing of Client Data in Healthcare and Social Welfare (703/2023).

156. By virtue of Article 17, paragraph 2, subparagraph (e) of the Convention, the competent and legally authorised authorities and institutions shall be guaranteed access to the places where persons are deprived of liberty. Prior authorisation from a judicial authority may be required for such access.

157. In Finland, under section 5 of the Parliamentary Ombudsman Act, the Ombudsman shall carry out on-site inspections necessary to monitor matters within his or her remit. Specifically, the Ombudsman shall carry out inspections in prisons and other closed institutions to oversee the treatment of inmates, as well as in the various units of the Defence Forces and Finnish crisis management organisations to monitor the treatment of conscripts, other military personnel and crisis management personnel. In the context of an inspection, the Ombudsman and officials in the Office of the Ombudsman have the right of access to all premises and information systems of the inspection subject as well as the right to have confidential discussions with the personnel of the office or institution, persons serving there and its inmates. Under section 7 of the Act, the Ombudsman has the right to receive the information necessary for his or her oversight of legality from the authorities and others discharging public duties. As regards the Parliamentary Ombudsman, a reference is also made to the information provided above in the context of article 12, paragraph 2.

158. As the other supreme overseer of legality, the Chancellor of Justice of the Government also has a duty laid down in section 108 of the Constitution to oversee the lawfulness of the courts of law, the other authorities and the civil servants, public employees and other persons when they are performing a public task. In practice, the Chancellor of Justice is released from the duty of overseeing certain matters within the mandate of the Parliamentary Ombudsman under the Act on the Division of Duties between the Chancellor of Justice and the Parliamentary Ombudsman (330/2022). These include apprehension, arrest, remand and travel ban as well as taking into custody, detention and other deprivation of liberty, as referred to in the Coercive Measures Act. The Chancellor of Justice does not oversee prisons or other such institutions where persons have been placed against their will, either.

159. Oversight of legality of the activities of the police also takes place within the police organisation in the Ministry of the Interior and the National Police Board operating under the Ministry. The internal oversight of legality of the Prison and Probation Service focuses on oversight of the realisation of the rights of prisoners and remand prisoners and their treatment. The Ministry of Justice also oversees for its part that the Prison and Probation Service attends to its duties in compliance with law. The Finnish Border Guard and Finnish Customs carry out their own internal oversight of legality. The Finnish Border Guard Headquarters reports annually on the internal oversight of legality to the Ministry of the Interior, which has issued a sector-specific instruction on internal oversight. Oversight of the legality of the official actions of the Defence Forces is carried out by the Ministry of Defence and, under section 5

of the Decree on the Defence Forces (1319/2007), the Chief Legal Advisor of the Defence Forces directs and oversees the legality of the activities of the Defence forces and the administration of military justice. Internal oversight of legality is also conducted in the Defence Forces.

160. The National Supervisory Authority for Welfare and Health as the central agency and the Regional State Administrative Agencies in their respective regions oversee the legality, delivery and quality of health and social services.

161. All of the above-mentioned supervisory authorities have statutory rights to inspect places where persons are deprived of liberty in their respective remits.

162. By virtue of paragraph 2, subparagraph (f) of the Article, in the case of a suspected enforced disappearance, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful. Finnish legislation does not recognise a fully equivalent right, and indeed the subparagraph can be deemed to be subject to interpretation. The person who has custody of a child, a guardian or an advocate may, as such, generally be competent to represent a person and exercise the right to be heard. If an offence is suspected in the disappearance, a relative may submit a report of an offence, through which the matter may proceed to court. It is also possible to submit a complaint, for example, to a supreme overseer of legality.

Article 18

163. Article 18 of the Convention lays down which information shall be provided to persons with a legitimate interest in the information, such as relatives of the persons deprived of liberty, their representatives or their counsel. Paragraph 1 of the Article contains a detailed list of the information to which access must at least be provided. The list covers all of the minimum information contained in the registers/records referred to in Article 17, paragraph 3, excluding the grounds for the deprivation of liberty. Access to information may, however, be limited by provisions of Articles 19 and 20.

164. The Openness Act applies to access to information from registers/records of the authorities. In principle, unless specifically provided otherwise, official documents shall be in the public domain (section 1). Section 24, subsection 1 of the Act contains a list of official documents to be kept secret. These include, under paragraph 28, registers containing information on convicted persons or on persons who have been imprisoned or otherwise deprived of their liberty. Under the paragraph, access to these may be provided if it is evident that access will not compromise the future livelihood of the person, his or her reintegration into society or his or her safety and if there is a justifiable reason for providing access to the information. Health information is also secret under paragraph 25 of the section, although there are also special provisions on the processing of health information as described in the context of Article 17 above.

165. Pursuant to section 11 of the Openness Act, a party and their representative have the right of access to information that is otherwise not in the public domain. 'A party' means a petitioner, an appellant and any other person whose right, interest or obligation is concerned in a matter. A person with a legitimate interest in information referred to in the Convention may, as a general rule, be regarded as corresponding to the concept of 'a party'. The Openness Act does not as such, however, directly guarantee the right of access to information to relatives. Instead, for this, the status of relatives must be that of a party. For example, the Supreme Administrative Court has found that parents are parties in certain cases (Supreme Administrative Court KHO 2021:9).

166. The distinction can, however, be regarded as being such that case-specific consideration in the application of the Openness Act is sufficient and no legislative amendment was considered necessary. Firstly, it can be assumed that the justifiable aim of investigating a suspected enforced disappearance and the relationship of the person requesting the information to the prisoner can be taken into consideration when assessing the

provision involving strict secrecy laid down in section 24, paragraph 28 of the Openness Act. Secondly, it can be assumed that the provisions of the Convention can be taken into consideration when assessing the party's right of access to information under section 11 of the Openness Act. At the practical level, the Prison and Probation Service has also introduced a mail procedure though which a person may try to contact a person even when they do not know whether the person is in prison or not (https://www.rikosseuraamus.fi/en/index/unitsandcontactinformation/yhteysvankiin.html, accessed 13 December 2024).

167. As regards the fulfilment of the obligations under the Convention, it can be assumed that the publicity of trial documents can, in addition, be taken into account. As regards trial documents, provisions on a party's right of access to information are laid down in the Act on the Publicity of Court Proceedings in General Courts (370/2007) and in the Act on the Publicity of Administrative Court Proceedings (381/2007). Under the first-mentioned Act, the trial document containing the decision, such as a sentence of imprisonment, is public (section 24, subsection 2). Provisions on the right of a party to obtain information on a document submitted or drawn up in a criminal investigation are laid down in chapter 4, section 15 of the Criminal Investigation Act.

168. The Act on the Processing of Client Data in Healthcare and Social Welfare (703/2023) lays down provisions on the confidentiality and processing of patient information and social welfare client information, and on the preparation and retention of documents. Under the general rule, information relating to patient documents is confidential. The Health Care Services for Prisoners unit operating under the Finnish Institute for Health and Welfare is responsible for health care services for remand and convict prisoners. Provisions on the unit's activities are laid down in the Act on the Health Care Services for Prisoners (1635/2015).

169. Also relevant to the implementation of the obligations under the paragraph is Article 20 discussed below, which lays down exceptions concerning access to information. It can be regarded, as the starting point, that prisoners who are clients of the Prison and Probation Service are in a situation referred to in Article 20, that is, they are under the protection of the law and the deprivation of liberty is subject to judicial control, and the restriction of the right to information is strictly necessary for the privacy of the person in accordance with the law.

170. Provisions on notification of apprehension and deprivation of liberty are laid down in chapter 2, section 4, subsection 2 of the Coercive Measures Act and in chapter 2 section 2 of the Act on the Treatment of Persons in Police Custody. Provisions on the opportunity of remand prisoners to inform of their admission to prison are laid down in chapter 2, section 2, subsection 4 of the Remand Imprisonment Act and on the opportunity of prisoners to inform of their admission to prison in chapter 4, section 2, subsection 3 of the Imprisonment Act.

171. A State Party may choose to allow broader access to information than laid down in Article 18. Paragraph 2 of the Article lays down that, where persons referred to in paragraph 1 are searching for information to which they have the right of access and where they may, due to this search, be subjected to ill-treatment, intimidation or sanction, the State Party shall protect such persons. The domestic provisions concerning the protection obligation are described in the context of Article 12.

Article 19

172. Article 19, paragraph 1 of the Convention lays down provisions on the processing of personal information which is collected and/or transmitted within the framework of the search for a disappeared person. Such information shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings or the exercise of the right to obtain reparation.

173. Data concerning health and genetic data for the purpose of uniquely identifying a natural person are special categories of personal data referred to in Article 9(1) of the General Data Protection Regulation (GDPR) and in section 11, subsection 1 of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security (1054/2018). The processing of data belonging to these categories of

personal data is restricted under both of these general statutes on data protection. In addition, Article 10 of the GDPR restricts the processing of personal data relating to criminal convictions and offences where the processor is not an authority within the scope of application of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security. One of the principles relating to processing of personal data under Article 5 of the GDPR is the purpose limitation. Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further provisions on compatible processing are laid down in Article 6(4) and on conditions for derogation from the principle of purpose limitation in Article 23 of the GDPR. Corresponding provisions relating to the purpose limitation requirement are included in section 5 of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security. The question of which of the general statutes would be applicable would depend on whether the authority in question is competent in criminal matters and whether the purpose of processing is one referred to in the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security or some other processing situation. The purpose limitation requirement may, notwithstanding non-disclosure provisions, be derogated from in Finland under, for example, provisions on the authorities' disclosure of or access to information. Provisions on granting access to secret information to some other authority are laid down in section 29 of the Openness Act and in specialised Acts.

174. One of the duties of the police under section 1 of the Police Act is to take any action necessary to find a missing person. As regards the police, the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security would apply to the processing of personal data referred to in the Article in situations of a suspected offence, whereas in some situations the GDPR and the Data Protection Act might also apply. In addition, the Act on the Processing of Personal Data by the Police contains special provisions on the right of the police to process personal data. Section 16 of the Act contains a special provision on the right of the police to obtain, notwithstanding non-disclosure provisions, information contained in certain registers and information systems. As described above, one of the general principles of the processing of personal data by the police is the purpose limitation. Sections 13 and 14 of the Act lay down provisions on the processing of personal data for purposes other than the initial purpose. In addition, section 15 of the Act lays down provisions on the processing of data belonging to special categories of personal data in situations such as the identification of a victim who has otherwise remained unidentified. Under subsection 1 of the section, the condition for this is that the processing of data belonging to special categories of data is strictly necessary. The Act on the Processing of Personal Data by the Police contains separate provisions on the right of the police to disclose personal data notwithstanding non-disclosure provisions (chapter 4).

175. In criminal proceedings, information may be used by competent authorities and the parties to the criminal procedure, including those suspected of an offence and victims of enforced disappearance referred to in the Convention. In criminal matters, the processing of personal data by competent authorities in conjunction with the criminal procedure would fall within the scope of application of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security under section 1, subsection 1, paragraphs 1–3 of the Act, in addition to which special provisions on the criminal procedure may apply depending on the case. As described above in the context of Article 18, victims, in turn, have, as a general rule, the right as a party concerned to have access to information in the authorities' documents regardless of whether these are public or secret.

176. By virtue of paragraph 2 of the Article, the collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual. Alongside the legislation that applies to the protection of personal data described above, section 10 the Constitution, Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and Article 8 of the ECHR also concern the protection of personal data and privacy. Data protection legislation contains detailed provisions on the rights of the data subject and on legal remedies relating to the processing of personal data.

Article 20

177. Article 20 lays down provisions on restrictions on the right of access to information referred to in Article 18 and on judicial remedies in such cases. By virtue of paragraph 1 of the Article, only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention.

178. The right of access to information is discussed above in the context of Article 18. In Finland, the general rule is that official documents are in the public domain. Section 24 of the Openness Act lays down provisions on secret official documents. In these situations, there are special grounds for non-disclosure. As regards prisoners, these grounds relate to aspects including those relating to privacy. Parties have a broader right of access to information as compared with others. Section 11, subsection 2 of the Openness Act lays down provisions on the conditions under which parties' right of access may be restricted. Sections 24 and 28 of the Act on the Processing of Personal Data in Criminal Matters and in Connection with Maintaining National Security and sections 33 and 34 of the Data Protection Act enable the restriction of the right of data subjects to access information on the processing of data concerning themselves to, for example, safeguard a criminal investigation. The data subject may, however, verify the lawfulness of the processing of the personal data through the Data Protection Ombudsman.

179. Paragraph 2 of the Article lays down the right to an effective judicial remedy. Provisions on requests for access to a document are laid down in section 13 and on decisions on access in section 14 of the Openness Act. Under section 33 of the Act, the provisions of the Administrative Judicial Procedure Act (808/2019) apply to requests for review. As regards requests for review in matters concerning the publicity of court proceedings, the provisions of the Act on the Publicity of Court Proceedings in General Courts (370/2007) and of the Act on the Publicity of Administrative Court Proceedings (381/2007) apply. Specific provisions on requests for review may be provided in special legislation.

Article 21

180. Article 21 requires that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Released persons must also be able to fully exercise their rights and their physical integrity shall be assured. This means that the person's capacity to function may not be restricted unnecessarily or intentionally. The Article does not, however, restrict any obligations to which such persons may be subject under national law, which may relate, for example, to conditional discharge or various prohibitions of activities.

181. The duty assigned in the Article belongs to the register authority referred to in Article 17. In this regard, a reference is made to the provisions of Article 17, paragraph 3 and the related description above. The rights of those released from imprisonment are not restricted in Finland in a manner prohibited under the Article.

Article 22

182. Article 22 lays down provisions on the punishability of certain associated acts. These acts are of such a type which in Finland typically fall within criminal liability.

183. By virtue of subparagraph (a) of the Article, sanctions shall be imposed for delaying or obstructing the remedies referred to in Article 17, paragraph 2, subparagraph (f), and Article 20, paragraph 2. The former pertains to the opportunity to take proceedings before a court to assess the deprivation of liberty and the latter to judicial remedies in access to information.

184. Since custody of persons deprived of liberty is an official duty, any person committing acts referred to in subparagraph (a) is a public official. This means that the provisions on offences in public office of chapter 40 of the Criminal Code apply. Provisions that may apply include those on abuse of public office or violation of official duty.

185. By virtue of subparagraph (b) of the Article, sanctions shall be imposed on failure to record the deprivation of liberty of any person, or for the recording of any information which the official responsible for the official register knew or should have known to be inaccurate. Provisions on offences in public office may apply with regard to this, too.

186. Subparagraph (c) of the Article concerns refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met. In addition to provisions on offences in public office under chapter 40 of the Criminal Code, the provisions on registration offence of section 7 and on providing a false testimony to a public authority of section 8 of chapter 16 of the Criminal Code may also apply.

187. Depending on the case, many of the provisions of chapter 15 of the Criminal Code on offences against the administration of justice may also apply with regard to the Article.

Article 23

188. Paragraph 1 of the Article lays down the obligation of States Parties to ensure the training of public officials and other personnel regarding the contents of the Convention.

189. The bachelor's and master's degree programmes and continuing education for the police contain fundamental and human rights training covering topics including key human rights treaties and their contents. Similar training is also provided in basic and further education of the Border and Coast Guard Academy. The Office of the Prosecutor General is responsible for the further and continuing training of prosecutors. The fundamental and human rights training of military staff focuses on humanitarian law and ethics training. Training and education in the prison and probation service contains substantial training in fundamental and human rights, legality and ethics. Training is also provided for court personnel and Finnish Immigration Service personnel. In health and social services, training is provided, amongst others, to personnel of the National Supervisory Authority for Welfare and Health and of the Regional State Administrative Agencies.

190. By virtue of paragraph 2 of the Article, each State Party shall ensure that orders or instructions prescribing, authorising or encouraging enforced disappearance are prohibited. In addition, each State Party shall guarantee that a person who refuses to obey such an order will not be punished. This is addressed above in the context of Article 6.

191. Paragraph 3 of the Article lays down that the persons referred to in paragraph 1 of the Article who have reason to believe that an enforced disappearance has occurred or is planned must have the obligation and genuine opportunity to report the matter to the authorities.

192. The Article aims to ensure that the authorities of each State Party have sufficient education and information to address enforced disappearances and to investigate and prevent them. This requires the training of the groups of persons mentioned in paragraph 1 of the Article regarding the contents of the Convention and prevention of enforced disappearances. As regards the notification obligation, a reference is made to the information on offences in public office provided above in the context of Article 6.

Article 24

193. Article 24 of the Convention provides the definition of 'victim' for the purposes of the Convention. In addition to a disappeared person, 'victim' means any individual who has suffered harm as the direct result of an enforced disappearance.

194. There is no definition of 'injured party' in Finnish legislation, since it is not possible to create an exhaustive definition for the concept. The concept of 'injured party' has, however, been articulated more specifically in the legal literature and case law. An injured

party is commonly regarded to be a person whose legally protected interest has been violated or jeopardised by an offence or for whom a private legal claim has arisen directly through an offence. Although there is no definition of 'injured party' in domestic legislation, in Finnish case law the definition of 'injured party' is, in principle, broader than the definition of 'victim' provided in the Convention. Under domestic legislation, the rights of an injured party are not limited to individuals who have suffered harm as the direct result of an offence. Instead, a person whose legally protected interest has been violated or jeopardised by an offence is also regarded as an injured party.

195. By virtue of paragraph 2 of the Article, each victim referred to in paragraph 1 has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. The right of access to information is discussed above in the context of Articles 17 to 20.

196. Paragraph 3 of the Article requires the State Party to take all appropriate measures to search for, locate and release disappeared persons. In the event of the death of a disappeared person, the corresponding measures shall be taken to locate their remains. Where necessary, their remains shall be treated with appropriate respect and returned to their relatives. With regard to the paragraph, a reference is made to the information concerning criminal investigations provided above in the context of Articles 10 and 12. In addition, under section 1, subsection 2 of the Police Act, if there are reasonable grounds to believe that someone has gone missing or has been the victim of an accident, the police shall take any action necessary to find that person.

197. Paragraph 4 of the Article requires that each State Party ensures in its legal system that the victims of enforced disappearance referred to in paragraph 1 have the right to obtain reparation and prompt, fair and adequate compensation. Compensation must be proportionate to the offence committed. Paragraph 5 of the Article specifies what is meant by reparation referred to in paragraph 4. Reparation must be provided for material and moral damages and, in addition, where appropriate, must include other forms of reparation, such as restitution, rehabilitation and satisfaction, including restoration of dignity and reputation. States Parties must also be able to provide guarantees of non-repetition.

198. In Finland, an injured party of an offence has the right receive full compensation for the damage caused by the offence. As the injured party of an offence, the victim also has the right to receive from the offender compensation for the injured party's legal costs to the extent that compensation for this is not paid from state funds under the Legal Aid Act (257/2002) and that the injured party does not receive compensation for these from elsewhere. Access of an injured party to their rights is advanced by the use of an attorney and the fact that a claim for damages based on an offence may be submitted in the consideration of a criminal matter instituted by a prosecutor without the injured party having to institute separate judicial proceedings concerning damages.

199. General liability for damages and compensable damage is based on the Damages Act (412/1974). As a general rule, the Damages Act covers the material and moral damage that should be compensated for under the Article. Under chapter 5, section 1 of the Act, damages comprise compensation for personal injury and property damage and, under the conditions laid down in sections 4a and 6 of the chapter, for anguish. Where the damage has been caused by an act punishable under the law, damages also comprise compensation for economic loss that is not connected to a personal injury or property damage. Under chapter 5, section 6 of the Act, a party is entitled to damages for anguish arising from a violation including in cases where the party's liberty has been violated by an act punishable under the law. The Damages Act does not contain any provisions on the types of reparation specified in paragraph 5 of the Article, but, for example, rehabilitation costs may be compensated for under health and social services sector legislation.

200. The practical implementation of the right to damages is safeguarded by the injured party being, in some cases, able to receive compensation from state funds under the Criminal Injuries Act (1204/2005). Applications for compensation are submitted to the State Treasury in a manner laid down more specifically in the said Act. Under the Criminal Injuries Act, the victim does not always receive full compensation, as the Act lays down maximum amounts for certain types of compensation. For example, the maximum compensation paid for anguish

for offences concerning violation of personal integrity, which is what enforced disappearance can also be regarded as, is EUR 4,300.

201. In its practice, the Committee has emphasised that any individual, without exception, who has suffered harm as the direct result of an enforced disappearance has access to full reparation in line with the Article (see e.g. CED/C/PER/CO/1, paragraph 29 (a)). This does not, however, mean that the content of the reparation and compensation should necessarily be the same for everyone. The Article cannot be regarded as setting this as an obligation, in addition to which the Committee has, in its practice, stated that individual characteristics should be taken into account in the determination (see e.g. CED/C/SVK/CO/1, paragraph 25). In Finland, the amount of damages is determined on a case-specific basis. In addition, the Damages Act lays down separate provisions on those situations where a third party has the right to receive compensation for harm caused to another person. Provisions on this are laid down in chapter 5, section 2d (right of relatives of or others close to a party suffering personal injury to compensation for expenses and loss of income caused by caring for the party suffering injury), 3 (compensation for burial costs) and 4b (compensation for medical costs and loss of income for relatives of or others close to a killed person).

202. In its practice, the Committee has found that victims should have the right to reparation, social benefits or other compensation without the need to prove the death of the disappeared person (CED/C/HND/CO/1, paragraph 39) and even if no criminal proceedings have been brought concerning the enforced disappearance (CED/C/ESP/CO/1, paragraph 30). As mentioned above, under the Damages Act, certain damages to relatives depend on the person's death instead of their disappearance. Finnish damages law has taken a reserved approach to the right to damages of others than those suffering direct damage. On the other hand, in Finland, the status of relatives is not primarily safeguarded through damages but, instead, through the social security system.

203. As regards child victims, the relevant provisions of the Child Welfare Act and other provisions and procedures applicable to children apply. The Child Welfare Act provides the authorities with the opportunity to, where necessary, address the life situation of a minor. The premise for the Act is the best interests and wellbeing of the child.

204. The Ministry of Justice and police authorities have drawn up a variety of guidelines for victims of crime. The Ministry of Justice has, among others, produced a written brochure for victims of crime. The brochure provides comprehensive information on, for example, the support services available and the stages of the criminal procedure. The brochure can be accessed, for example, on the websites of the Ministry of Justice and the Police. The brochure has been published in Swedish, English, Russian, Sami, Somali, Arabic as well as in easy Finnish and easy Swedish. In addition, supported by the Ministry of Justice, Victim Support Finland has published a variety of brochures for victims of crime and its website (www.riku.fi/en) contains ample guidance. The Ministry of Justice has also published a guide titled "child victims of crime".

205. By virtue of paragraph 6 of the Article, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

206. Legislation including that concerning social welfare and social security applies with regard to the paragraph. The Social Welfare Act (1301/2014) promotes and maintains the wellbeing and social security of the individual (section 1). It contains provisions on matters including safeguarding the necessary care and financial resources as well as advice and guidance. Social services must be provided, among other things, where there is a need for support due to intimate partner violence, domestic violence or other violence and maltreatment as well as where there is a need for support due to a sudden crisis situation (section 11). The wellbeing services counties are responsible for organising social services.

207. Provisions on establishing the legal presumption of death of disappeared persons are laid down in the Act on Declaring a Person Legally Dead (127/2005). The Committee has recommended that victims of enforced disappearance should not be declared legally dead until their fate has been clarified (see e.g. CED/C/NLD/CO/1, paragraph 34).

208. Paragraph 7 of the Article lays down provisions on the exercise of the freedom of association. Everyone shall have the right to form organisations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance and to participate freely in the activities of such organisations and associations. Freedom of association is safeguarded under the Constitution and as a human right. Further provisions on the founding of an association are laid down in the Associations Act (503/1989).

Article 25

209. Article 25 of the Convention contains provisions on special situations relating to children.

210. By virtue of paragraph 1 (a) of the Article, each State Party shall criminalise the wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance. In this respect, too, the Committee on Enforced Disappearances has recommended separate penal provisions for the implementation of the Convention (e.g. CED/C/FRA/CO/1, paragraph 37 and CED/C/DEU/CO/1, paragraph 29).

211. Subparagraph (a) of the Article leaves it open and, consequently, to the discretion of the State Party, what is meant by ‘wrongful removal’. Such activity typically involves deprivation of liberty, which is why provisions of chapter 25, sections 1 and 2 of the Criminal Code on criminal deprivation of liberty may be applicable. Although, by virtue of the subparagraph, the perpetrator may, in principle, be anyone, in practice such acts are committed by public officials, whereby the provisions of chapter 40 on offences in public office may be applicable in this case, too.

212. By virtue of subparagraph (b) of the Article, the falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) of the Article must be criminalised. In these cases, the applicable provisions are the provisions on forgery offences of chapter 33 and the provisions on criminal damage of chapter 35 of the Criminal Code; where the offender is a public official, the provisions of chapter 40 on offences in public office may also be applicable. In addition, a registration offence under chapter 16, section 7, destroying evidence in the possession of the authorities under chapter 16, section 12 or trespass to property under chapter 28, section 11 of the Criminal Code may also be considered.

213. By virtue of paragraph 2 of the Article, each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) of this Article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements. With regard to this, a reference is made to the information provided above in the context of Articles 10 and 12. Aspects relating to the return of children to their parents of origin are discussed in more detail in the context of paragraph 4 below.

214. Paragraph 3 of the Article lays down provisions on the mutual assistance of States Parties. With regard to this, a reference is made to the information provided in the context of Articles 14– to 18.

215. Paragraph 4 of the Article lays down provisions on the right of children referred to in the Article to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognised by law. By virtue of the paragraph, where appropriate, any adoption or placement of children that originated in an enforced disappearance must be annulled. By virtue of paragraph 5 of the Article, in all cases, and in particular in all matters relating to this Article, the best interests of the child shall be a primary consideration.

216. In an evaluation affecting the rights of children, the Convention on the Rights of the Child must be taken into consideration. Decision-making under the Child Welfare Act is strongly guided by the best interests of the child. In the event that the circumstances or

conditions of the child change, the decision concerning the placement of the child under the Child Welfare Act must be reviewed. For example, under subsection 2 of section 47 the Child Welfare Act on the duration and termination of care, the social worker responsible for the child's affairs must assess the conditions for continuing care when the client plan is reviewed, when a child or custodian applies for termination of care or when it otherwise proves necessary.

217. As regards adoptions, it has been regarded as the starting point in Finland that the focus of safeguarding the best interests of the child must be on prior verification. For this purpose, the Adoption Act (22/2012) lays down provisions on adoption counselling and intercountry adoption service. The said provisions mean that an authority or an organ licenced by an authority is always involved in the preparation of adoption. Before any decision on adoption, it is examined that the child can legally be adopted and is not, for example, a victim of abduction or human trafficking. Efforts are made in this way to ensure that situations including those referred to in the paragraph would not occur at all.

218. On the other hand, the annulment of adoption is not possible in Finland. The possibility to revoke adoption has been evaluated in contexts including the government proposal to Parliament for the reform of legislation on adoption (Government Proposal 147/1978). Since then, Finnish adoption law has included the key principle whereby the relationship between child and parent based on adoption cannot be revoked. The permanence of the adoptive relationship has been regarded as being in the best interests of the child. Recognition of foreign revocation of adoption is, however, possible in Finland under section 68 of the Adoption Act.

219. Under the adoption law in force, it is therefore not possible to revoke an adoption once it has been granted. In exceptional cases, the Supreme Court may, under the provisions on extraordinary request for judicial review, revoke an adoption decision (see e.g. Supreme Court rulings KKO 2021:37; KKO 2005:64; KKO 2014:19). The legal status created through adoption may also be changed by means of the re-adoption of the child, provided that the conditions for adoption are fulfilled.

220. The Article of the Convention is somewhat open to interpretation as regards the kind of annulment procedure it requires. Based on reports on the implementation of the Convention submitted to the Committee, States Parties have interpreted the requirement in different ways: some have a specific annulment procedure while others have other means.

221. The Committee has, however, consistently recommended the specific opportunity for annulment of adoption in cases involving enforced disappearance. The Committee has not, however, regarded a means corresponding to extraordinary request for judicial review as sufficient, unless enforced disappearance has been an explicit legal basis for this (CED/C/FRA/CO/1, paragraph 37 and CED/C/FRA/OAI/1, paragraphs 15 and 16). A general procedure for the annulment of adoption that does not specifically concern enforced disappearances has not been sufficient, either (CED/C/NLD/CO/1, paragraphs 38 and 39).

222. Under section 2 of the Adoption Act, the best interests of the child shall be the paramount consideration in all decisions concerning the adoption of a minor. This could be used as grounds supporting the interpretation whereby the opportunity for re-adoption where so required by the best interests of the child would be in harmony with Article 25, paragraphs 4 and 5. However, the above-mentioned recommendations of the Committee whereby the annulment procedure should specifically concern cases of enforced disappearance argue against this interpretation.

223. When preparing for the ratification of the Convention it was assessed that laying down a separate annulment procedure for situations falling within the scope of application of the Convention would require amendments to national legislation. It was, however, regarded in the preparatory process that the current legal state is in the best interests of the child. Considering this and the fact that Article 25 is subject to interpretation, Finland made a reservation in conjunction with the ratification of the Convention. According to the reservation, emphasising the importance of prior verification of the conditions for adoption, in the best interests of the child, and thus having reservations about a separate procedure for annulling adoption but recognising, however, the possibility of reviewing adoption in exceptional cases, Finland considers that it is not bound by the provisions of Article 25,

paragraph 4 of the Convention in respect of annulling the adoption of the children referred to in Article 25, paragraph 1, subparagraph (a) of the Convention. The practical impacts of the reservation are monitored on the basis of information obtained from any individual cases and other aspects related to need for changes. No requests seeking the annulment of adoption or inquiries concerning enforced disappearances have been brought to the Finnish Adoption Board based at the National Supervisory Authority for Welfare and Health at the time of preparing this report.

224. Paragraph 5 of the Article lays down that in all cases, and in particular in all matters relating to the Article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

225. Section 2 of the Adoption Act lays down provisions on taking the best interests of the child into consideration. Under section 3 of the Act, in decisions on the adoption of a minor, the child's wishes and views shall be taken into consideration having regard to his or her age and degree of maturity.

226. Under section 4 of the Child Welfare Act, when assessing the need for child welfare and in the provision of child welfare, it is first and foremost the interests of the child that must be taken into account. When assessing the interests of the child, consideration must be given to the extent to which the alternative measures and solutions safeguard the following for the child: balanced development and wellbeing, and close and continuing human relationships; the opportunity to be given understanding and affection, as well as supervision and care that accord with the child's age and level of development; an education consistent with the child's abilities and wishes; a safe environment in which to grow up, and physical and emotional freedom; a sense of responsibility in becoming independent and growing up; the opportunity to become involved in matters affecting the child and to influence them; and the need to take account of the child's linguistic, cultural and religious background.

227. In the processing of criminal matters and in the treatment of the injured party, the best interests of a child are safeguarded by aspects relating to the young age being taken into consideration, and the injured party's access to their rights being promoted. Chapter 4, section 7 of the Criminal Investigation Act lays down provisions on the treatment of children in criminal investigation. The best interests of child victims are also safeguarded by the speedy processing of the matter. Under chapter 3, section 11, subsection 3 of the Criminal Investigation Act, the criminal investigation shall be conducted urgently if the injured party is under 18 years of age and the suspected offence is a sexual offence against the injured party or an offence against the life, health, liberty, privacy, peace or personal reputation of the injured party. In these situations, the prosecutor shall decide urgently whether to bring charges, and the charges shall also be brought without delay (chapter 1, section 8a, subsection 3 of the Criminal Procedure Act). In these situations, the main hearing shall be opened within 30 days of the date on which the criminal matter became pending (chapter 5, section 13, subsection 3 of the Criminal Procedure Act).

228. There is no statistical data on enforced disappearances.