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Global Perspectives on Freedom of Association: Finland

Riku Neuvonen

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Freedom of Association Doctrine in Finland

Riku Neuvonen[*]

I. Introduction

Finland has been called the promised land of associations.[1] There are numerous associations in Finland in proportion to the population, and almost every Finn belongs to one or more. Despite or because of the number of associations, research on the legal status of associations has been focused on technical details and on the activities of associations. There is neither a contemporary nor a particularly developed doctrine of freedom of association. The most important distinction is between registered associations and non-registered associations. A registered association is a legal entity.

Freedom of association is guaranteed in the Constitution of Finland.[2] Finland is committed to international treaties of the United Nations and to the European Convention on Human Rights. It is also a member of European Union. In Finland, freedom of association means the right to form an association without a permit and the right to be a member of one or more associations. Freedom of association also means the right not to join any association and the right to resign, whenever one wishes, from an association that one has joined. Associations enjoy internal freedom of activity, which means that they have the right to independently draft their rules, within the framework of law, and decide on their internal operations.[3] The most important norm regulating association activities is the Association Act (503/1989).

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[1] Even the supervisory authority for associations, the Patent and Registration Office, uses this expression. At the end of August 2023, there were approximately 110,000 associations in Finland. The total number of these members was more than 14 million (Finland's population is 5.6 million). See also M Muukkonen, 'Freedom of association in Finland' (2012) 14(1-2) International Journal of Not-for-Profit Law 64-67.

[2] For a general presentation of the Finnish Constitution in English, see I Saraviita, *Constitutional Law in Finland* (Alphen aan den Rijn: Kluwer, 2012).

[3] K Tuori, 'Kokoontumis - ja yhdistymisvapaus (PL 13 §)' in P Hallberg and others (eds), *Perusoikeudet* (Helsinki: WSOY, 2009).

Associations can be of all kinds in Finland. All trade unions and other interest organisations are associations. It is noteworthy that the Finnish word for trade union is *ammattiyhdistys*.[4] Therefore, the Finnish word for an association, *yhdistys*, is part of the definition. An association is the natural way to organise activities in Finland.

In this paper, freedom of association is analysed as part of Finnish constitutional doctrine. In Finnish constitutional law, the monitoring of the constitutionality of legislation differs from many other countries. Similarly, in Finland, the fundamental rights doctrine has developed in a peculiar way. In section 2 of this paper, freedom of association is combined as part of the Finnish Constitution and fundamental rights. The nature of the fundamental right of freedom of association and the Finnish doctrine of fundamental rights explains the regulation of associations and the possibilities for changes.

The Finnish Associations Act and the practical regulation of associations are discussed in section 3. The regulation of political parties and religious associations is brought up for special consideration. Regarding the latter, there are problems with such regulation from the religious freedom viewpoint. Section 4 focuses on compulsory membership of university student unions. This is a significant exception to the principles of freedom of association and probably a violation of the European Convention on Human Rights. Chapter five reviews the changes in Finland's freedom of association that have resulted from legal practice.

II. Freedom of Association in Finnish Constitutional Doctrine

Freedom of association is guaranteed in the Finnish constitution. Finland is committed to UN agreements and the European Convention on Human Rights and is a member of the EU. In Finland's fundamental rights system, freedom of association is a freedom and, more precisely, a political right. These rights are considered the foundations of a democratic society. In practice, the classification has little meaning. Freedom of association is guaranteed in Sections 13.2 and 13.3 of the Finnish constitution:

[4] Trade unions have a special status because Chapter 13, Section 1 of the Employment Contracts Act (55/2001) states that '[e]mployers and employees have the right to belong to associations and to be active in them. They also have the right to establish lawful associations. Employers and employees are likewise free not to belong to any of the associations referred to above. Prevention or restriction of this right or freedom is prohibited. Any agreement contrary to the freedom of association is null and void'. In addition, Finnish Criminal Code (39/1889) Chapter 14 Section 5 criminalises violations of political rights. See also the Act on Public Officials in Central Government (750/1994), which secures the freedom of association of state officials.

> ‘Everyone has the right to arrange meetings and demonstrations without a permit, as well as the right to participate in them.
> Everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association.
> The freedom to form trade unions and to organise in order to look after other interests is likewise guaranteed.
> More detailed provisions on the exercise of the freedom of assembly and the freedom of association are laid down by an Act.’

Freedom of association can be divided into several rights:
A) the right to form an association without a permit;
B) the right to be a member of one or more associations;
C) the right not to join any association;
D) the right to resign from an association which you have joined whenever you wish;
E) internal freedom of activity to associations; and
F) the right to independently draft their rules, within the framework of law, and decide on their internal operations.

Further, associations have a right to expel members without violating freedom of association. Finnish freedom of association doctrine in its current form is relatively new. Understanding the development and doctrine of freedom of association requires an understanding of the historical background and special features of the Finnish constitution.[5]

Historically, during the Swedish reign before the 18th century, associations were different than those present today.[6] In the 18th century, several secret societies were formed, and Swedish kings protected them – especially the Freemasons. In March 1803, King Gustav IV Adolf

[5] A short description in English is included in R Neuvonen, ‘Freedom of Speech and the Regulation of Fake News in Finland’ in O Pollicino (ed), *Freedom of Speech and the Regulation of Fake News* (Cambridge: Intersentia, 2023) 167-198 and 168-172.
[6] For a historical analysis of the freedom of assembly in Finland: V Merikoski, *Hallinto-oikeudellinen tutkimus yhdistymisvapaudesta* (Helsinki: Otava, 1935) 12–34; H Halila, *Toimivaltajako yhdistyksissä* (Helsinki: Lakimiesliiton kustannus, 1993) 88–94.

obligated all societies, except the Freemasons, to submit their rules for inspection by the authorities.[7]

After the annexation of Finland to Russia in 1809, Finnish authorities claimed that the laws from the time of Sweden's rule were now the laws of the Grand Duchy of Finland. [8] Thus, the establishment of associations was free, but the government had the right to review the rules and issue more detailed regulations. However, all societies were banned in Finland by declaration of the emperor Alexander I in 1822. Later, associations could be founded with the permission of the Senate.[9] The first Act on the freedom of association was based on a manifesto by the Russian Emperor in 1906. The constitution-level Act of Freedom of Speech, Assembly and Association was written by Finnish constitutional law scholars and was based on international examples, especially the 1831 Constitution of Belgium.[10] However, the effects of this constitution-level law were minimal because of Russification, which aimed to end the autonomous status of Finland. One part of that goal was suppressing associations and other societies.[11] Therefore, the Emperor did not sign the proposals into law, and the matter remained unregulated.[12]

Finland gained independence in 1917, and freedom of association was part of Article 10 of the Constitutional Act of 1919. In 1918, there was a civil war in Finland; as a result, all left-wing organisations and all communist activities were banned from 1918 to 1945.[13] According to amendments (231/1934 and 380/1934) of the old Association Law (1/1919), freedom of association applied only to Finnish citizens. The association activities of foreigners could be restricted without constitutional issues. If more than a third of an association's members were foreigners, the association had to apply for a founding permit from the government.[14]

[7] Finland was part of Sweden from circa 1200 to 1809. Finland was not recognised as an area or region but was eastern Sweden. Sweden lost the territory of Finland to Russia in 1809.
[8] Finland was an autonomous part of Russia from 1809 to 1917. Finland had its own Senate, later Parliament, and many state symbols, but the Russian Emperor was the sovereign ruler of Finland.
[9] KJ Ståhberg, *Sisäasianhallinto* (Helsinki: Otava, 1931) 160.
[10] VP Viljanen, *Kansalaisten yleiset oikeudet* (Helsinki: Lakimiesliiton kustannus, 1988) 153; M Muukkonen, 'Freedom of association in Finland' (2012) 14(1-2) International Journal of Not-for-Profit Law 64-67.
[11] Ståhlberg (n 9) 27.
[12] Halila (n 6) 122-123.
[13] After the *Mäntsälä* Rebellion in 1932 as well, some right-wing organizations were banned due to the failed coup. Between the world wars, a total of 2,267 organizations were banned. After the Second World War, 2,548 organizations were banned: H Halila and L Tarasti, *Yhdistysoikeus* (Helsinki: Alma Talent, 2017) 465.
[14] Saraviita (n 2). The restrictions on foreigners were removed in the reforms of 1989.

After World War II, left-wing organisations were allowed, though the Soviet Union required the banning of right-wing and paramilitary organisations in Finland. Until the 1990s, freedom of association prevailed in Finland, but certain associations could be banned, and basic rights were not taken seriously. The Constitution Act, enacted in 1919, was completely reformed in 2000. The second chapter of the Finnish Constitution Act covers fundamental rights. This chapter was partially modified in 1995, after Finland joined the European Convention on Human Rights in 1990.[15]

Regarding international agreements, an important feature in Finland is the implementation of EU law. The Finnish government does not have the power to decide on Finnish positions alone. EU legislative proposals are scrutinised by the Grand Committee of the Finnish Parliament. The government is required to communicate to the Grand Committee all EU proposals that fall within the competence of Parliament. The Grand Committee usually deliberates on EU matters on the basis of statements provided by the sector committees of Parliament, especially the Constitutional Law Committee. In addition, the incorporation of international agreements is mixed. In principle, a dualistic approach is followed, but blanket law monistically incorporates some agreements. In practice, the approach chosen is irrelevant.

The Constitutional Law Committee has a central position in Finnish constitutional law. The Committee reviews the constitutionality of government legislative proposals.[16] If there is doubt regarding consistency with the Constitution in the passing of an Act in Parliament, the Constitutional Law Committee must be consulted. The members of the Constitutional Law Committee traditionally see themselves as legal decision-makers, not politicians.[17] It is very rare for the Committee to vote, and almost all statements are agreed upon unanimously. The secretariat of the Committee is composed of experts in constitutional law and the drafting of legislation. The Committee hears experts in constitutional law and other areas, and these expert statements have significant influence. After all, constitutional issues are not always addressed in Parliament, and a statement by the Constitutional Law Committee is not available in certain cases.

[15] For effects on freedom of association, see M Muukkonen, *Yhdistymisvapaus ja yhdistysoikeuden järjestelmä* (Edilex, 2014).
[16] J Husa, 'Locking in Constitutionality Control in Finland' (2020) 16(2) European Constitutional Law Review 1-26.
[17] J Husa, 'Constitutional Mentality' in P Letto-Vanamo and others (eds), *Nordic Law in European Context* (Cham: Springer, 2019) 41-60.

Parliament is not legally obliged to follow the statements of the Committee. However, the influence of statements is significant in Finnish constitutional law and human rights doctrines. In addition, the relationship between academic research and the Constitutional Law Committee is reciprocal. Experts on constitutional law influence the practices and hearings of the Committee, and they interpret the statements in their academic work. The Committee itself tends to observe its previous statements.[18]

The courts and administration must give primacy to the Constitution due to the monopolistic position of the Committee. Article 106 of the Constitution directs courts to give precedence to the provisions of the Constitution if they are in evident conflict with the provisions of ordinary laws in some particular case.[19] The proposals that have been brought to the Committee and passed review are constitutional, and they cannot be in evident conflict. Still, courts may not strike down Acts or give pronouncements on their constitutionality. However, the statements of the Committee are not legally binding on courts and administrative authorities. Any decision granting primacy to the Constitution does not affect the validity of an Act and, therefore, it should be repealed by Parliament. The Finnish court system has two branches. General courts deal with criminal cases and, for example, demands for the dissolution of associations. Administrative courts deal with administrative matters and, for example, issues related to the registration of associations.

The 1995 reform of the system of fundamental rights also changed the general principles governing fundamental rights. The reform made it easier for private individuals to invoke their fundamental rights.[20] The significance of fundamental rights in courts and administration and in other applications of law has increased. The reform expanded the scope for the application of fundamental rights. Before the reform of 1995, the focus was on how laws are enacted, i.e., as a normal law or as an exceptive law. Compared to other Nordic Countries, there have been cases against Finland in the European Court of Human Rights (ECtHR). The issue until the 2010s was that Finnish courts did not apply ECtHR case law and failed in balancing freedom

[18] I Koivisto, 'Experts and Constitutionality Control in Finland: a Crisis of Cognitive Authority?' (2017) 40(2) Retfaerd 22.
[19] VP Hautamäki, 'Novel Rules in the Finnish Constitution – the Question of Applicability' (2007) 52 Scandinavian Studies in Law 133-154.
[20] J Lavapuro, 'Right-Based Constitutionalism in Finland and the Development of Pluralist Constitutional Review' (2011) 9(2) International Journal of Constitutional Law 505.

of speech and competing rights, especially privacy. Legislative amendments and new ways to justify argumentation have resolved this problem.[21] There are no similar cases regarding freedom of association. However, it should be noted that in connection with these cases, courts have changed reasoning and weighting in relation to all fundamental rights.

Since the reform, the focus has been on the restriction of fundamental rights. The Committee has created a test for the restriction of such rights. The test consists of seven elements: 1) the restriction must be based on an Act of Parliament; 2) the restriction must be precise and defined in sufficient detail; 3) the grounds for the restriction must be legitimate in the context of the system of fundamental rights: the restriction must be necessary for the realisation of an important societal interest; 4) a restriction going to the core of a fundamental right cannot be enacted by a regular Act; 5) the restriction must adhere to the principle of proportionality; 6) the right to justice must be arranged; and 7) the restriction must comply with the international human rights obligations binding Finland. The test for a restriction is, practically, the most applied doctrine in Finnish fundamental rights doctrine.[22]

There is no such doctrine as the abuse of rights in Finland. In theory, all fundamental and human rights are fully protected until the Committee excludes a specific function outside constitutional protection. In comparative constitutional law, this approach is described as the theory of external restrictions.[23] Basically, all associations are protected by the Constitution, but the government and Parliament (with the blessing of the Constitutional Law Committee) have the competence to enact laws that restrict freedom of association. There is no doctrine of concurrence (*konkurrenz*) of fundamental rights or human rights. Therefore, for example, if a certain activity is protected under freedom of speech and freedom of association, it is not clear how public officials or courts would determine the weight of fundamental rights. [24]

In addition, as a final constitutional observation, Article 124 of the Constitution states that a public administrative task may be delegated to those other than public authorities only by an

[21] R Neuvonen, J Viljanen and M Hoikka, 'Finland' in M Susi and others (eds), *Human Rights Law and Regulating Freedom of Expression in New Media. Lessons from Nordic Approaches* (New York: Routledge) 59-77.
[22] VP Viljanen, *Perusoikeuksien rajoitusedellytykset* (Vantaa: WSLT, 2001).
[23] S Gardbaum, 'The Structure and Scope of Constitutional Rights' in T Ginsburg and R Dixon (eds), *Comparative Constitutional Law* (Cheltenham: Edward Elgar, 2014) 387-405.
[24] R Neuvonen and P Rautiainen, 'Perusoikeuskonkurrenssi Suomen perusoikeusjärjestelmässä' (2013) 6 Lakimies 1011-1031.

Act. However, a task involving the significant exercise of public powers can only be delegated to public authorities. The Constitutional Law Committee reviews the significance of proposed delegation.

III. Regulation of Associations

(i) *System for the Association Act*

In Finland, an association is defined as an organisation which has at least three members, which is non-profit, and whose activity is intended as permanent. The main divide is between an unregistered association and a registered one. An unregistered association is not a legal entity and has no legal capacity. Therefore, individuals signing contracts will be personally liable for contractual obligations. However, since 2020, unregistered associations can carry out limited fundraising activities. Associations that require the obedience of members and are deemed to be, in full or in part, militarily organised, are prohibited. An association whose activities include hunting or other use of firearms must seek permission from the regional state administrative agency.

Members of an association can be natural persons, companies, foundations, other associations, public law entities, or other legal entities. Associations can also form an entity called a union, where the main association has other associations as members.[25] In addition, unions can be members of unions (associations).

To have the status of legal entity and legal capacity, an association needs to be registered in the Finnish Register of Associations administered by the Finnish Patent and Registration Office (PRH). The PRH will check that the rules meet with the requirements set by the Finnish Associations Act and that the provisions are not obviously illegal. The Associations Act has separate provisions on the status of a minority of members, equality, and the status of third parties. Associations are also bound by equality and gender equality legislation.

After registration, any possible conflict of interpretation about association rules will be solved, ultimately, in the District Court. A registered association is a legal entity and acts as a single entity. A registered association can use the abbreviation “RY”, which means (in Finnish) registered association (*rekisteröity yhdistys*). The executive committee of an association is

[25] Halila (n 6) 27.

responsible for the legality of the association's activities, compliance with proper behaviour, and other activities.

The registration requires at least three members over the age of 15 years. The registered association's chairperson and vice chairperson must be over 18 years of age and resident in Finland. Resident status requires a Finnish address and a residence permit. At the time of registration, the chairperson must not have debt proceedings pending as a debtor. The chairperson must also be known to have a good character and have a good reputation. Two kinds of persons entitled to sign are filed with the Register of Associations: persons authorised by the rules to sign and persons appointed to sign for the association.

The payment of a membership fee must be based on the association's rules. Registering the executive committee of an association is voluntary. The executive committee must keep a list of the members of the association. For each member, the full name and domicile shall be entered in the list.

The PRH may order an association to be deregistered if at least 20 years have passed since the filing of the latest notice to the Register of Associations and if there is otherwise no reason to assume that the association's activities will continue. The court may, on the basis of an action brought by a prosecutor, the Finnish National Police Board, or a member of the association, declare the association terminated if the association acts substantially against law or good practice, acts substantially against the purpose defined for it in its rules, or acts in violation of the permission referred to the Association Act. If the public interest does not require termination of the association, the association may be cautioned instead of being terminated.

(ii) *Political Parties*

According to the Act on Political Parties (10/1969), a political party is a registered association whose main object is to influence state matters.[26] In addition to the Register of Associations, a party must be registered in the Party Register maintained by the Ministry of Justice.[27] Registration requires 5,000 supporter cards, whose signatories must be eligible to vote in

[26] L Tarasti and A Jääskeläinen, *Vaali- ja puoluelainsäädäntö* (Helsinki: Edita, 2022).
[27] L Tarasti, 'Puoluelain käsitteistä' (2023) 1 Lakimies 116-130.

parliamentary elections. One person can support the registration of several parties. Registration is free of charge.

Only a party entered into the Party Register may use the abbreviation "RP" *(rekisteröity puolue, registrerat parti*, in Swedish, or registered party) with its name, and it may no longer use the abbreviation "RY" (registered association, *rekisteröity yhdistys*). A precondition of the registration of a party is that the association has drafted a party programme which sets the goals and principles followed in its national activities. The final objective of these activities must be mentioned in the rules and regulations.

The association's rules and regulations shall guarantee that the party follows, in its decision-making and other activities, democratic principles. If the registered party amends its rules and regulations, the Ministry of Justice has to be notified of the amendment. The amendment must be registered in the Party Register before entering into force. If a party fails to gain a parliamentary seat in two consecutive parliamentary elections, or if it ceases to be a registered association, it is deleted from the Party Register. A party may also apply for deletion.

In September 2023, the Finnish Ministry of Justice applied to the Supreme Administrative Court to cancel the *Sinimusta* party's registration decision.[28] The party is very nationalistic and openly fascist. The party's first registration application was rejected. The second application was accepted because changes had been made to the party's program. The party participated in the Spring 2023 parliamentary elections but did not receive any representatives.[29] According to the Ministry of Justice, the party's program and activities are still racist and fascist, so the approved application was based on false information. The ministry had been 'deliberately misled' during registration.

(iii) *Religious Associations*

In Finland, the Evangelical Lutheran Church is the state church. The Finnish Orthodox Church has a similar position. Other religious communities do not have the same influence on

[28] Also known as the "Blue and Black Party", these colours referred to the *Lapua* Movement (1929-1932), which was the Finnish nationalist and fascist political movement. The *Lapua* Movement was banned after the *Mäntsälä* Rebellion (1932) and its successor, *Isänmaallinen Kansanliike* (Patriotic People's Movement, IKL), used the same colours. IKL was banned after the Succession War (1941-1944) on the insistence of the Soviet Union.

[29] Just 2307 votes nationwide, which is 0.07% of the electorate.

legislation pertaining to them or the same official status. In practice, other religious communities are associations that can register as communities within the meaning of the Act on the Freedom of Religion (453/2003) and thus receive some benefits.

Religious communities are associations in many ways, but in addition to Association Law, their activities are regulated by the Act on the Freedom of Religion (453/2003). A religious community can register in the Register of Religious Communities kept by the National Board of Patents and Registration. Before registration, the Finnish Patent and Registration Office shall request an opinion from the Expert Board concerning a notification of religious establishment and notification of the community's purpose and forms of activity.

A religious community can be established by 20 persons of the age 18 years or over. The community must have a Charter of Foundation to which the by-laws of the community shall be appended. The by-laws may contain provisions on the division of the religious community into parishes or other local communities. A local community may be entered in the Register under the entry on the relevant religious community.

The Ministry of Education appoints the Expert Board for a term of four years. The Board acts under the supervision of the Ministry and provides the Patent and Registration Office opinion on whether the purpose and forms of activity of a religious community comply with the Act on the Freedom of Religion. The Board may consult external experts. In Finland, for example, Scientologists, Wiccans, or supporters of Rastafarianism have not been able to register as religious communities.[30] The role of the Expert Board could be a problem with regard to the freedom of religion guaranteed in the European Convention on Human Rights, which is interpreted such that the State has no competence to define religion.[31] There is no debate in Finland as to whether there is some concurrence with freedom of religion and freedom of association in the context of religious communities.

A registered religious community can apply for subsidies from the State, and it is exempt from certain real estate taxes. Members can also, to some extent, demand religious education in

[30] J Heikkonen, 'Yhdenvertaisen uskonnon- ja omantunnonvapauden kipupisteitä Suomessa' (2012) 41(4) Oikeus 554–563.
[31] Especially: *Metropolitan Church of Bessarabia v Moldova* App no 45701/1999 (ECHR 27 March 2003).

schools. Some communities may have rights related to burials and ordinations.[32] A court may, upon action brought by the Ministry of Education, a public prosecutor, or a member of the religious community, declare the community dissolved if the community acts materially against the law or its purpose laid down in the community by-laws. If the public interest does not require that the community be dissolved, a warning may be issued to the community instead of dissolution.

IV. Compulsory Membership in Student Unions

A student union is a student-run association. In Finland, all levels of the education system have student unions. Freedom of association includes the negative right not to join an association. Therefore, individuals should always have the possibility to join or not to join an association. The Constitutional Law Committee has stated that basic principles of freedom of association can be deviated from only for an acceptable reason.[33] One such reason is the association's public task.[34]

A student union is an autonomous body. Universities have extensive autonomy based on Article 123 of the Constitution. This autonomy has been extended to apply also to student unions. According to Section 46 of the Universities Act (558/2009), membership in the student union is mandatory for all university students at the bachelor or masters level.[35] Students cannot resign or be expelled from unions during their studies. Student union membership is voluntary for post-graduate students and other groups if the union allows voluntary membership.

The first university in Finland was established in Turku 1640 when Finland was part of Sweden. In the seventeenth century in Sweden and central Europe, students were controlled by dividing them into groups according to their place of residence, creating student nations (*osakunta* in Finnish; they still have autonomous status in the University of Helsinki). In Finland, students were supervised and disciplined by universities and not by the Catholic Church like in Europe. The university moved from Turku to Helsinki in 1829 when Helsinki became the capital of the Grand Duchy of Finland. Since 1853, universities have been divided

[32] Violation of the sanctity of religion is provided for in Criminal Code (39/1889) Chapter 17, Section 10. The act is criminalised in practice only when it targets a registered religious community, which means that some religions are excluded from the protection of the Criminal Code: K Nuotio, 'Jumalanpilkasta viharikoksiin. Uskonnon asema rikosoikeudessa arvioitava uudelleen' (2009) 1 Haaste 24.
[33] PeVL 11/2009 vp pp. 5–6.
[34] PeVL 3/1997 vp p. 3/II; also PeVL 39/2004 vp p. 2 and PeVL 74/2002 vp p. 4.
[35] See M Muukkonen, 'Ylioppilaskunnan pakkojäsenyys –onko sille enää perustetta?' (Edilex 2012).

into faculties. Student unions were formed and regulated as institutions in the 1880 statutes. Compulsory membership in student nations (*osakunta*) was transferred to the student unions (*ylioppilaskunta*).[36]

Individual laws regulated Finnish universities separately until 1993. Therefore, there was law on the University of Helsinki, law on the University of Turku and so on. In 1993, a uniform University Act was enacted in Finland. The law confirmed student unions' self-governance. Student unions are subject to the Administrative Procedure Act (434/2003) when they perform public administrative tasks, such as in participating in the activities of autonomous universities. The university monitors how membership fees are collected, and the rector certifies the rules. Compulsory membership has been debated in Finland for a long time. In 1970s, the obligation was questioned because compulsory student union membership conflicted with political freedom.[37] At that time, student unions were very political actors. Another basis for criticism was that the status of student unions was not fully based on the law, which was only changed in 1993.

Section 46 states that the student union participates in university tasks intended to prepare students for active citizenship. Therefore, unions have representatives in university administrative bodies. One of the key arguments for compulsory membership was health care. Student unions were responsible for participating in activities of the Finnish Student Health Services (in Finnish, *Ylioppilaiden terveydenhoitosäätiö* or YTHS). Students' health care fees were collected as part of the student union membership fees. Finland has a dual model of education in which universities are responsible for classic academic education, but there are also universities of applied sciences. When the system was established with the University of Applied Sciences Act, compulsory membership did not apply to the student unions of universities of applied sciences.[38] Student unions were established in universities of applied sciences to execute the same tasks as the student unions of universities.

According to a Constitutional Law Committee statement, compulsory membership in the student unions of universities of applied sciences was contrary to the freedom of association

[36] PeVL 3/1997 p. 3/II; also T Tarjanne, 'Ylioppilaskunnan jäsenyys' in T Tarjanne, *Lausuntoja* (Vammala: Suomalainen lakimiesyhdistys, 1943) 119-122.
[37] V Merikoski, *Valtiosääntötuomioistuimen tarpeellisuus* (Helsinki: Suomen Lakimiesliiton kustannus, 1973) 21-22.
[38] PeVL 74/2002 vp p. 4.

guaranteed by the Constitution.[39] The matter has not been mentioned in the programmes of governments formed after the statement (*Sipilä I* and *Marin I*). In the programme of the government which started in the Summer of 2023 (*Orpo I*), the status of university student unions will be clarified. However, the question is more about the desire of one governing party, The Finns, to do something about student unions, which have promoted very liberal politics and taken a stand on many social issues. It is not certain that the government will initiate legislative measures in the matter.

In addition, the Act on Health Care for Students in Higher Education (695/2019) extended the YTHS system to all higher education students. The responsibility for organising health care services was transferred to the Social Insurance Institution (in Finnish, *Kansaneläkelaitos* or KELA). As a result of the changes, the duties and status of the student unions of the two types of higher education institutions became almost identical. The Constitutional Law Committee has required the government to find a basis for organising the status of university student unions in a sustainable way in terms of freedom of association.[40] In 2021, the Supreme Administrative Court issued a decision on compulsory membership.[41] The court referred to the practice of the Constitutional Law Committee, the European Convention on Human Rights, and the prevailing circumstances.[42] According to the court, compulsory membership of university student unions was not in evident conflict with the Constitution as Article 106 of the Constitutions requires. Accordingly, the court dismissed the appeal.

V. Recent Developments

Due to the monopolistic position of the Constitutional Law Committee in interpreting the Constitution, the courts and administration must give primacy to the Constitution. However, Article 106 of the Constitution directs courts to give precedence to the provisions of the Constitution if they are in evident conflict with the provisions of ordinary laws in case. The development of freedom of association has taken place through a few legal cases.

[39] PeVL 24/2014 vp.
[40] PeVL 33/2018 vp p. 6.
[41] ECLI:FI:KHO:2021:140.
[42] See opposing arguments in M Muukkonen, 'Finnish Student Unions as Associations in the Context of ECHR Article 11' (2021) 41(2) Nordic Journal of Human Rights 234-248; M Muukkonen, 'Ylioppilaskunnan pakkojäsenyys – onko sille enää perustetta?' (Edilex, 2021).

In Finland, the requirement for the proper behaviour of associations has been interpreted harshly. The requirement has significantly limited freedom of association. A good example is the case where The National Board of Patents and Registration of Finland has rejected the Cannabis Association's notice of registration. In their opinion, the rules of the association are against good morals, as the purpose of the association is 'against the opinions of justice and morality in our society'. The Supreme Administrative Court (KKO) pointed out in its yearbook ruling that, according to the ECtHR, denying the association the right to register is a serious restriction of its freedom of association.[43] Registration can only be prevented through significant social grounds. The Supreme Administrative Court emphasises that influencing policies on the use of intoxicants is not against democratic or constitutional principles. The decision on legalising cannabis would remain the responsibility of Parliament. Earlier, in 1994, the Supreme Administrative Court stated that discussion about illegal intoxicants was allowed.[44] However, according to the Court, then the association was trying to promote the use of illegal substances and, thus, the activity was contrary to the proper behaviour requirement of the Association Act.

There is no prohibition of abuse of rights in the Finnish constitutional law doctrine. In 2020, Finland's Supreme Court banned a neo-Nazi group (the Nordic Resistance Movement, *Pohjoismainen vastarintaliike* or PVL) because its activities were significantly contrary to law.[45] The Supreme Court ruled that the group's activities did not enjoy freedom of expression or freedom of association, as the activities by their nature entailed an abuse of these rights. The National Police Board had originally asked for the organisation to be banned. The Turku Appeals Court had ruled in 2018 that the group should be shut down for the general good of society because of its violent acts and militia-like structure.

In a similar case from June 2022, the District Court of Päijät-Häme ordered a motorcycle club to cease all operations. The Court was unanimous in its ruling that the motorcycle club had acted materially in violation of the law and commonly accepted principles of morality. In August, the Eastern Finland Court of Appeal decided not to grant the case leave for continued consideration. The Supreme Court did not grant leave to appeal in the case of the application for leave to appeal by Cannonball MC, Squad 32 and the person who represented Cannonball

[43] KKO 2014:1.
[44] KHO 1994-A-8.
[45] ECLI:FI:KKO:2020:68.

MC, which concerned the liquidation of the unregistered association Cannonball MC and its sub-organisation Squad 32.