



UN Committee Against Torture

IOK/1497/2024

22 March 2024

by e-mail to: ohchr-cat@un.org

Reference 79th Session - CAT

Issue Finland – 8th report – NHRI submission for the Session

This document contains observations by the Finnish Human Rights Centre (HRC¹, NHRI) to the Committee against Torture for the consideration of State Report of Finland during Committee's 79th session on 2 and 3 May 2024.

The submission highlights some issues that the Finnish NHRI has worked on and topics that raise concern. It is not an exhaustive list. Reference is made to the submission made for the List of Issues Prior to Reporting, submitted to the Committee in 2019.

Should you have any further questions or need for additional information, do not hesitate to contact us at leena.leikas@humanrightscentre.fi.

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¹ The Human Rights Centre represents the Finnish National Human Rights Institution (NHRI) in international NHRI cooperation and other international and European cooperation in human rights.

The NHRI comprises the Human Rights Centre, its pluralistic 39-member Human Rights Delegation, and the Parliamentary Ombudsman. The institution complies with the UN Paris Principles and the Global Alliance of NHRIs (GANHRI) has accredited it with A-status in 2014 and 2019.

UN CAT- Committee (79th session)

Submission by the Finnish Human Rights Centre/National Human Rights Institution for the Consideration of the State Report of Finland

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Specific Information on the Implementation of Articles 1-16 of the Convention

Violence against women and domestic violence

1. Reference is made to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the **Istanbul Convention**, which entered into force in Finland in 2015. The first thematic monitoring cycle is currently ongoing² and the GREVIO expert group who recently visited Finland, will publish its views and recommendations on the implementation in Finland later in 2024.

Funding of Services for victims of violence against women

2. Since January 2023 social and health care services as well as rescue services fall under the responsibility of wellbeing services counties, instead of municipalities. For the year 2023, the government reserved about 22.5 billion euros for wellbeing services counties, and the proposal for 2024 is about 24.6 billion euros. The wellbeing service counties do not levy taxes and rely on funding from the state.
3. The wellbeing services counties find themselves in serious financial difficulties and they are forced to cover their accumulated deficit of 1.2 billion euros in 2023 by the end of 2026. This will lead to cuts on all levels of services, including personnel.
4. As a result of the state budget proposal, as an example, many service points, service types and the availability of services and personnel are being cut considerably all throughout the country.
5. The full extent of violence against women is not recognised nor visible in Governmental decision-making. In the financial calculations of the wellbeing

² <https://bit.ly/2Sa6HPz>

service counties, work against violence is not specified nor funded as such. This despite the fact that according to a study by the National Institute of Health and Welfare the additional costs of physical domestic violence against women alone in health care is 150 million euros per year (THL 2022). In addition, victims use social services and legal services more often than the average population. This fact remains outside the budgetary planning.

6. SERI support centres, who assist victims of sexual violence, function with the wellbeing services counties' funding. It is unlikely that the SERI services will remain outside the austerity measures. The need for support is growing annually and as it is, the services are not sufficient. The centres operate within hospitals and while hospitals are facing demands for saving money and since the SERI funding is not earmarked for that specific purpose, it will be rather easy to diminish the funding.
7. A solution for securing funding for operations could be direct funding from state funds, as is done with the funding for shelters. However, there are no guarantees the proposed general cuts in the public funding will not equally affect state funds.
8. Currently all funding for prevention, assistance and services is potentially facing cuts and access to rights in accordance with Istanbul Convention, and other Conventions, is in danger.
9. Funding for the NGOs providing a significant part of the services is provided on a project-by-project or annual basis. This is not sustainable. NGOs are responsible especially for low-threshold services, for victims of violence, for training and preventive actions, among others.
10. This funding model provides little time for organisations for improving the quality of their services to meet the needs of the victims, and it also creates uncertainty as funding can be cut off at any time, potentially resulting in the cessation of services and lay-offs for personnel. This is a concerning issue that requires attention.
11. Currently, due to planned and already executed Governmental cuts in funding and changes in general funding structures, funding for the NGOs is at risk. This will mean uncertain times for the services provided and at least harder access to services and assistance for the victims of violence.

Investigation of sexual crimes and intimate partner violence

12. In [November 2022 Deputy Chancellor of Justice](#) found, after having examined on his own initiative 77 pending or completed preliminary investigations of sexual crimes and intimate partner violence in the police, that numerous preliminary investigations of domestic violence and sexual crimes by the police departments of Eastern Uusimaa and Ostrobothnia had been unnecessarily delayed.

13. The right to prosecution had expired in several cases, the active investigation had been delayed or no investigative measures had been taken at all. The examination led to sanctions or other actions in 14 cases. This examination covered all 11 police departments, out of which a few had severe problems in these cases.
14. Many of the problems were allegedly caused by lack of resources. However, the Deputy Chancellor of Justice found that in many cases, the resources were poorly organised and used, no monitoring of the progress had taken place or no monitoring system existed to begin with.
15. The Deputy Chancellor of Justice emphasised that the preliminary investigation of sexual crimes and crimes involving intimate partner violence must be completed without delay in terms of the credibility of the criminal justice system, to implement criminal responsibility effectively and to respect the rights of victims. This is not always the case. This also creates inequality between victims residing in different geographical locations.
16. It is clear that if the cases of domestic violence are not recognised by the police and noted down in the registers as such, no prosecution will happen and the perpetrators will not be punished. Equally, if recurring cases are not recognised, they will often end up in mediation as singular cases and never see prosecution or punishment. The police, therefore, is in a critical position to ensure the rights of the victims.
17. As part of the problems in investigating cases of domestic violence is the insufficient ability to recognise domestic violence, the Human Rights Centre reiterates its earlier recommendation that Government should increase for all professional fields human-rights-based training on how to recognise domestic violence and violence against women and how to help the victims. This is especially important when children or women with disabilities or older women are concerned and with regard to police officers, prosecutors and judges.

Accessibility of shelters

18. In 2022–2023 the Deputy Parliamentary Ombudsman examined a complaint on the insufficient accessibility of shelters for victims of violence. The complaint concerned wheelchair accessibility and monitoring of the requirements for accessibility in connection of funding, among other issues.
19. The Ombudsman received from the Finnish Institute for Health and Welfare (THL) detailed information on the guidance, development and evaluation of the shelters on national level, developments in accessibility, fulfilment of the requirements and rights of the persons with disabilities in general, actions taken to improve the implementation of the rights and information on the type of guidance or actions undertaken when problems in accessibility or equality are identified.

20. In its [decision in July 2023](#), the Ombudsman found that immediate improvement of the general accessibility situation of shelters and shelter services is necessary to ensure equal treatment of persons with disabilities and to safeguard the rights provided for in the law. On the basis of the Equality Act, the provider of shelter services must make the appropriate and reasonable adjustments necessary in individual cases, so that disabled persons can use the shelter services on an equal basis with others. In 2023 all shelters were accessible, according to follow-up information received by the Ombudsman in January 2024.

Mediation in cases of domestic violence

21. Mediation remains a faster and often less expensive option for victims of violence against women. This is concerning as it could prompt them to choose mediation over judicial remedies in pursuit of a swift resolution. It is crucial to note that selecting mediation merely because it is more economical and expeditious should be avoided. The most common result of a mediation is an apology. Also, the relationship between the victim and the perpetrator is not equal in mediation.

22. Both CEDAW-committee and GREVIO have recommended Finland to give priority to prosecution over the use of mediation in cases of intimate partner violence and domestic violence and ensure that referral to mediation does not result in the discontinuation of criminal investigation and prosecution in these cases.

23. The police initiates mediation process in close to 90% of domestic violence cases. A study finds that in most cases referred to mediation, the police had not completed its preliminary investigation before making the referral. Mediation is thus being used to lighten the investigative burden of the police. Therefore, it might be worth considering whether police should have the capacity to propose a mediation process to victims.

24. In 2005 the Legal Affairs Committee of the Parliament, while considering the government's proposal for a law on the mediation of criminal cases, stated that mediation should not be used in cases of repetitive or continuous violence. The National Police Board's guidelines establish that the Police should not direct cases of repetitive or continuous violence to mediation. However, the practice seems to continue in Finland.

25. As part of the problems in investigating cases of domestic violence is the insufficient ability to recognize the various forms or repetitive nature of domestic violence.

26. The Government should increase for all age groups and professional fields human-rights-based training on how to recognise domestic violence and violence against women and how to help the victims. This is especially important when children or women with disabilities or older women are concerned and with regard to police officers, prosecutors and judges.

Revoking of residence permits

27. On 21 November 2023, the [Supreme Administrative Court](#) (KHO) overturned the decision to revoke the residence permit of a foreigner who no longer lived with her children together with her spouse who had received asylum originally (case of family reunification). The Finnish Immigration Service (MIGRI) cancelled the residence permits of family members when the family no longer lived at the same address.
28. The holder of the residence permit had stated that the reason for ending the family bond was the violence directed at her by her spouse. The asylum seeker had been imprisoned in Finland in early 2020. When he was released from prison in May 2020, the rest of the family no longer lived at the same address as him. The rest of the family had, among other things, lived in a shelter, and they had been included in the assistance system for victims of human trafficking.
29. The Supreme Administrative Court assessed that the conditions for granting a permit in § 54 subsection 7 of the Aliens Act (*a residence permit can be granted to a foreigner after the end of the family bond, if the person's situation is particularly difficult due to violence directed at him by his spouse and denying the permit would be unreasonable*) were thus functionally connected to the consideration of revoking the permit, that the provision had to be taken into account when cancelling a permit on the authority's initiative.
30. Under the circumstances of the case, the Supreme Administrative Court considered that the Immigration Office had not had to cancel the residence permit at the time of decision-making. The decisions of the Immigration Office and the Administrative Court were overturned. This, however, did not mean that such permits in the future would be automatically renewed, as this remains at the discretion of the authorities.

Access to justice and right to self-determination of persons with disabilities

Access to justice by persons with disabilities

31. In the Act on services for persons with intellectual disabilities, there are quite comprehensive procedural provisions for situations where the rights of a person with a disability have been restricted. In the Act on the Status and Rights of Social Welfare Clients, there are provisions regarding the client's right to access information.
32. There is, however, no information available on the level of knowledge among persons with disabilities about their rights. Several observations from different regions in Finland by the National Supervisory Authority for Welfare and Health lead to assume that there are shortcomings in housing units. Some of these observations are based on complaints, some on the Authority's supervision activities:

- Autonomy is still not always respected. Restriction is not always recognised as such in the supported living units for people with intellectual disabilities.
- There are shortcomings in supporting the autonomy of people with intellectual disabilities, and restrictive measures have been carried out unlawfully.
- During inspections of certain providers of housing services for people with disabilities and mental health rehabilitation, questions arose regarding the reliability of the information provided by the service providers to the supervisory authority.
- The management and organisation of operations have proven to be inadequate. Deficiencies in operations manifested as inappropriate treatment of clients and violations of autonomy.

Progress of legislation concerning self-determination rights

33. The current legislative work on the right to self-determination for social and health care service users was initiated in June 2021. In the summer of 2023, the government decided, in line with Prime Minister Petteri Orpo's government program, to allocate permanent funding for the advancement of self-determination rights.
34. The government announced its intention to continue the legislation work regarding clients' and patient's right to self-determination, aiming to support and strengthen self-determination while ensuring that people's fundamental rights are upheld, with consideration for the safety and individual needs of clients in all situations. Legislation is being developed in order of importance and urgency.
35. As of March 2024, the decision-making regarding the scope of the self-determination project for the government term 2023-2027 is still pending at the Ministry of Social Affairs and Health.
36. The government proposal to amend the Mental Health Act and the Administrative Court Act was submitted to the Parliament on September 13, 2023. The primary purpose of the amendment was to implement the decision of the European Court of Human Rights in the case of X v. Finland, which had been significantly delayed in its implementation.
37. The key objective of the amendment was to establish legal safeguards when involuntary psychiatric medication is administered as part of involuntary psychiatric treatment. According to the proposal, the patient has the right to receive an administrative decision regarding such administration of medicine if the patient opposes the medication, if their wishes are unclear, or if the patient requests a decision.
38. The Parliament approved the legislative proposals on December 11, 2023, and the law was enacted on January 12, 2024. The changes will come into effect on April 1, 2024.

39. At the beginning of 2024, regulations regarding self-determination and its restrictions are still entirely lacking in care services for older persons and persons with memory-related diseases, as well as in the entire somatic healthcare sector. The legal situation is unsustainable, especially from the perspective of the basic and human rights and legal protection of older service users. It also poses problems for service personnel who must navigate situations concerning clients' self-determination in a sensitive area of basic and human rights mostly without legal support.

Draft act to combat instrumentalised migration, closure of borders, refusal to accept application for international protection and pushbacks

Procedure for hearing on the draft act

40. Late afternoon on 15 March 2024, the Ministry of the Interior sent out for comments [a draft act](#) on temporary measures to combat instrumentalised migration. The draft implements Prime Minister Orpo's government program with regard to preparing for hybrid threats. A working group assigned to prepare the draft was dismantled as it was considered by the ministry to be too slow and too complicated, and the ministry has finalised the draft internally.

41. The deadline for submitting comments is 25 March 2024. This leaves less than 7 working days to prepare for comments. This, as such, breaks all the guidelines of proper law drafting and seriously undermines the processes for hearing interested parties and assessing the impacts of the proposed act.

42. The proposed act is scheduled to enter into force as soon as possible. The act would be temporary and would be valid for one year after its entry into force.

Contents of the draft act

43. The act would lay down provisions on the conditions under which a government plenary session could decide to restrict the reception of applications for international protection on Finland's national border and in its immediate vicinity. The decision would be made following prior cooperation with the President of the Republic.

44. Effectively this is meant against potential use of foreign citizens as a part of a hybrid operation on the 1300 km long eastern border of Finland.

45. According to the draft, the act could only be applied in situations where it is essential to combat efforts to exert influence on Finland in a way that seriously endangers the nation's sovereignty or national security. The decision could be made proactively and for a maximum of one month at a time, thus being renewable. The act could be activated for individual areas or, for example, the entire eastern border, which has been closed for any person traffic already for months.

46. To note, the act would allow the border crossing points on the eastern border to remain open to other traffic, as it would restrict only the reception of applications for international protection in the event of instrumentalised migration. Currently all traffic has been suspended. The change would be a positive development for persons wishing to visit family and friends cross the border.
47. However, after “activating” the restrictions, applications for international protection would not be accepted, apart from certain exceptions, and those seeking to enter the country would be prevented from doing so.
48. Persons seeking international protection would be removed from the country (essentially being prevented from entering the country) and directed to a place where applications for international protection are being received. This could be, for example, the international airport in Helsinki.

Impacts on human rights

49. In several points in the government's draft, it is stated that the proposed act is in conflict or has issues with Finland's international human rights obligations and EU legislation, as well as being problematic from the point of view of the constitution.
50. The law is considered to interfere with the possibility of submitting an asylum application (p. 70), to limit the right to legal protection and remedies (p. 70 and 72) and to contain the risk that the core principle of non-refoulement and the related rights to life, personal freedom and integrity are not protected in all situations (p. 75).
51. In the draft (p. 85), it is even stated directly that the law would not fully ensure the implementation of non-refoulement in all respects. In addition, the draft states that the proposed act could lead e.g. to violation of collective expulsions according to the Protocol No. 4 the European Convention on Human Rights (p.76). The application of the act is also considered to be "somewhat" problematic from the perspective of non-discrimination.
52. The proposed act has significant impacts on the implementation of fundamental and human rights and the rule of law. It presents derogations to the constitution as well as to Finland's international human rights obligations.
53. Thus, it is not possible to adopt the act in ordinary legislative procedure. It is therefore suggested by the Government that it be approved as an exceptive act in an expedited constitutional legislative procedure (PL § 73 subsection 2), requiring first a 5/6 majority and then a 2/3 majority in the parliament.
54. Even if the conditions for enacting an exceptive law were met, such a law cannot deviate from international agreements binding on Finland. This, however, would seem to be the outcome of this act.

Exceptions to the ban on accepting applications

55. The government's draft (p. 59) states that "[i]f the authority has information or reasonable suspicion that the person seeking to enter the country is not related to the phenomenon of instrumentalised immigration, his/her entry would be processed in accordance with the Aliens Act and the Schengen Borders Code."
56. This would mean that the application of a person applying for international protection, which is not considered to be related to instrumentalised entry, would be accepted.
57. However, the government's draft does not deal in more detail with how the difference would be made between people applying for international protection related to instrumentalised immigration and those not related to it.
58. The same challenges are associated with identifying those in a vulnerable position. In a situation where it has been decided to limit the reception of applications for international protection in a certain area, according to Section 5 of the proposed act, "[an] application for international protection will still be accepted if, according to a case-by-case assessment made by the competent authority, it is necessary for the protection of rights of a child, disabled person or other person in a particularly vulnerable position, or if the person has presented facts or there is indication on the basis of which the competent authority can assess with sufficient certainty that the person is in real danger of being subjected to death penalty, torture or other inhuman or degrading treatment or punishment."
59. In the government's draft (p. 87), it is stated that "The Finnish Border Guard should provide its personnel with instructions on the application of the section on the ways in which the application of the section aims to ensure that the individual official has sufficient opportunities to make the correct assessment."
60. In addition, on the same page, it is stated that "[in] the application of the act, both the guidelines issued by the competent authority at the organisational level and the measures of individual officials would aim to ensure compliance with non-refoulement through the application of the act."
61. In the regulation-specific justifications, it is stated that the identification of those in a vulnerable position would be done, for example, by evaluating physical characteristics, but also based on document screening and facts presented by the applicant (pp. 61–62). If circumstances permit, more detailed discussions could also be held with the aspirant.
62. Despite the above, it is questionable that the authorities would be able to make a case-by-case assessment of the personal characteristics or situation of the aspirant at the border in all situations.
63. This is also recognized in the government's draft (p. 85): "The proposed regulation therefore includes the risk that the authority will not identify all those

persons who are threatened with death penalty, torture or other treatment or punishment that violates human dignity. This can be considered to mean in practice that it is not possible to ascertain with complete certainty whether the regulation fully safeguards the implementation of the non-refoulement. This can be considered problematic considering that the authority's obligation is to protect fundamental and human rights. It is unclear to what extent the proposed assessment can provide sufficient certainty, for example, that a person is in real danger of death penalty."

64. The government's draft also takes into account the fact that identifying minors, sick or disabled persons, victims of human trafficking and victims of sexual violence or intimate partner violence, as well as a person belonging to an ethnic and religious minority, can be difficult without a more detailed investigation (p. 42).
65. In this context, it must also be noted that an assessment of vulnerability would not be conducted and entry would be prevented if the aspirants took advantage of violence or their large numbers in such a way that "[...] the lives or health of people or the control of the situation would be seriously endangered [...]" (p. 62)."

Legal guarantees and protection

66. No legal guarantees of any kind are presented to asylum seekers who are to be denied entry or right to seek for protection. According to the proposed legislation (pp. 85–86), in these situations the person could not have his/her case considered by the competent authority and there would not be possibility for appeal.

Other topics

67. Section 2 of the Sterilisation Law permits **the sterilisation of women with mental disabilities** who have limited legal capacity or who have been deprived of their legal capacity without their consent. This is a detrimental practice and contrary to the Istanbul Convention.
68. Finland has failed to strengthen **intersex children's** right to self-determination and prohibit cosmetic, nonmedical surgeries on young children's genitals even though it was a goal outlined in the governmental programme prior to 2024. The continued unnecessary surgeries violate fundamentally the rights of those children.
69. The **information gap** exists on violence against women and domestic violence with regard the Sámi and minorities. In Sweden a study was conducted recently on violence against Sámi women, where more than half of them had experienced violence in close relationship. There is no reason to think the

situation would be radically different in Finland. We just do not have the information available. The same applies to minority women.
