UN Committee on the Rights of the Child

electronically to crcreporting@childrightsconnect.org

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**Written statement from the Finnish Human Rights Centre/NHRI to the UN Committee on the Rights of the Child**

This statement is prepared by the Finnish Human Rights Centre/NHRI and is complimentary to the submission on the 30th of June 2022. The recommendations included in this statement are new, and not included in the previous recommendations.

This submission covers events up to September 2022.

This and the earlier submission can be publicly displayed on the Committee’s website.

Sirpa Rautio Rasmus Johnson

Director Junior Expert

# III. General principles (non-discrimination)

## Trans Act

1. The Government proposal on the reform of the Act on Legal Recognition of the Gender has been postponed several times. The proposal was handed over to the Parliament on the 22nd of September. It still contains, despite numerous contrary statements by state expert bodies and civil society, the requirement for the person requesting gender recognition to be at least 18 years old. Trans children remain excluded from the reform and are not granted the right to have their legal gender recognised according to their gender identity.

# VI. Basic Health and welfare

## Harmful practices

**Female genital mutilation (FGM)**

1. Based on a citizens' initiative in 2019 regarding the banning of FGM (over 61.000 signatures) the Parliament required the Government to issue the necessary legislative proposals on FGM to the Parliament during the current electoral term.
2. The Government’s proposal is delayed. The reform risks lapsing due to the end of electoral term.

**Non-medical circumcision of boys**

1. Non-medical circumcision of boys was brought up in connection with the preparation of legislation regarding FGM. The question was, however, met with some political opposition.
2. The Ministry of Social Affairs and Health has drawn up [guidelines](https://stm.fi/documents/1271139/1367411/MSAH-Guidelines-on-non-medical-circumcision.pdf/31861c45-2602-4a4f-9651-aa1211e0b0c6/MSAH-Guidelines-on-non-medical-circumcision.pdf) for the conditions of non-medical circumcision of boys. It is problematic that no legislation nor initiatives currently exists on the matter. The Supreme Court has considered over six years ago that legislation is necessary as individual’s right to physical integrity should not be interfered with without reasons prescribed by an Act according to section 7.3 of the Constitution of Finland.

**Intersex children**

1. Legislation regarding treatment of intersex children does not exist. The general health care legislation is not enough to secure the physical integrity and self-determination of intersex children.

## Mental health services

1. Mental health problems of children and youth have increased, especially during the Covid crisis. The availability of mental health services is low and waiting times are excessive. Especially worrying is the high risk of suicides amongst the young Sámi population, as in other Nordic countries, which is only very recently publicly discussed within the preparations for the Truth and Reconciliation Council.
2. Mental health was a worry for a vast majority of the sexual and gender minority (SGM) youth according to a recent school health survey. Moderate or difficult anxiety was almost three times more common among them, and approximately half had experienced depression symptoms for over two weeks vis-à-vis 1/4 of cishet youth. In addition, persons whose identities fall into various marginalised groups, such as SGM asylum seekers and refugees belonging to racial or ethnic minorities, are in especially vulnerable positions in Finnish society. 7–8 percent of youth who identify themselves as individuals of foreign-origin also consider themselves as belonging to SGM in Finland.
3. A citizens' initiative aiming to set a legal time limit (four weeks) for receiving psychotherapy gained the required 50.000 signatures and was sent to the Parliament approximately 3 years ago. It has been considered by the Government in conjunction with a reform regarding time limits for services in cases of non-urgent treatment. The reform is still under consideration, but the Governments proposal has dropped the therapy guarantee proposed in the citizens' initiative.
4. Currently psychotherapy studies are considered continuing education and therefore costs tens of thousands of euros for the student. At the same time there is a severe lack of psychotherapists in Finland. Based on another citizens’ initiative proposing steps to make psychotherapy studies state funded, the Parliament has requested the Government to further examine possibilities to solve the issue.

# VII. Education, leisure and cultural activities

## Inclusive education

1. A comprehensive understanding of inclusion and the fact that it is a state obligation and a human right, especially for children with disabilities, is lacking.
2. Currently there is pressure to find savings on education. For example, in September City of Helsinki proposed budget cuts for education and schools amounting to 17 million euros. Similar proposals can be found elsewhere. This resulted in various debates regarding schools. One current debate concerned inclusive education and the alleged problems it causes in classrooms.
3. Propositions of resource cuts aimed at education and schools is worrying. Even more worrying is the questioning of inclusive education. The problems lie within insufficient understanding on inclusion, lack of resources, including teaching assistants and support to teachers. This all remains outside the public discourse. Last year The Finnish Human Rights Delegation gave a statement regarding disabled children’s right to inclusive education and the Human Rights Centre has drawn up educational material on the matter.

# VIII. Special protection measures

## Rights of migrant children – Border Guard Act

1. In July 2022, the Border Guard Act was amended in connection to the Emergency Powers Act, which had exceptionally been declared urgent with 5/6 qualified majority of the Parliament. The amendments are related to the tackling of hybrid threats and deemed necessary to protect national security.
2. According to the amended Section 16.2 of the Border Guard Act, authorities have the option to centralise the reception of asylum applicants to only one border crossing point on the Finnish border when deemed necessary due to serious threat to public order, national security or public health. Centralisation can take place in situations where there is a reasonable suspicion of instrumentalization of migration but also in cases of an exceptionally large number of migrants entering in a short period of time.
3. The main reasoning for the amendments is based on the risk of migrants being used for hybrid influence. Therefore, it is problematic that it is possible to centralise border crossing points also in other situations where no reasonable suspicion of instrumentalisation of migrants exist.
4. A parliamentary committee specified that it would be possible to centralise the reception of applicants to the Helsinki-Vantaa Airport keeping all land border crossing points closed. According to Section 16.3 of the Border Guard Act, if centralisation takes place, asylum applications can only be received at centralised border crossing points, except in *individual circumstances* considering the rights of children, disabled persons or others in a particularly vulnerable position.
5. The committee seems to indicate that migrants seeking asylum on other border crossing points than the centralised ones should be removed from the country without the possibility to seek asylum. Only exception would be those amounting to vaguely formulated individual circumstances. This would violate both EU regulations and human rights. The legislation is not in line with the requirement of genuine and effective access to the asylum procedure.
6. The Border Guard is writing instructions for the application of the new paragraphs of the Border Guard Act. The instructions are important as the paragraphs are open for interpretation and the realization of human rights of migrants thus relies on the individual application of the law at the level of border guards receiving applications for asylum.
7. In addition, a government’s proposal on amendments to Aliens Act, regarding EU’s Asylum Procedures Regulation (2013/32/EU) and the introduction of border procedures includes similar problematic legislation as the Border Guard Act.
8. According to this proposal, the Government could decide on the introduction of the border procedure in a short period of time in situations of an exceptionally large number of migrants or migration due to the influence of a foreign state. Contrary to the Border Guard Act, the planned amendments do not require threat to public order, national security or public health.

**Recommendations:**

* Secure the principle of non-refoulement and genuine and effective access to the asylum procedure in every situation, including times of emergency.
* Consider amending Section 16.2 in the Border Guard Act so that centralisation is possible only in situations where there is a reasonable suspicion of instrumentalisation of migration.
* Ensure that migrant children’s rights are secured in the instructions for the interpretation of Section 16 in the Border Guard Act.

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