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SUBMISSION TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

This submission has been prepared by Amnesty International in advance of the consideration by the UN Committee on Economic, Social and Cultural Rights (the Committee) at its 68th session of the seventh periodic report on Finland's implementation of the International Covenant on Economic, Social and Cultural Rights (the Covenant).

In particular, the submission provides information about the following issues in the context of Finland's human rights obligations under the Covenant: due diligence of companies, climate action, social security and poverty, human rights education, rights of transgender and intersex persons, violence against women, health services for asylum-seekers, reception services for asylum-seekers, and accommodation for undocumented migrants (paperittomat).

2. ENSURING COMPANIES EXERCISE HUMAN RIGHTS DUE DILIGENCE (ARTS. 6, 7, AND 8, QUESTION 2 LIST OF ISSUES)

Amnesty International is concerned that the regulatory framework for corporate accountability in Finland remains largely voluntary-based, with related legislation focusing mainly on monitoring and reporting. The Accounting Act amendment, which is based on the European Union Non-Financial Reporting Directive,¹ and adopted in 2016, requires certain sized listed companies, credit institutions and insurance companies to report on their policies concerning employees, social issues, and human rights. However, under this amendment, companies are not required to use any specific reporting format, and the legislation does not specify the particular information that needs to be presented, offering reporting entities wide flexibility to report or not report on specific issues.²

Prime Minister Sanna Marin's Government Programme outlines plans for developing a binding regulatory framework on corporate accountability.³ In June 2020, a legal analysis commissioned by the Ministry of Economic Affairs and Employment on incorporating human rights due diligence obligations into legislation affecting companies was published.⁴ Amnesty International welcomes the government's commitment to adopting a binding regulatory framework on human rights due diligence and acknowledges that this initiative has the potential to positively impact similar efforts within the EU.

¹ Directive 2014/95/EU, <https://bit.ly/3e9i1qt>, accessed 2.6.2020.

² Ministry of Economic Affairs and Employment of Finland, CSR reporting, <https://tem.fi/en/csr-reporting>, accessed 2.6.2020.

³ Programme of Prime Minister Sanna Marin's Government (Dec 10th, 2019), pp. 62, <https://bit.ly/37zMzPG>, accessed 2.6.2020.

⁴ Government of Finland (Oct 3rd, 2019), 'A judicial analysis of CSR regulation to be launched', https://valtioneuvosto.fi/en/article/-/asset_publisher/1410877/yrittavastuulain-selvitys-kaynnistyy, accessed 2.6.2020.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Ensure that the regulatory framework and future legislation, in line with the UN Guiding Principles on Business and Human Rights, enforce the corporate responsibility to respect human rights and establish a due diligence obligation regarding businesses' operations, services and products. These obligations should cover all companies and sectors, and all human rights covered by international human rights treaties ratified by Finland as well as the entire value chain of companies.
- Establish corporate liability for human rights harm and ensure access to judicial remedies. Effective instruments should be employed to ensure enforcement, including sanctions.⁵

3. RIGHT TO SOCIAL SECURITY (ARTS. 9, 10 AND 11, QUESTIONS 5 AND 22 LIST OF ISSUES)

According to Finland's National Pension Index Act, the adequacy of social security provision must be evaluated by independent experts every four years, at the end of each government term.⁶ While the National Pension Index Act includes statutory evaluation on the sufficiency of social security provision, it does not mandate direct changes to provision based on the results of assessments.⁷

3.1 IMPACT ON ECONOMIC AND SOCIAL RIGHTS BETWEEN 2015 AND 2019

In 2018, in connection to the government proposal on freezing the National Pension Index, which is the basis for calculating the annual level of many social security benefits, the Constitutional Law Committee noted that the government should closely assess the cumulative negative effects of National Pension Index freezing of different benefits on recipients.⁸ Also in 2018, there was a slight decline in the number and

⁵ Amnesty International (2020), 'Amnesty International welcomes the European Commission's commitment to introducing a law on business and human rights', <https://www.amnesty.org/download/Documents/EURO122522020ENGLISH.pdf>, accessed 17.6.2020.

⁶ The assessment includes social benefits paid by the Social Insurance Institution of Finland. National Pension Index Act, available only in Finnish: <https://finlex.fi/fi/laki/ajantasa/2001/20010456>, accessed 27.5.2020.

⁷ The Constitutional Law Committee of the Parliament issues statements on legislative proposals based on the Constitution and international human rights instruments. However, the Constitution does not define the sufficient level of social security and the Constitutional Law Committee has not set forth requirements for specific levels of social security. The Constitutional Law Committee has rather emphasized that when setting the level of social security, the government should take into account the state of the economy and public finances.

⁸ The National Pension Index is the basis for calculating the level of many social security benefits, such as unemployment and family benefits. The Index is based on the Living Costs Index, which is calculated annually by Statistics Finland and approved by the Social Insurance Institution of Finland. The purpose of the Index is to ensure that the purchasing power of benefits and

percentage of persons at risk of poverty, with 11.8 % of all households in Finland at risk of poverty. During 2015-18, the at-risk-of-poverty rate has fluctuated on both sides of 12 %.⁹

From 2015-19, the social security level declined for several groups. The income levels of those receiving unemployment benefits, home care allowance, minimum sick leave allowance, student allowance and parental daily allowance were not sufficient to cover the reasonable minimum consumption budget, as calculated by the Centre for Consumer Society Research.¹⁰

In 2018, the government adopted the so-called 'Activation model', which required unemployed persons to participate in employment-related activities to retain full benefits.¹¹ Benefits were reduced for those unable to comply with the requirements. According to a research by VATT Institute for Economic Research, benefits were reduced based on the Activation model especially among older age groups (55-64 year-olds), in the Uusimaa region and those who had been unemployed for longer periods (27-52 weeks).¹² According to the VATT research, reasons for noncompliance with activity requirements varied and are not always known, but scarce employment opportunities in some sectors and regions correlate with noncompliance.

The purchasing power of benefits was also decreased by National Pension Index cuts and freezes. The National Institute for Welfare and Health found the student social security to only cover the reasonable minimum consumption budget if supplemented by a student loan.¹³ The social security levels for recipients of other benefits, including pensions, sick leave allowance and parental daily allowance remained constant during the 2015-19 period.¹⁴ Taxes for benefit income were increased.¹⁵

Amnesty International considers it important to highlight the effects of social security provision levels that are insufficient to support reasonable minimum consumption for those dependent on it, and impairs the realisation of their connected human rights to health care, food and housing. According to a national survey by the National Institute for Welfare and Health, in 2017-18, 20.3% of respondents had had to forgo food, medicine or medical care because of lack of financial means, with more than one in ten reporting being at risk of running out of food.¹⁶ According to the 2017 income distribution survey by Statistics Finland, more than one in eight households of those that reported over 50% of their income coming from social security payments, estimated not being able to get a full meal even every other day, a figure four times higher than households that did not report depending on social security provision for major proportion of their income.¹⁷

pensions does not decrease due to inflation. The Index is calculated based on changes in consumer prices. The use of the Index is based on National Pension Index Act, available only in Finnish: <https://finlex.fi/fi/laki/ajantasa/2001/20010456>, accessed 27.5.2020.

Statement of the Constitutional Law Committee PeVL 40/2018 on the Government proposal HE 160/2018: <https://bit.ly/3hl3aWm>, accessed 29.5.2020; Statement of the Constitutional Law Committee PeVL 47/2017 on the Government proposal HE 123/2017: <https://bit.ly/3daUWCl>, accessed 29.5.2020.

⁹ Statistics Finland (Mar 12th, 2020), 'Number of persons at risk of poverty 640,000 in 2018': <https://bit.ly/2CdYirF>, accessed 29.5.2020.

¹⁰ The reasonable minimum consumption budget minimum by the Centre for Consumer Society Research is also used by the Finnish Institute for Welfare and Health as a basis to assess the sufficiency of social security. The reasonable minimum consumption budget is calculated based on consumer prices for common products as well as interviews with consumers and experts. For more on how the reference budget is calculated, please see Social Insurance Institution of Finland (2015): Adequacy of basic social security in Finland 2011–2015. The second expert group for evaluation of the adequacy of basic social security. Working papers 80: <https://helda.helsinki.fi/bitstream/handle/10138/156544/WorkingPapers80.pdf>, pp. 98-104. Susanna Mukkila & Paula Saikkonen (2020), Vuoden 2020 talousarvion vaikutukset perusturvaan, Working paper 16/2020, pp. 34, Finnish Institute for Welfare and Health.

¹¹ Activity requirements of the Activation model included for example participation in activities organized by labour authorities, activities supporting job searching or working for a certain number of hours during a review period of 65 days. The Social Insurance Institution of Finland (2018): 'Unemployment benefits: Activation model, from 1st January 2018 onwards', <https://bit.ly/37EePkc>, accessed 17.6.2020.

¹² Tomi Kyyrä, Hanna Pesola & Roope Uusitalo (2019): Aktiivimalli ja ansiosidonnainen työttömysturva. VATT Institute for Economic Research.

¹³ Finnish Institute for Health and Welfare (2019): Evaluation report on the adequacy of basic social security 2015–2019 (available in Finnish only): <http://urn.fi/URN:ISBN:978-952-343-296-3>, accessed 27.5.2020.

¹⁴ Susanna Mukkila & Paula Saikkonen (2020): Vuoden 2020 talousarvion vaikutukset perusturvaan, Working paper 16/2020, pp. 34, Finnish Institute for Welfare and Health.

¹⁵ EAPN-Fin (2019): Poverty Watch Report Finland 2019, pp. 12, <https://bit.ly/2DDrrgx>, accessed 29.5.2020.

¹⁶ The national FinSote research is conducted by the National Institute for Welfare and Health annually using an online and mail survey with an annual randomized sample size (among population over 20 years old) of 10 000. Pentala-Nikulainen O, Koskela T, Parikka S, Kilpeläinen H, Koskenniemi T, Aalto A-M, Muuri A, Koskinen S & Lounamaa A. (2018): Kansallisen terveys-, hyvinvointi ja palvelututkimus FinSoten perustulokset 2017-2018, thl.fi/finnote, accessed 14.7.2020.

¹⁷ Perusturvan riittävyyden III arviointiryhmä (2019): Perusturvan riittävyyden arviointiraportti 2015–2019. Working paper 6/2019. Finnish Institute for Welfare and Health, pp. 87, (available in Finnish only), <http://urn.fi/URN:ISBN:978-952-343-296-3>, accessed 18.8.2020. The income distribution survey by Statistics Finland referred to in the working paper is conducted using household interviews (sample size approx. 10 000 annually) and public register data. For more information on the Statistics Finland income

Furthermore, according to the 2017 Statistics Finland survey, over 18% of households reporting more than half of their income being based on social security provision reported having difficulties in paying their rent or servicing their mortgage and three out of four household respondents had had difficulties in managing unexpected household costs.¹⁸

According to a research commissioned by the Government's Analysis, Assessment and Research Activities on the gendered effects of economic policies between 2016 and 2018, cuts to social benefits made by the government disproportionately affected women.¹⁹ Women's disposable income was found to have declined more often and in greater amounts, especially among those with the lowest income levels. Women were found to have been affected more often than men by cuts, for example, to holiday pay in the female-dominated public sector (for instance health care workers) and by freezes or cuts to benefits affecting especially low-income women, including family benefits.²⁰ These cuts could have long-term and gendered socio-economic effects affecting not only on women, but also single-earner families and families with children – groups that are already at risk of socio-economic problems.²¹

Some improvements were made to social security benefits in 2020. These included National Pension Index based increases to benefit payment levels as well as 10-20 Euro monthly increases to some benefits, including parental daily allowance, minimum sick leave allowance, and unemployment benefit.²² However, Amnesty International is concerned that the small incremental increases of benefits made in 2020 are not sufficient for people in certain circumstances, such as those receiving the labour market subsidy, minimum sick leave allowance or minimum parental daily allowance to survive without discretionary last-resort social assistance to complement social security.²³

In addition to the problems related to the low level of social security payments, it is important to note that the current social security system is a complex collection of a variety of benefits and services which can make it difficult for those who need social security benefits to navigate the system in different urgent situations, such as unemployment or illness, as noted by for instance the Social Security Committee, the Finnish Federation for Social Affairs and Health and mentioned in Finland's report to the Committee.²⁴

During the reporting period, the social security level in Finland has not increased and sufficient measures to improve the situation of groups at greater risk of marginalisation and discrimination have not been taken despite numerous recommendations from the European Committee of Social Rights²⁵ and the Committee.²⁶

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Take immediate action to increase the level of social security benefits in a manner that secures the realization of human rights including the right to an adequate standard of living for all. The social security level should be adjusted to ensure the social protection floor is of a level that fulfils basic income security and provides adequate access to food, health and housing and any other essential goods and services.

distribution survey referred to in the working paper, please see (available in Finnish only) Statistics Finland (2017): Income distribution statistics 2017, pp. 22-31, <https://bit.ly/3hkf741>, accessed 18.8.2020.

¹⁸ Ibid, pp. 87-88.

¹⁹ Hanna Elomäki & Hanna Ylöstalo (eds.), (2018): Tasa-arvoa talousarvioon – talousarvion sukupuolivaikutusten arviointi ja sukupuolittietoinen budjetointi. Government's Analysis, Assessment and Research Activities, <http://julkaisut.valtioneuvosto.fi/handle/10024/161000>, accessed 18.8.2020.

²⁰ It was found that during 2016-18, women's disposable income decreased more often and by larger amounts than that of men. Approximately 500 000 persons' income decreased by more than 50 Euros annually during this period. Of them, an estimated 55% were women and their income decreased by 2.29%, while the percentage for men in the same group was 1.88%. Ibid., pp. 157.

²¹ EAPN-Fin (2019): Poverty Watch Report Finland 2019, pp. 10, <https://bit.ly/2DDrrgx>, accessed 29.5.2020.

²² The Social Insurance Institution of Finland, 'Changes in social security in 2020', <https://bit.ly/3e9VTwb>, accessed 29.5.2020.

²³ Susanna Mukkila & Paula Saikkonen (2020): Vuoden 2020 talousarvion vaikutukset perusturvaan, Working paper 16/2020, pp. 34, Finnish Institute for Welfare and Health.

²⁴ See for instance the Finnish Federation for Social Affairs and Health: <https://bit.ly/2C7VeNW>; Social Security Committee, <https://stm.fi/en/-/social-security-problems-fall-into-four-categories>, accessed 13.7.2020; and Seventh periodic report submitted by Finland to the Committee on Economic, Social and Cultural Rights (E/C.12/FIN/7), submitted 2.4.2020, para 210.

²⁵ European Committee of Social Rights (Jan 2018) 'Conclusions 2017 Finland', pp. 21-23.

²⁶ UN Committee on Economic, Social and Cultural Rights (2014) 'Concluding Observations on the Sixth Periodic Report of Finland', E/C.12/FIN/CO/6, pp. 6-7.

- Ensure that the human rights impact of social security related legislation is thoroughly assessed, including the potential impact of any new legislation that will likely impact social security.
- Ensure that the social security system is flexible enough to support and uphold the rights of all those in need without discrimination. The system needs to be easily understandable and accessible to all and simple to use for recipients.

4. REDUCING EMISSIONS (ARTS. 11 AND 12, QUESTION 9 LIST OF ISSUES)

Between 2015 and 2019, Finland's emissions fluctuated between 52.8 and 58.1 million tonnes CO₂e. In 2019, emissions were on the decline, with the total emissions being 52.8 million tonnes CO₂e, a decrease of 6 % from the previous year and 26% from 1990. The reduced use of coal and peat had the biggest impact on reduced emissions in 2019.²⁷ Despite recent reductions in emissions, Finland's per capita emissions remain high. In 2017, Finland's CO₂ emissions were 7.7 tonnes per capita, when the corresponding figures for other Nordic countries were notably lower, demonstrating that Finland's efforts to decrease emissions are not equivalent to its Nordic peers.²⁸ Finland is ranked 156/164 in the 2015 Sustainable Development Index (SDI).²⁹

The Government is committed to an ambitious goal of making Finland carbon neutral by 2035 and carbon negative soon after.³⁰ To reach the climate goals set out by the Government, the Government Programme includes plans to update the current Climate Change Act, which is expected to be enacted in 2021. However, concrete governmental action plans and financial inputs for implementation are needed urgently, in order to reach these goals in the set timetable.

Amnesty International advocates that wealthy industrialised countries must adopt the most ambitious emission reduction targets, enabling them to reduce greenhouse gas emissions by 50% well before 2030 and reach zero carbon emissions by 2030 or as soon as feasible after that. The 80 % minimum reduction target by 2050 in the current Climate Change Act is therefore highly insufficient.³¹ Amnesty International commends the Government for pledging that measures to reduce emissions reduction will be implemented in socially just manner³² and stresses that the transition should be consistent with Finland's human rights obligations.

²⁷ Statistics Finland (May 28th 2020), 'Kasviuonekaasupäästöt ennätyskellisen alhaiset' (available in Finnish only): <https://bit.ly/2Ce3Baz>, accessed 29.5.2020.

²⁸ The per capita CO₂ emissions for other Nordic countries in 2017 were: Sweden 3.7 tonnes, Denmark 5.4 tonnes, Iceland 6.3 tonnes, and Norway 6.6 tonnes. IEA Atlas of Energy, 'CO₂ Emissions from Fuel Combustion', <https://bit.ly/30NVLYM>, accessed 29.5.2020.

²⁹ The SDI is based on each nation's human development score (life expectancy, education and income), which is then divided by their ecological overshoot: the extent to which consumption-based CO₂ emissions and material footprint exceed per-capita shares of planetary boundaries. Sustainable Development Index: <https://www.sustainabledevelopmentindex.org/>, accessed 7.6.2020.

³⁰ Programme of Prime Minister Sanna Marin's Government Dec 10th, 2019, pp. 35-36: <https://bit.ly/37zMzPG>, accessed 2.6.2020.

³¹ An approach to nationally determined contributions consistent with the Paris Climate Agreement and climate science: Application to Finland and the EU, The Finnish Climate Change Panel report 7/2019, pp. 29.

³² Programme of Prime Minister Sanna Marin's Government Dec 10th, 2019, pp. 36: <https://bit.ly/37zMzPG>, accessed 2.6.2020.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Take immediate concrete and human rights-consistent action to accelerate emissions reduction and strengthen carbon sinks in accordance with the Government Programme³³ and Finland's international commitments.
- Ensure that a thorough human rights impact assessment is included in preparations for the updated Climate Change Act. The updated Act should explicitly mention ensuring the realization of human rights and a just transition. The Act should also include procedures for mandatory human rights impact assessment of all proposed climate change mitigation and adaptation measures.

5. HUMAN RIGHTS EDUCATION (ART. 13, QUESTION 7 LIST OF ISSUES)

Finland refers to the need for public authorities to “apply human rights-friendly interpretation in their activities” in its report to the Committee.³⁴ This constitutional obligation also applies to public education providers.³⁵ Yet a baseline study on the implementation of human rights education and training in the Finnish education system, conducted by the Human Rights Centre in 2014, revealed the lack of a systematic approach. The introduction of human rights as a core value in the revised curriculum is a significant step to address this. However, one of the main shortcomings remains the lack of human rights training for teachers and civil servants. Although some progress has been made since the study,³⁶ the provision of human rights education still relies largely on non-governmental organizations and the personal commitment of individual teachers and schools.³⁷ The Ministry of Education and Culture reached the same conclusion in 2014³⁸ and the Parliamentary Ombudsman has also reported on some shortcomings still in 2018.³⁹

Amnesty International welcomes the incorporation of human rights as the core value in the revised national core curriculum for basic education,⁴⁰ which entered into force in January 2015, as well as the new national core curriculum for upper-secondary schools,⁴¹ which will enter into force in August 2021. In both curricula, human rights are incorporated as a core value for schools, school culture and in many education subjects. However, this will only be effectively delivered if complemented by a comprehensive training for all teaching staff.

³³ Ibid., pp. 35-36.

³⁴ Seventh periodic report submitted by Finland to the Committee on Economic, Social and Cultural Rights (E/c.12/FIN/7), submitted 2.4.2020, para 66.

³⁵ Section 22, Constitution of Finland <https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>

³⁶ pp. 123, Annual Report 2018, Parliamentary Ombudsman https://www.eduskunta.fi/FI/vaski/Kertomus/Documents/K_11+2019.pdf

³⁷ Human rights education in Finland. Baseline study of the Human Rights Centre 2014: <https://bit.ly/2zGXyd0>.

³⁸ Democracy and human rights. Objectives and content in teacher education, by the Ministry of Education and Culture 2014, <http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/75251/tr18.pdf>

³⁹ pp. 123, Annual Report 2018, Parliamentary Ombudsman: <https://bit.ly/2YHF3ya>.

⁴⁰ National core curriculum for basic education 2014, by the Finnish National Board of Education: <https://bit.ly/30SWNtn>.

⁴¹ National Core Curriculum for upper secondary education 2019, by the Finnish National Board of Education: <https://bit.ly/2BgmwRK>.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Make human rights education mandatory for civil servants and all teacher trainees and include participation and practical skills for teacher trainees to enable them to respect human rights when teaching.
- Provide in-service training for all teachers to acquire the necessary skills in human rights education in order to implement the requirements of the new national core curriculum for basic education.

6. RIGHTS OF TRANSGENDER, NON-BINARY AND INTERSEX INDIVIDUALS (ARTS. 2, 3, 6, 7, 12 AND 13, QUESTIONS 13, 17 AND 25 LIST OF ISSUES)

6.1 RIGHT TO EDUCATION AND EMPLOYMENT

Bullying and violence in school or outside it obstruct the fulfilment of children's right to education. According to media reports of the 2019 School Health Promotion study, 15-25% of children aged 13-16 who identified as LGBTI reported being bullied at school weekly. 23-26% of these respondents had been subjected to physical violence and 40-45% to psychological violence by their parents or caregivers. 41-46% had experienced sexual harassment. For respondents who did not identify as LGBTI, the corresponding figures were much lower.⁴²

Transgender individuals face disadvantages in accessing employment. Unemployment and temporary employment are common. Transgender people who are highly educated are frequently in employment that does not reflect their education.⁴³

⁴² For respondents who did not identify as LGBTI: bullying 6%, physical violence by parents or caregivers 12%, psychological violence by parents or caregivers 28%, sexual harassment 21%. Results reported by the national public broadcasting company, Yleisradio on 30 Nov 2019. Available in Finnish at <https://yle.fi/uutiset/3-11089142>. For information on the School Health Promotion study, see the website of the Finnish Institute for Health and Welfare, <https://thl.fi/en/web/thlfi-en/research-and-expertwork/population-studies/school-health-promotion-study>.

⁴³ Research by Dreamwear Club (2016), reported in a guide by the Rainbow Rights Project (2019): Tilaa moninaisuudelle! Opas seksuaali- ja sukupuoli vähemmistöjen yhdenvertaisuuden edistämiseen. Available in Finnish: <https://bit.ly/2UOxF37>.

6.2 RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

The procedure to obtain legal gender recognition is invasive of privacy and excessively long, taking up to 3 years.⁴⁴ According to the Trans Act,⁴⁵ the applicant must be diagnosed with ‘transsexualism’⁴⁶ and be sterilized or for some other reason infertile. These prerequisites and the length of the process violate transgender people’s rights to the highest attainable standard of physical and mental health. The Government has committed to reform the Trans Act⁴⁷, but even then legal gender recognition would continue to only be available to adults.⁴⁸ Amnesty International condemns this as a violation of the right to privacy of transgender children and youth as it exposes them to the risk of discrimination, harassment and harm every time they must show identity documents that do not reflect their identity.

There have been severe delays in access to specialist medical evaluation and treatment at a trans clinic.⁴⁹ The Parliamentary Ombudsman has given two non-binding decisions about violations of national law and the constitutional right to adequate health services when access to medical evaluation for gender affirming treatment had been delayed by more than three months. The Ombudsman stated that insufficient resourcing and organizational factors could not justify the delay.⁵⁰

In June 2020, the Council for Choices in Health Care in Finland adopted recommendations for the treatment of “gender dysphoria” resulting from transgender and non-binary identities, that continue to violate the rights of trans people.⁵¹ The recommendations are based on the WHO’s outdated International Classification of Diseases 10th edition (ICD-10), which classified the identities of transgender and non-binary individuals as ‘mental or behavioural disorders’, thus continuing to pathologize and stigmatize transgender and non-binary people. In addition, the recommendations make access to specialist services more difficult, as they require that the “gender dysphoria” is major and long-lasting, and that psychological support is in place in a local healthcare unit before access to specialist services. Treatment will only be started when the “gender dysphoria” has lasted at least two years. These requirements form unreasonable barriers to access to gender affirming procedures and treatment. In addition, NGOs working on the rights of trans people have expressed concern that local healthcare units do not possess sufficient expertise to provide the required psychological support. According to the recommendation on “gender dysphoria resulting from non-binary gender identity”, certain types of treatment available to transgender individuals would not be available to individuals diagnosed as non-binary under the framework of the ICD-10. The availability of gender affirming treatment should be determined through the best interests of the individual, and the diagnosis should not restrict the availability of treatment that is necessary for the attainment of the highest attainable standard of physical and mental health.

Intersex children in Finland are routinely subjected to medical and surgical treatments to align their physical appearances with one of the binary sexes.⁵² Operations are often done for social reasons rather than out of medical necessity. When performed without informed consent or adequate information, these surgeries violate people’s right to physical bodily integrity and may have long-term consequences on their right to health and their sexual and reproductive rights, particularly since they can severely impede people’s

⁴⁴ Amnesty International: *The state decides who I am* (Index: EUR 01/001/2014), 4 February 2014, www.amnesty.org/en/documents/EUR01/001/2014/en/.

⁴⁵ Act on the legal gender recognition of transsexuals 2002, unofficial and partly outdated English translation available at <http://www.finlex.fi/fi/laki/kaannokset/2002/en20020563.pdf>, up-to-date Finnish version available at <https://www.finlex.fi/fi/laki/ajantasa/2002/20020563>.

⁴⁶ This diagnosis is made under the WHO’s outdated International Classification of Diseases 10th edition. In the law this is prescribed as a requirement that the person “present a medical statement certifying that he or she permanently identifies with the opposite gender and lives in that gender role”.

⁴⁷ Government programme, section 3.3.1 Objective 3, <https://valtioneuvosto.fi/en/marin/government-programme/strengthening-the-rule-of-law>.

⁴⁸ Government programme, section 3.3.1 Objective 3, <https://valtioneuvosto.fi/en/marin/government-programme/strengthening-the-rule-of-law>.

⁴⁹ The evaluation and treatment for gender dysphoria takes place in two specialist units located in Helsinki and Tampere.

⁵⁰ The first decision concerned the trans clinic in Helsinki, the second decision concerned the Clinic in Tampere. The decisions are available from the Parliamentary Ombudsman, decisions EOAK/2842/2017 (24.10.2018) and EOAK/501/2019 (April 2020). The European Commission on Racism and Intolerance has recommended that a third Clinic be established to accommodate the need for treatment. ECRI Report on Finland, fifth monitoring cycle, CRI(2019)38, adopted 18 June 2019, paras 102-103, <https://rm.coe.int/fifth-report-on-finland/1680972fa7>.

⁵¹ The recommendations, adopted 11 June 2020, are available in Finnish from COHERE’s website: <https://palveluvalikoima.fi/valmiit-suositukset>.

⁵² Wahlman-Calderaram, Tuula ja Halila, Ritva (2016): Intersukupuolisuus, Taustaraportti ETENE:n kannanottoon, (available only in Finnish): <http://etene.fi/documents/1429646/2056382/IS-raportti20160331.pdf/58bf2412-48a9-4521-b5ae-81a3ee3bc07b>.

fertility.⁵³ A 2019 report published by Ministry of Justice and Ministry for Foreign Affairs cited intersex people who felt that they did not have enough information or choice in relation to medical interventions. In some cases, medical treatment had been undertaken without their consent.⁵⁴ Negative consequences included physical pain, difficulties with mental health including self-harming, stigma and shame. According to the report, some of the 12 respondents were subjected to unwanted surgeries to modify sex characteristics in their childhood described their experience as sexual violence or sexual abuse.⁵⁵ The Government Programme states that the self-determination of intersex children will be strengthened and cosmetic, medically non-necessary surgeries will be discontinued.⁵⁶ However, the practical measures that are to be put in place to fulfil these objectives are unclear.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Urgently reform the Trans Act to respect self-determination, also including the rights of children and youth.
- Ensure timely access to specialist medical advice and gender affirming treatment for transgender and non-binary individuals who seek it. Ensure that any medical or psychological treatment or counselling does not treat gender identity as a condition to be cured or suppressed.
- Develop a rights-based healthcare protocol for individuals with variations of sex characteristics to guarantee their bodily integrity, autonomy and self-determination and to ensure that no child is subjected to non-emergency, invasive and irreversible surgery or treatment with harmful effects.

⁵³ Amnesty International: The state decides who I am (Index: EUR 01/001/2014), 4 February 2014, www.amnesty.org/en/documents/EUR01/001/2014/en/

⁵⁴ Oikarinen, Tikli (2019): No information or options: Study on the rights and experiences of intersex person, pp. 11-13. Independent expert report published by the Ministry of Justice and the Ministry of Foreign Affairs. The study included the experiences of 12 intersex individuals and 6 parents of intersex individuals, (Abstract in English, full report available only in Finnish): <https://bit.ly/2Bf02QM>.

⁵⁵ Ibid.

⁵⁶ Government programme, section 3.3.1 Objective 3, <https://valtioneuvosto.fi/en/marin/government-programme/strengthening-the-rule-of-law>.

7. PREVALENCE OF VIOLENCE AGAINST WOMEN AND AVAILABILITY OF SUPPORT SERVICES (ARTS. 2, 3, 10 AND 12, QUESTION 15 LIST OF ISSUES)

According to the most recent national crime victim survey (NCVS) available (2018), 5.1% of (or around 100,000) women had experienced physical or sexual violence by their partner or ex-partner in the last 12 months, compared to 3.6 % of men (these figures were similar in the NCVS's from 2013-2017). The prevalence of violence by other family members, friends or colleagues has remained around 5% in the time period from 2013 to 2018 and the prevalence of violence by an acquaintance or stranger has risen slightly from around 10% in 2013 to 12% in 2018 (these figures were similar for men). Women are about four times more likely than men to experience sexual violence.⁵⁷ Since 2011, the police have recorded around 10,000 crimes of domestic violence per year. The victim was a woman in around 70% of the cases.⁵⁸

Despite a high prevalence of violence against women, funding to combat it remains inadequately low. For example, even with some significant increases in funding the amount invested in shelter places still fell short of what was needed, and by April 2020 Finland still had only 211 places for women fleeing violence. The recommended number of shelter places for Finland is 550.⁵⁹ This scarcity has real consequences for victims of violence seeking safety. Women in need of protection were referred to other shelters, potentially hundreds of kilometres away, 2,071 times in 2019.⁶⁰ Other types of services, such as early intervention and prevention services, peer support groups for victims of violence, programmes for perpetrators and outreach services as well as long-term services such as therapy, are persistently under-resourced and geographically unevenly distributed – for example in Kainuu region there is only one shelter place⁶¹. An evaluation of an earlier action plan to reduce violence against women concluded that the plan was not fully implemented due to a lack of

⁵⁷ National crime victim survey (2018), *Suomalaiset väkivallan ja omaisuusrikosten kohteena* [Finnish people's experiences of violence and property crimes] pp. 6 and 12-13. (Based on a random probability sample of 5510 respondents.) The data is comparable for the last six years. Available in Finnish: <https://bit.ly/2N17Rw2>. See also European Union agency for fundamental rights (2014): Violence against women – an EU wide survey: <https://bit.ly/3e7grp9>.

⁵⁸ Statistics Finland, http://pxnet2.stat.fi/PXWeb/pxweb/fi/StatFin/StatFin_oik_rpk_uhri/statfin_rpk_pxt_11ch.px

⁵⁹ The Council of Europe recommends 1 place per 10,000 inhabitants. See Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para 135: <https://bit.ly/2MZdR8G>.

⁶⁰ In 2019, 5,354 clients spent time in a shelter. National Institute for Health and Welfare (2020): Turvakotipalvelut 2019 [Shelter services 2019]. <https://thl.fi/fi/tilastot-ja-data/tilastot-aiheittain/sosiaalipalvelut/turvakotipalvelut>

⁶¹ Turvakotipalvelut 2019, Shelter services in Finland, publication of Finnish Institute for Health and Welfare. Only available in Finnish: <http://urn.fi/URN:NBN:fi-fe2020060139895>

funds.⁶² The planned programme for combating violence against women (2020-2023) has been allocated only 400,000 euros per year.⁶³

Women with disabilities, lesbians, transgender women, undocumented and 'nonregistered'⁶⁴ migrant women and women with poor knowledge of Finnish experience significant difficulties receiving support and accessing services.⁶⁵

Amnesty International has also raised concerns on forced marriage, the need for a reform of legislation and practice concerning restraining orders as well as the mediation of domestic violence resulting in a lack of accountability for perpetrators in our parallel submission to the Human Rights Committee.⁶⁶

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Provide appropriate funding for creating and maintaining comprehensive, nationwide and inclusive services for all women who have experienced violence.
- Guarantee the resources necessary to ensure shelter spaces for women seeking protection from violence.
- Ensure access to support services for women with disabilities, lesbians, transgender women, undocumented and nonregistered migrants, women with poor knowledge of Finnish as well as other groups who currently face barriers in receiving support.

⁶² Törmä, Sinikka ja Pentikäinen, Merja (2016): Tavoitteena naisiin kohdistuvasta väkivallasta ja perheväkivallasta vapaa Suomi, (available in Finnish only):

http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/75030/Rap_ ja_ muist_ 2016_ 15_ 1.pdf?sequence=1

⁶³ Press release by the Ministry of Justice, 29 Jan 2020 (available in Finnish only): <https://bit.ly/3ft5bUf>.

⁶⁴ For more information on the term 'nonregistered', please see the Finnish Immigration Service: <https://migri.fi/en/eu-citizen>.

⁶⁵ Amnesty International, Satu Lidman (2016): Kuka ottaa vastuun? Naisiin kohdistuva väkivalta ja ihmisoikeusvelvoitteiden toteutuminen, Amnestyn kuntaselvitys (available only in Finnish), <https://frantic.s3.amazonaws.com/amnesty-fi/2017/01/Amnestyn-kuntaselvitys-naisiin-kohdistuvasta-v%C3%A4kivallasta.pdf>. A brief summary of the report in English is available at https://s3-eu-west-1.amazonaws.com/frantic/amnesty-fi/2020/06/26130941/Summary_AI-FI-Study-on-municipalities-2016.pdf.

⁶⁶ Amnesty International (2020) Finland - Submission to the Human Rights Committee (EUR 20/2940/2020): <https://www.amnesty.org/en/documents/eur20/2940/2020/en/>.

8. HEALTH AND MENTAL HEALTH SERVICES PROVIDED FOR ASYLUM-SEEKERS (ART 12, QUESTIONS 6 AND 25 LIST OF ISSUES)

Access to health-care for asylum-seekers in Finland is restricted to an initial medical examination⁶⁷ that is organised by a reception centre after the applicant has submitted an application for international protection as well as to emergency health care and health care deemed necessary by a health care professional, such as necessary health examinations and diagnoses as well as related treatments.⁶⁸ Pregnant women and children receive treatment on the same grounds as Finnish nationals.⁶⁹ According to a research by Owlgroup published in 2019, access to healthcare services such as the initial medical examination, vaccinations and dental care for asylum-seekers improved in 2017-2018 such that they were generally provided in a timely manner.⁷⁰ However, the Finnish Non-Discrimination Ombudsman has noted problems in access to pre-natal care services and other health-care services for asylum seeking pregnant women and children.⁷¹

The National Institute for Health and Welfare, has produced video-based training and a handbook⁷² on how to support the mental health and wellbeing of refugees and asylum-seekers as part of its Paloma project.⁷³ These provide practical information for authorities who encounter refugees through their work. The Paloma2 project, running from 2019 to 2021, has established a national centre of excellence to support health workers working with “people from a refugee background”.⁷⁴ However, asylum-seekers and refugees face challenges concerning access to mental health-care services.⁷⁵ For example, the authorities failure to provide information or adequate interpretation services can affect their ability to access mental health care.⁷⁶

⁶⁷ Act on the Reception of Applicants for International Protection and on the Identification and Assistance of Victims of Trafficking in Human Beings (2011), section 13.

⁶⁸ This differs from residents who also have the right to non-urgent health care and rehabilitation as well as care that is meant to promote health and not only treat symptoms. Health Care Act (2010), sections 2 and 50. Health care for asylum seekers is regulated in the Act on the Reception of Applicants for International Protection and on the Identification and Assistance of Victims of Trafficking in Human Beings, section 26.

⁶⁹ Act on the Reception of Applicants for International Protection and on the Identification and Assistance of Victims of Trafficking in Human Beings, section 26.

⁷⁰ Owlgroup (2019) A report on the Asylum Process (available only in Finnish): <https://bit.ly/2N36GfM>.

⁷¹ For example, in access to prenatal and maternal health care and health care check-ups for children as well as in access to early childhood education and social services. Non-discrimination Ombudsman (2018) Report to the Parliament, pp. 55 (available only in Finnish): <https://bit.ly/30LLMK5>.

⁷² Finnish Institute for Health and Welfare, Paloma handbook: <https://bit.ly/2MZHlYp>.

⁷³ Finnish Institute for Health and Welfare, Paloma project: <https://bit.ly/2YaNALf>.

⁷⁴ Paloma2 project started in 2019 and runs two years. It establishes a national centre of excellence and support for refugee mental health work: <https://bit.ly/30MVhZG>.

⁷⁵ Owlgroup (2019) A report on the Asylum Process (available only in Finnish): <https://bit.ly/2N36GfM>.

⁷⁶ European Institution for Crime Prevention and Control (HEUNI), (2020), pp. 76: <https://bit.ly/2YlvgrN> and The Non-Discrimination Ombudsman and European Institution for Crime Prevention and Control (HEUNI), (2018). An unknown future: A report on the effectiveness of legislation concerning assistance for victims of human trafficking, pp. 114 (available only in Finnish): <https://bit.ly/2Y45A9W>.

Asylum seekers receive their health services through the reception centre but refugees receive services through the same route as citizens, which is public health care centres.⁷⁷

Many mental health services that are provided for particularly vulnerable asylum-seekers can only be accessed once an asylum-seeker is recognized as vulnerable such as a torture victim, a victim of human trafficking or a victim of gender-based violence or because of mental health -related problems. The responsibility for this recognition is divided between different actors at the beginning of the asylum-process. There is limited recognition of vulnerability and the special care and assistance needs of asylum seekers who have experienced torture.⁷⁸ The right to legal aid for asylum-seekers was restricted in 2016, and this has negatively affected the possibilities to identify vulnerability and refer vulnerable asylum-seekers to appropriate support and health services.⁷⁹

Furthermore, specialized services for asylum-seekers, including those who are torture victims, remain under-budgeted and are not available across the whole country.⁸⁰ Amnesty International has repeatedly raised concerns about the precarious situation of the recognition, treatment, and rehabilitation of torture victims in Finland, particularly relating to the insufficient and unstable funding of these health-care services. Currently trauma treatment services for torture victims are mainly provided by two Trauma Treatment Centres for Torture Victims in the cities of Helsinki⁸¹ and Oulu.⁸² Additionally, trauma treatment services for refugees are provided by the Psychiatric Polyclinic for Immigrants run by the City of Tampere.⁸³ Meanwhile, therapists of the Deaconess Institutes which host Trauma Treatment Centres, as well as doctor Ilkka Pirinen in his research from 2008 and Sandra Hagman in her research from 2017, have estimated that thousands of torture survivors in need of treatment reside in Finland, while based on existing capacity, only a small part of them can be treated.⁸⁴

The Rehabilitation Centres are funded by the Funding Centre for Social Welfare and Health Organisations (STEA), an independent state aid authority under the Ministry of Social Affairs and Health. As such, they have to apply for annual budgets allocations which are unstable and subject to the fluctuating priorities of the STEA. Amnesty International regrets that the Government has been unwilling to cover the funding direct from the State budget or introduce alternative, lasting funding solutions.⁸⁵

Amnesty International notes that specialized health services for asylum-seekers and refugees are crucial and should be properly funded. A new study by the European Institute for Crime Prevention and Control (HEUNI)

⁷⁷ https://stm.fi/turvapaikanhakijoiden-palvelut?p_p_id=com_liferay_journal_content_web_portlet_JournalContentPortlet_INSTANCE_7SjjYVdYeJHp&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&com_liferay_journal_content_web_portlet_JournalContentPortlet_INSTANCE_7SjjYVdYeJHp_languageId=en_US

⁷⁸ Non-discrimination Ombudsman (2018) Report to the Parliament, pp. 53 (available only in Finnish): <https://bit.ly/30LLMK5>.

⁷⁹ Non-discrimination Ombudsman (2018) Report to the Parliament (available only in Finnish): <https://bit.ly/30LLMK5>; Owaigroup, 2019. A report on the Asylum Process (available only in Finnish): <https://bit.ly/2N36GfM>.

Furthermore, the responsibility for this recognition is divided between different actors at the beginning of the asylum-process. This recognition can also affect the asylum process, as only applicants with particularly compelling reasons, such as vulnerability, have a right to get the presence of a lawyer in the asylum interview reimbursed through public legal aid.

⁸⁰ Centres for torture victims are based only in Helsinki, Oulu and Tampere and budgeting is based on annual funding decisions.

⁸¹ Centre for Torture Survivors at the Helsinki Deaconess Institute: <https://bit.ly/30KmEDC>.

⁸² Centre for Torture Victims at the Oulu Deaconess Institute (only available in Finnish): <https://bit.ly/3d8ziPp>. Trauma treatment centers under Deaconess institutes are non-state foundations providing social and healthcare services. The centres provide evaluation and an array of mental health-care services to torture victims (including psychiatric care, psychotherapy, and physiotherapy) to some two hundred patients yearly.

⁸³ City of Tampere, Mental health services for immigrants (available only in Finnish): <https://bit.ly/37xKnlo>.

⁸⁴ Sandra Hagman from the Helsinki Deaconess Institute studied children that came to Finland from conflict areas and war zones and estimated that about 20 to 25 percentage of children have experienced difficult traumas. Sandra Hagman (2017), <https://www.hdi.fi/wp-content/uploads/2018/01/Helsingin-Diakonissalaitos-raportti-1-2017-Hagman.pdf>. The study updated a research from 2010, Sirkku Siukkanen: http://s3-eu-central-1.amazonaws.com/evermade-hdi/wp-content/uploads/2018/01/15093041/Helsingin-Diakonissalaitos-raportti-1_2010-Siukkanen.pdf

For his doctoral thesis in medicine, Ilkka Pirinen, MD, investigated the state of health of 170 asylum seekers registered at a reception center in Tampere during the period from 1 August 2003 to 31 May 2004. Torture had been experienced by 57 % of adult examinees. The study, including a summary in English (pp. 10–12) is available online at <http://tampub.uta.fi/handle/10024/67804>. This is the only detailed study conducted on the state of health and prevalence of torture-related trauma among adult refugees in Finland and the findings are still considered credible by experts today. See also: Kirkko ja kaupunki, 10.8.2017 (available only in Finnish): <https://bit.ly/3hzQfFG>, Maaailman kuvalehti, 20.11.2017 (available only in Finnish): <https://www.maaailmankuvalehti.fi/2017/pitkat/suomessa-asuu-tuhansia-kidutettuja-ihmisia-myos-lapsia> and Lapin Kanssa, 21.1.2020 (available only in Finnish): <https://www.lapinkansa.fi/sahkoisku-ja-raiskauksia-ja-happoa-paalle-olen-hamm/551645>.

Article by the newspaper Hufvudstadsbladet, 26.06.2015 (article in Swedish): <http://gamla.hbl.fi/nyheter/2015-06-26/760659/tortyroffer-var-das-med-knappa-resurser>; Article by the Finnish Broadcasting Company YLE, 29.9.2015 (article in Swedish): <https://bit.ly/3eaHyzM>.

⁸⁵ STEA (2020), (available only in Finnish): <https://bit.ly/3e8GNHc>.

reported a lack of adequate services for survivors of violence against women with a refugee background - including lack of places in women's shelters for refugee women, lack of medical services and poor access to psychological treatment.⁸⁶

8.1 HEALTH SERVICES FOR DETAINED ASYLUM-SEEKERS

There are two Detention Units specifically for immigration detention purposes in Finland, one in Helsinki (Metsälä) and one in Joutseno. Asylum-seekers "in need of special care", including unaccompanied children, families with children, people with mental health conditions, and those experiencing issues with substance abuse, are detained in these facilities.⁸⁷ Convicted criminals facing deportation are also sometimes held in the same detention centres as asylum-seekers and irregular migrants (laittomasti maassaoleskelevat),⁸⁸ including children.⁸⁹

In 2018 in Joutseno, one person committed suicide and nine self-harming incidents were recorded. Self-harming behaviour has also increased in Metsälä in recent years.⁹⁰ According to the Parliamentary Ombudsman in 2018, the isolation rooms in detention units should resemble those in hospitals, which are equipped with safe furniture, that can be used for example to dine on.⁹¹ In 2018, the isolation rooms in Joutseno did not have any other furniture than a mattress and a clock.⁹² The conditions of isolation rooms are of particular importance since detainees can be put into isolation if they have tried to harm themselves, in order to protect them.⁹³ Insufficient visits from a health care professional is also a concern for individuals in detention.

The maximum length of detention for asylum seekers in Finland is six months, which can be extended by another six months in some circumstances, including if the detainee does not cooperate in carrying out the return, or the necessary return documents are not obtained from the third State delaying the execution of the removal.⁹⁴ Amnesty International is concerned that long detention periods have a negative impact on the health, particularly mental health, of detained asylum-seekers.

8.2 HEALTH SERVICES FOR UNDOCUMENTED MIGRANTS

People who are undocumented migrants (paperittomat), who are former asylum-seekers who have received a negative decision but have stayed in the country due to an unsuccessful deportation or other reasons, do not have the same access to health care as asylum-seekers do in Finland. Legislation only provides for self-funded emergency care in public health care facilities. Groups assisting undocumented migrants have told Amnesty International of clients who have avoided seeking health care because they are concerned about the related fees.⁹⁵ Health care fees can cause a significant barrier to undocumented migrants' access to

⁸⁶ European Institution for Crime Prevention and Control (HEUNI), (2020): <https://bit.ly/300pmYz>.

⁸⁷ The Parliamentary Ombudsman (2017), Metsälä Detention Unit Inspection Report (available only in Finnish): <https://www.oikeusasiamies.fi/rfi/raikaisu/-/eoar/6966/2017>. Amnesty has also received information from other non-governmental organisations.

⁸⁸ Irregular migrants here mean migrants who are in Finland without a residence permit or a visa and who have never applied for asylum. Thus, this is a different category from undocumented migrants who have received a negative asylum decision but have not been able to return to their country of origin.

⁸⁹ 2019 AI FI CAT 2019 LOIPR report.

⁹⁰ Parliamentary Ombudsman (2017) Metsälä Detention Unit Inspection Report (available only in Finnish): <https://bit.ly/3frJ3cX>

⁹¹ The Parliamentary Ombudsman (2018) Joutseno Detention Unit Inspection Report (available only in Finnish):

<https://www.oikeusasiamies.fi/rfi/raikaisu/-/eoar/5145/2018>

⁹² The Parliamentary Ombudsman (2018) Joutseno Detention Unit Inspection Report (available only in Finnish): <https://www.oikeusasiamies.fi/rfi/raikaisu/-/eoar/5145/2018>, <https://newsnowfinland.fi/news-now-original/death-in-detention-suicide-reveals-mental-health-strain-of-deportation-wait>. See also, the Criminal Sanctions Agency's regulation on the living conditions for prisoners as a reference to isolation rooms equipping:

<https://www.rikosseuraamus.fi/fi/index/seuraamukset/saannokset/maarayksetjaohjeet/vankienasuminenjaperushuolto190042010.html>

⁹³ Act on the Treatment of Detained Aliens and of the Detention Units, section 8.

⁹⁴ Alien Act, section 127.

⁹⁵ Ultimately, the state can reimburse the municipality for realized costs that the municipality has been unable to collect.

health care because they often do not have a possibility to work and thereby earn money necessary to pay such fees.⁹⁶

Municipalities can deviate from legislation to grant more health care coverage.⁹⁷ Only Helsinki, Espoo, Siilinjärvi and Jyväskylä have granted access to “necessary” health care services for undocumented migrants, which includes for example treatment for chronic diseases. Undocumented migrants who are pregnant or are children receive even more extensive services.⁹⁸ Several municipalities offer services to undocumented pregnant women and children at the same cost as to other residents.⁹⁹ However, in most other municipalities, undocumented pregnant women are only entitled to emergency care, such as health care services when in labour and even undocumented children are only entitled to emergency care.¹⁰⁰

According to the Government Programme of Prime Minister Sanna Marin issued in 2019, undocumented migrants will be provided necessary health-care services, such as treatment for chronic diseases, in the future,¹⁰¹ but no amendments to existing regulations have yet been proposed.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Ensure that health care services, including mental health services, for refugees and asylum seekers are available, accessible, acceptable and of good quality, and available to them free from discrimination. The government should ensure that all specialized support services for asylum-seekers and refugees are adequately funded on a long-term basis.
- Provide comprehensive and continuous training for people working in reception centers for asylum seekers, as well as those processing asylum claims to recognize vulnerable asylum-seekers.
- Ensure that detention units and isolation rooms are equipped in line with the recommendations of the Parliamentary Ombudsman.
- Amend legislation to ensure that in all municipalities all people, including children, pregnant women, and those with chronic diseases, can access health services free from discrimination and regardless of their legal status or documentation.

⁹⁶ See also OHCHR (2014) the Economic, Social and Cultural Rights of Migrants in Irregular Positions, pp. 42: https://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf.

⁹⁷ Ministry of Social Affairs and Health: https://stm.fi/laittomasti-maassa-oleskelevien-sosiaali-ja-terveydenhuolto?p_p_id=com_liferay_journal_content_web_portlet_JournalContentPortlet_INSTANCE_7SjijYVdYeJHp&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&com_liferay_journal_content_web_portlet_JournalContentPortlet_INSTANCE_7SjijYVdYeJHp_languageId=en_US and the Finnish Institute for Health and Welfare: <https://thl.fi/en/web/migration-and-cultural-diversity/good-practices/health-services-for-undocumented-migrants>

⁹⁸ <http://www.globalclinic.fi/terveyspalvelut-kunnissa/>

⁹⁹ <http://www.globalclinic.fi/en/> and <http://www.globalclinic.fi/terveyspalvelut-kunnissa/>

¹⁰⁰ The Finnish Institute for Health and Welfare: <https://thl.fi/en/web/migration-and-cultural-diversity/good-practices/health-services-for-undocumented-migrants>. See also an extensive list of municipalities that offer more than just emergency care: <http://www.globalclinic.fi/terveyspalvelut-kunnissa/>

¹⁰¹ Programme of Prime Minister Sanna Marin's Government 10 December 2019, pp. 161: <https://bit.ly/37zMzPG>.

9. RECEPTION SERVICES FOR ASYLUM-SEEKERS AND ACCOMMODATION FOR UNDOCUMENTED MIGRANTS (ARTS. 11 AND 13, QUESTIONS 23 AND 27 LIST OF ISSUES)

In Finland, asylum-seekers are provided reception services that include accommodation, reception¹⁰² and spending-money, health care and social services, interpretation and translation services, and work and study activities.¹⁰³ For school-aged children study activities include, whenever possible, participation in preschool or basic education. These can be offered at the transit-center where asylum-seekers are first accommodated before their asylum interview, but as this accommodation is not long-term, education provision is not required by Finnish law.¹⁰⁴ After the asylum interview, applicants are transferred to reception centers while they await the decision on their claim, where additional services and activities are provided. Asylum-seeker children have the right to participate in pre-primary education during the year preceding compulsory schooling, but they do not have the right to participate in early childhood education.¹⁰⁵ In practice, moving asylum-seeker children from one centre to another – from transit centres to reception centres for the waiting period or sometimes to detention centres – does not support their access to education. This Committee has stated that education must be accessible to all, especially the most vulnerable groups.¹⁰⁶ Amnesty International believes that municipalities need to ensure that asylum-seeker children have access to preschool and basic education¹⁰⁷, including in pre-deportation centres, in order for Finland to fulfil its international obligations.

A third-country national whose asylum application has been rejected and who has not applied for assisted voluntary return will be provided with reception services for a maximum of 30 days after the expulsion decision has become enforceable and the police have informed the reception center that they have been

¹⁰² According to the Act on the Reception of Persons Applying for International Protection (and on the Identification and Assistance of Victims of Trafficking), section 3 point 3, reception means a set of reception and arranging centres and reception services organized for the purpose of securing livelihoods and care for those applying for international protection and those granted temporary protection.

¹⁰³ Act on the Reception of Persons Applying for International Protection (and on the Identification and Assistance of Victims of Trafficking), section 13.

¹⁰⁴ Government proposal HE 266/2010, pp. 47, 59 (available only in Finnish): <https://bit.ly/37AJmiW>.

¹⁰⁵ A ruling by The Administrative Court of Helsinki, 2017 (17/0239/6). The case is available only by request from the court. However, the case is described in: https://www.riksdagen.fi/FI/vaskii/Kysymys/Documents/KKV_343+2019.pdf. Early childhood education includes day care activities (and corresponding care) for children before they start their pre-primary education at the age of six years. Law on early childhood education, section 1.

¹⁰⁶ Committee on Economic, Social and Cultural Rights, 1999. General Comment No. 13: The right to education (article 13).

¹⁰⁷ Finnish basic education comprises of general education and support for growth: <https://www.oph.fi/en/education-system/basic-education>. Basic education in Finland is provided to children from the age of 7 years onwards. Law on basic education, section 25.

unable to remove the person from the country.¹⁰⁸ After 30 days, reception services will no longer be provided and the applicant can neither be accommodated at the reception centre nor use their services, such as health care. In practice, these people then become undocumented migrants because they do not have a right to any temporary residence permit in Finland. Unaccompanied children whose asylum applications have been rejected are an exception to this as they can continue to reside at the reception centre until they are removed from Finland.¹⁰⁹

Before 2015, reception services continued for both children and adults until they were removed from Finland. The number of undocumented migrants is estimated to have increased due to the legislative changes of 2015 which removed the temporary residence permits for people whose asylum applications had been rejected but who could not be returned to their country of origin.¹¹⁰ The purpose of these changes was to persuade people to use the voluntary return mechanism by denying reception services after the said 30 days.¹¹¹ These legislative changes have restricted the human rights of migrants, including the right to adequate housing. Amnesty International states that trying to force people to resort to voluntary return cannot be regarded legitimate because the return is not then factually voluntary. Because they are considered to be staying on illegally in the country, people who are undocumented migrants are not included within the statistics of homelessness and are also not actively provided public shelter services.¹¹²

Before their removal from the country, some asylum-seekers are detained, where the authorities suspect that the person may attempt to flee.¹¹³ Amnesty International emphasizes that detention should only be used as the last resort and does not provide a long-term housing solution, as it is meant to be used only for a short period before removal from the country.

RECOMMENDATIONS

Amnesty International recommends that Finnish authorities:

- Commit to ending child immigration detention, both in the case of unaccompanied children and children with their families. It is never in the best interest of a child to be detained and the rights of a child, such as the right to education, cannot be sufficiently provided in detention.
- Guarantee access to services, such as accommodation, education and access to adequate food and health care to people regardless of their legal status or documentation.

¹⁰⁸ Act on the Reception of Applicants for International Protection and on the Identification and Assistance of Victims of Trafficking in Human Beings, section 14 a.

¹⁰⁹ Act on the Reception of Applicants for International Protection and on the Identification and Assistance of Victims of Trafficking in Human Beings, section 14 a and section 17.

¹¹⁰ Non-discrimination Ombudsman (2018): Report to the Parliament, pp. 9 (available only in Finnish): <https://bit.ly/3hy0Q4c>.

¹¹¹ Government Proposal 170/2014 pp. 3-4 (available only in Finnish): <https://bit.ly/2YCEi90>.

¹¹² Information on homelessness from an NGO working with homeless people in Finland: <https://vavy.fi/asunnottomuus/>.

¹¹³ Aliens Act, section 121.

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info@amnesty.org



+44 (0)20 7413 5500

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FINLAND

SUBMISSION TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

68TH SESSION, 8 – 9 OCTOBER 2020

This submission has been prepared by Amnesty International in advance of the consideration by the UN Committee on Economic, Social and Cultural Rights (the Committee) at its 68th session of the seventh periodic report on Finland's implementation of the International Covenant on Economic, Social and Cultural Rights (the Covenant).

In particular, the submission provides information about the following issues in the context of Finland's human rights obligations under the Covenant: due diligence of companies, climate action, social security and poverty, human rights education, rights of transgender and intersex persons, violence against women, health services for asylum-seekers, reception services for asylum-seekers, and accommodation for undocumented migrants (paperittomat).