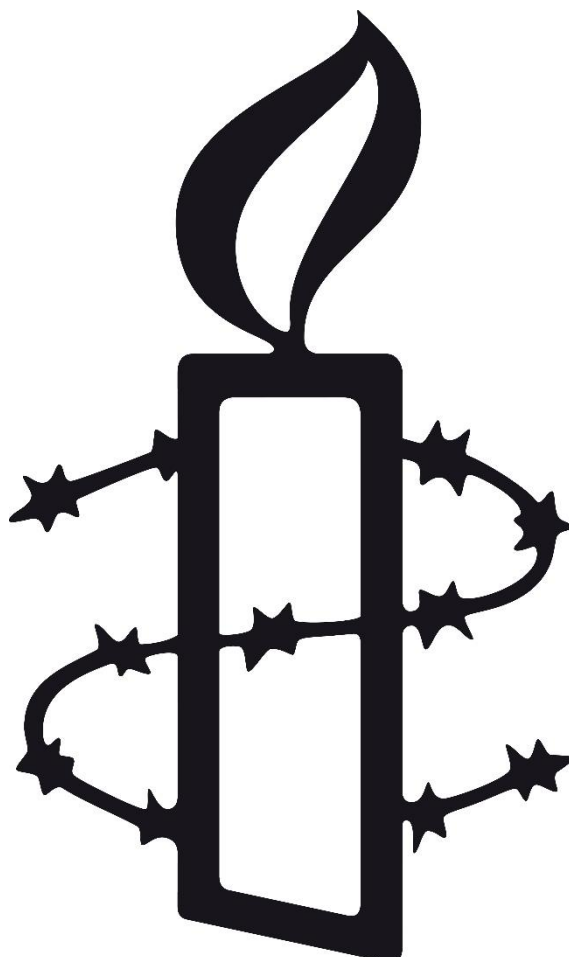


FINLAND

SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE
79TH SESSION, 15 APRIL- 10 MAY 2024



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This briefing to the UN Committee against Torture sets out Amnesty's concerns with regard to statute of limitations for the crime of torture; violence against women; the treatment of asylum seekers, refugees and migrants; rehabilitation of survivors of torture; admissibility of evidence obtained through torture or other ill-treatment; use of force by law enforcement officials; hate speech and hate crimes and the rights of intersex people. This is not an exhaustive set of issues.

1. INTRODUCTION

Amnesty International provides the below information to the UN Committee against Torture (the Committee) ahead of the review of the eighth periodic report of Finland at its 79th session. This submission sets out some of Amnesty International's key concerns about the fulfilment of Finland's obligations to respect and protect against acts of torture and other ill-treatment under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), including to take every reasonable precaution to prevent, stop, punish and ensure remedies for human rights violations committed by non-state actors. It also covers concerns with regard to statute of limitations for the crime of torture; violence against women; the treatment of asylum seekers, refugees and migrants; rehabilitation of survivors of torture; admissibility of evidence obtained through torture or other ill-treatment; use of force by law enforcement officials; hate speech and hate crimes and the rights of intersex people. This is not an exhaustive set of issues.

2. STATUTE OF LIMITATIONS FOR THE CRIME OF TORTURE (ARTICLES 1, 2 AND 4)

Finland has not amended its legislation in accordance with the recommendations included in the Committee's Concluding Observations from 2017. The Criminal Code continues to subject acts of torture to a statute of limitations. The Criminal Code attaches a statute of limitations to the maximum penalty of a given crime. As the crime of torture carries a minimum penalty of two years and a maximum penalty of twelve years imprisonment,¹ it is subject to a statute of limitation of twenty years.² Furthermore, "petty war crimes",³ which carry a minimum penalty of a fine and a maximum penalty of two years imprisonment, are subject to a statute of limitation of five years.⁴

When torture was criminalized in 2009 the Government Bill noted that the penalties set for the crime of torture were compared to the penalties for crimes against humanity and war crimes. At the time, law makers considered that the penalty for the crime of torture should be lower than the penalties for crimes against humanity and war crimes due to the extraordinary circumstances in which crimes against humanity and war crimes take place. Crimes against humanity and war crimes carry a maximum sentence of life imprisonment and are therefore not subject to a statute of limitations. If torture was committed as a crime against humanity or war crime, it would not be subject to a statute of limitations.⁵

RECOMMENDATIONS

Amnesty International recommends that Finland:

- Amend the Criminal Code and eliminate the statute of limitations for the crime of torture.

3. VIOLENCE AGAINST WOMEN (ARTICLES 2, 14 AND 16)

3.1 NATIONAL ACTION PLAN ON VIOLENCE AGAINST WOMEN

The Committee recommended in January 2017 that Finland draw up a new national action plan to reduce violence against women, ensuring that it receives adequate funding, and effectively implement the key provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

¹ Finland, Criminal Code, 1889, <https://www.finlex.fi/fi/laki/ajantasa/1889/18890039001>, Chapter 11, Section 9 (a). An unofficial English translation with amendments up to 433/2021 included : <https://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>

² Criminal Code, Chapter 8, Section 1, sub-section 2 (1).

³ Criminal Code, Chapter 11, Section 7.

⁴ Criminal Code, Chapter 8, Section 1, sub-section 2 (3).

⁵ HE 76/2009 Hallituksen esitys Eduskunnalle kidutusta koskeviksi rikoslain säännöksiksi sekä laiksi pakkokeinolain 5 a luvun 2 ja 4 §:n muuttamisesta, [The Government Bill to the Parliament on penal provisions on torture and on a law to amend articles 2 and 4 of Chapter 5 a of the Coercive Measures Act], 2009, p. 32.

In Finland a committee on combating violence against women and domestic violence (i.e. Committee for Combating Violence Against Women and Domestic Violence (NAPE), Naisiin kohdistuvan ja perheväkivallan vastainen toimikunta, NAPE⁶), known as the Administrative Committee, was set up in 2016 to promote and monitor the implementation of the Istanbul Convention. However, the Administrative Committee has not been properly resourced. The work of the Administrative Committee is conducted within the budgetary constraints of the existing budgets of various ministries and relies on the human resources of existing bodies.

Various action plans to combat violence against women have been developed.⁷ A continuous lack of resourcing of these plans impedes their implementation. This has been emphasized in the assessments of these programs.⁸

3.2 SHELTERS FOR SURVIVORS OF INTIMATE PARTNER VIOLENCE AND DOMESTIC VIOLENCE

The Committee recommended in 2017 that Finland provide safe and adequately funded shelters for victims of domestic and intimate partner violence, and their children, including for victims of so-called “honour-based violence”, throughout the country. While Finland has indeed increased state funding for victim shelter services, funding remains insufficient to cover the number of needed family places/rooms.⁹

In 2023, the number of family places/rooms in the 29 shelters in Finland is 230. This is still less than half of the per-capita provision recommended by the Council of Europe, according to which there should be 550 family places in shelters in Finland.¹⁰ Ministry of Social Affairs and Health (MoSAH) has estimated that for the shelter network to be accessible nationwide the number of places should be increased to 262-367.¹¹

According to MoSAH the current funding is not enough to ensure nationwide access to the shelter network.¹² As the funding of shelters is inadequate, the result is an uneven regional distribution of shelters

⁶ The description of the Committee in English: <https://stm.fi/en/nape1>

⁷ For example, two consecutive Action Plans for the Istanbul Convention (2018–2021 and 2022–2025), the action plan for preventing female genital mutilation (2017–2020) and the Action Plan for Combating Violence against Women (2020–2023).

⁸ The assessment of the first Action Plan of the Istanbul Convention in Finland: Ministry of Social Affairs and Health 2022, “*Vankka, jäsenitelemätön pohja. Istanbulin sopimuksen toimeenpanosuunnitelman 2018–2021 arviointi*” [Solid unstructured foundation. Assessment of the Action Plan for the Istanbul Convention for 2018–2021.] Nikulainen, E. & Perttu, S. 2022. The report recommends that the new Action Plan should be a goal-oriented and clearly structured plan which includes indicators and has a separate budget. https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163993/STM_2022_7_rap.pdf?sequence=1&isAllowed=y

See also the report: Ministry of Justice: “*Naisiin kohdistuvan väkivallan torjuntaohjelman 2020–2023 loppuraportti*” [Final report of the Action Plan for Combating Violence against Women for 2020–2023].

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164769/OM_2023_9_ML.pdf?sequence=1&isAllowed=y Ruuskanen, s. 42:

”Kokemukset ohjelman toimeenpanosta ja käytettävissä oleesta rahoituksesta osoittavat, että erillisellä rahoituksella on mahdollista saada paljon aikaan.” [The experiences of the implementation of the program show that with a lot can be achieved a separate budget”.

⁹ Terveyden ja hyvinvoinnin laitos, *Tilastoraportti 27/2023, Turvakotipalvelut 2022*

[Finnish Institute for Health and Welfare, statistic report 27/2023, Shelter Services in 2022]

<https://www.julkari.fi/bitstream/handle/10024/146664/Turvakotipalvelut%25202022.%2520Turvakotien%2520asiakasm%25C3%25A4%25C3%25A4r%25C3%25A4t%2520kasvussa.pdf?sequence=1> In 2022 there were 5163 people, who used shelter services across Finland. Of the adult clientele, 91 % were women. According to the National Institute for Health and Welfare, clients were referred to another shelter due to lack of space 813 times in 2022.

¹⁰ The Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV (2008)6) recommends safe accommodation in specialised women’s shelters, available in every region, with one family place per 10 000 head of population. The number is calculated based on this recommendation. See Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence: <https://rm.coe.int/ic-and-explanatory-report/16808d24c6>, p. 25.

¹¹ Johanna Hietamäki., Saana Kaipainen, Tanja Koivula, Suvi Nipuli, Joonas Peltonen: *Arvio turvakotien perhepaikkojen riittävästä määrästä ja kustannuksista*. [Assessment of the adequate number of family places in shelters and their costs]. Työpäpaperi 44/2020, Terveyden ja hyvinvoinnin laitos [Finnish Institute for Health and Welfare].

https://www.julkari.fi/bitstream/handle/10024/140823/TY%3C%962020_044_Arvio%20turvakotien%20perhepaikkojen%20riitt%C3%A4v%C3%A4st%20m%C3%A4r%C3%A4r%C3%A4st%20ja%20kustannuksista_s.pdf?sequence=4&isAllowed=y

¹² Blog by Minna Viuhko, expert member of NAPE. Blog posted in the webpages of the Finnish Government: <https://valtioneuvosto.fi/-/1271139/nykyisella-rahoitustasolla-ei-pystyta-turvaamaan-kattavaa-ja-laadukasta-turvakotiverkostoa>. “Nykyisellä rahoitustasolla ei pystytä turvaamaan kattavaa ja laadukasta turvakotiverkostoa” [“At the current funding level, it is not possible to secure a comprehensive and high-quality shelter network”], 2023, The Ministry of Social Affairs and Health. <https://stm.fi/-/nykyisella-rahoitustasolla-ei-pystyta-turvaamaan-kattavaa-ja-laadukasta-turvakotiverkostoa>.

Johanna Hietala et al.: *Arvio turvakotien perhepaikkojen riittävästä määrästä ja kustannuksista*, [“Assessment of the sufficient number and costs of family places in shelters”] 2020, p. 32 (in Finnish). Finnish Institute for Health and Welfare. The assessment suggests that Finland

across the country and lack of accessibility.¹³ There is also a lack of culturally appropriate Sámi-language shelters, which can prevent Sámi people from seeking help or support services.¹⁴ Additionally, women who use drugs are not allowed to stay in shelters,¹⁵ which is in contravention of recommendations by CEDAW.¹⁶ Moreover, survivors of human trafficking are denied access to shelters if the violence they experience cannot be classified as domestic violence.¹⁷ Implementation of the Committee's recommendation from 2017 is lacking as there is no specialized shelter for the survivors of so called "honour-based" violence. As stated in the report by Grevio on Finland, there is a lack of specialist women's shelters for survivors with complex needs.¹⁸

Early intervention and prevention services, peer support groups for victims of violence, programmes for perpetrators and outreach services are not provided nationwide nor systematically due to lack of funding.¹⁹ Effective prevention of violence requires these kinds of services in addition to shelter services.²⁰

3.3 PROTECTION FOR SURVIVORS OF GENDER-BASED VIOLENCE

The Committee recommended in 2017 that Finland ensures that victims of domestic violence benefit from protection, including restraining orders, and have access to legal and medical services, including counselling, as well as redress, including compensation.

In October 2023, the new legislation on restraining orders came into effect. Recent reforms have meant that current legislation permits a cost-free restraining order process for victims, even in cases where the restraining order application is eventually turned down or withdrawn. Electronic monitoring of the restraining order is possible in certain cases by court order.²¹ Reforming the legislation on restraining

should increase the number of family-places in shelters by approximately 100.

https://www.julkari.fi/bitstream/handle/10024/140823/TY%c3%962020_044_Arvio%20turvakotien%20perhepaikkojen%20riitt%c3%a4v%c3%a4st%c3%a4%20m%c3%a4r%c3%a4r%c3%a4st%c3%a4%20ja%20kustannuksista_s.pdf?sequence=4&isAllowed=y

¹³ Luoma, Valtokari, et al., *Vammaisten henkilöiden kokeman lähisuhteiden väkivallan yleisyys ja palvelujen saatavuus: Määrällinen ja laadullinen tarkastelu*, ["Prevalence of intimate partner violence experienced by persons with disabilities and access to services: A quantitative and qualitative review"], 2022, pp. 42-43, (in Finnish). <https://julkaisut.valtioneuvosto.fi/handle/10024/163918> Based on this research physical access to help for disabled women is often uncertain and highly dependent on who is working at the shelter.

¹⁴ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), The Sámi Parliament's Shadow Report to GREVIO 2023, 15 August 2023, p. 2. <https://rm.coe.int/state-report-finland-first-thematic-evaluation/1680ac512c>

Current research suggests that active anti-racist and intersectional approach needs to be adopted in shelter services. Nataša Mojškerc, *Racialisation in Domestic Violence Shelter Work: Autoethnographic Action Research*, 2023, p. 271.

<https://trepo.tuni.fi/bitstream/handle/10024/149012/978-952-03-2915-0.pdf?sequence=2&isAllowed=y>

¹⁵ Non-discrimination ombudsman, *Marginalisoidut naiset tarvitsevat nais erityisiä palveluita* [Marginalized women need services specific to women], (in Finnish) (accessed 30 November 2023) <https://syrijinta.fi/-/marginalisoidut-naiset-tarvitsevat-naiserityisia-palveluja> . <https://yle.fi/a/74-20049991>

¹⁶ Concluding Observations: Ninth cycle of Ukraine, 2023, UN Doc. CEDAW/C/UKR/CO/9, 30 (e),

<https://www.ohchr.org/en/documents/concluding-observations/cedawcukrc09-concluding-observations-ninth-periodic-report> and Concluding Observations: Fifth cycle of Kyrgyzstan, 2021, UN Doc. CEDAW/C/KGZ/CO/5, 22, <https://www.ohchr.org/en/documents/concluding-observations/cedawckgzc05-concluding-observations-fifth-periodic-report>

¹⁷ Sari Lampela & Tupo Ruuska, *Selvitys ihmiskaupan uhrien turvallisuudesta ja tuetusta asumisesta* ["Report on safe and supported housing for victims of human trafficking"], 2021, THL, p. 26 (in Finnish). https://www.julkari.fi/bitstream/handle/10024/143486/URN_ISBN_978-952-343-755-5.pdf?sequence=1&isAllowed=y

¹⁸ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) on Finland (2019). <https://rm.coe.int/grevio-report-on-finland/168097129d>. pp 33-34.

¹⁹ Amnesty International Finnish Section: *Järjestökentän arvio: Väkivaltaa kokeneiden naisten ja tyttöjen tarvetta pitkäkestoiseen tukeen ei tunnusteta, palvelut ovat sirpaleisia eikä palvelujen järjestämistä resurssoida*. [According to a report by Amnesty International Finnish Section, NGOs see that the long-term support for survivors is fragmented or nearly non-existent. Furthermore, NGO's assessed that the needs of women with disabilities, LGBTQ women, undocumented migrant women, and women with limited knowledge of Finnish are not adequately identified in social or health services]. <https://www.amnesty.fi/jarjestokentan-arvio-vakivaltaa-kokeneiden-naisten-ja-tyttojen-tarvetta-pitkakestoiseen-tukeen-ei-tunnusteta-palvelut-ovat-sirpaleisia-eika-palvelujen-jarjestamista-resurssoida/>

²⁰ Action against violence against women and domestic violence, Istanbul Convention Explanatory Report

<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=210>. Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul Convention, <https://rm.coe.int/168046031c>.

See also: Minna Piispa, Aaro Beuker, Jonna Brandt, Sanna Kohvakka, Heidi Lind, Martta October, *Laatukriteerit väkivallan ehkäisy- ja katkaisusuojelmille* [Criteria for programs of violence prevention and intervention programs]. Ministry of Justice publications, 2022:36.

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164368/OM_2022_36_ML.pdf?sequence=4&isAllowed=y

²¹ Ministry of Justice 2023, *Lähestymiskielion sähköinen valvonta käyttöön ja kiellon hakemisesta maksutonta*, ["Putting electronic monitoring of the restraining order to use and making applying for a restraining order free of charge."], Public statement. <https://oikeusministerio.fi/-/lahestymiskielion-sahkoinen-valvonta-kaytoon-ja-kiellon-hakemisesta-maksutonta> (in Finnish).

orders is not enough. The Government has yet to issue guidelines on how police should increase the use of temporary restraining orders as a protective measure.²²

The Deputy Chancellor of Justice reviewed police investigation in eleven precincts in 2022. The review revealed that the police investigation of intimate partner violence and sexual violence is often delayed, deprioritized and of poor quality.²³

Research commissioned by the government revealed that a significant number of intimate partner homicides against women were premeditated and often linked to break-up situations. Women who were killed by their partners or ex-partners had used social and health services frequently, however this violence was not recognized by the social and health services.²⁴

Additional measures are necessary to further strengthen the safety of women. The nationwide implementation of a multi-agency risk assessment, known as MARAC,²⁵ would be crucial in recognizing the life-threatening risks better. Currently MARAC is practised in 90 out of all 309 municipalities, and it has proven to be effective. According to a study by Finnish Institute for Health and Welfare, the MARAC process was able to cut the cycle of violence in 80 % of the cases they evaluated.²⁶

Currently, many cases of intimate partner violence are resolved through mediation. In Finland, mediation is covered by the Act on Conciliation in Criminal and Certain Civil Cases.²⁷ In 2021, 18.6% of all mediated cases were of domestic violence.²⁸ In 2019, the Deputy Chancellor of Justice emphasized that mediation cannot bypass criminal process and stressed that all Finnish law-enforcement authorities must be aware that mediation is prohibited in cases of reoccurring violence.²⁹ National Police Board reviewed their instructions accordingly. Instructions from 2020 clearly state that police should not refer reoccurring violence to mediation.³⁰ In 2023, a study commissioned by the Government indicates that cases of reoccurring violence are still referred to mediation.³¹ According to another study published by the Ministry

²² According to a study commissioned by the government on intimate partner violence against women 6% of homicide victims applied for restraining orders, but only 4% of the applications were approved.

Suonpää, Karoliina, Koskela, Tarja; Sutela, Mika; Törölä, Miisa; Aaltonen, Mikko *Naisiin kohdistuvat parisuhdetapot: Tapahtumaketjut, taustat ja ehkäisy*, [“Intimate partner homicides against women: Preceding events, risk factors and prevention.”], Publication series of the Government’s investigation and research activities 2023:16, 2023, pp. 23-27, 41, 80.

²³ In 2022 the Deputy Chancellor of Justice reviewed police investigations in eleven police precincts and found unnecessary, unexplained delays in the investigations and lack of informative, sensitive approach towards the victims in a manner that places the rights of the victim at risk. All 77 crimes were either cases of domestic violence, intimate partner violence or sexual violence. As a result of the review the Deputy Chancellor decided to investigate, whether the head of investigators have committed criminal offences in two police precincts. The investigation is ongoing. The review and the decision are only available in Finnish.

https://oikeuskansleri.fi/documents/1428954/107303577/julkaisu_ratkaisu_poliisin_menettely_lahisuhdevakivallan_ja_seksuaalirikosten_esitut_kinnoissa_OKV_325_70_2022.pdf/503278f5-073f-a36a-6592-aac8f0ac56d3/julkaisu_ratkaisu_poliisin_menettely_lahisuhdevakivallan_ja_seksuaalirikosten_esitutkinnoissa_OKV_325_70_2022.pdf?t=1669283151219

²⁴ Karoliina Suonpää et al, *Naisiin kohdistuvat parisuhdetapot: Tapahtumaketjut, taustat ja ehkäisy*, [“Intimate partner homicides against women: Preceding events, risk factors and prevention.”], Publication series of the Government’s investigation and research activities 2023:16, 2023, pp. 69-78, https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164731/VNTEAS_2023_16.pdf?sequence=1&isAllowed=y (in Finnish).

²⁵ MARAC is a process targeted towards intimate partner violence cases, where a team of professionals from different fields come together with the victim to assess if they are at a high risk of experiencing repeated violence. If the risk is high the victim is given a support person and an action plan that is reassessed.

²⁶ Minna Piispa et al., *MARAC kokemuksia parisuhdeväkivallan riskiarvioinnin menetelmän kokeilusta Suomessa*, [MARAC experiences from experimenting with the risk assessment method of intimate partner violence in Finland], 2012, pp. 42, 50 (in Finnish). https://www.julkari.fi/bitstream/handle/10024/90818/URN_ISBN_978-952-245-601-4.pdf?sequence=1&isAllowed=y

²⁷ Finland, Act on Conciliation in Criminal and Certain Civil Cases, 2005, <https://finlex.fi/fi/laki/ajantasa/2005/20051015>, Chapter 3, section 13, (in Finnish and Swedish).

²⁸ Institute of Health and Welfare: Rikos- ja riita-asioiden sovittelu, [“Mediation of Crime and Civil Cases”], Statistics and Data, thl.fi/fi/tilastot-ja-data/tilastot-aiheittain/sosiaalipalvelut/rikos-ja-riita-asioiden-sovittelu,

²⁹ Deputy Chancellor of Justice’s review of instructions to the police by the National Police Board of Finland, 2019, okv.fi/media/filer_public/91/d9/91d93319-8df9-4a37-a949-7cf22426b382/okv_11_50_2019.pdf, (in Finnish).

³⁰ Poliisihallituksen ohje POL-2020-28566 – *Poliisin toiminta perhe- ja lähisuhdeväkivallan sekä naisiin kohdistuvan väkivallan tapauksissa*, [Police action in cases of family and intimate partner violence and violence against women], (in Finnish), Not available online.

Minna Liimatainen & Satu Rantaeskola, *Toiminnallinen käsikirja lähisuhdeväkivaltaan puuttumiseksi ja ennalta estämiseksi* [Functional manual for intervening and preventing domestic violence] (2022), p. 43, (in Finnish) <https://poliisi.fi/documents/25235045/33939256/Toiminnallinen-k%C3%A4sikirja-l%C3%A4hisuhdev%C3%A4kivaltaan-puuttumiseksi-ja-ennalta-est%C3%A4miseksi-v8.pdf/37a14bb7-e4fc-df1b-35ce-c3df75063e8b/Toiminnallinen-k%C3%A4sikirja-l%C3%A4hisuhdev%C3%A4kivaltaan-puuttumiseksi-ja-ennalta-est%C3%A4miseksi-v8.pdf?t=1648047132809>.

³¹ Riikka Shemeikka et al., *Lähisuhdeväkivallan sovittelu: yleiset piirteet ja osapuolten kokemukset prosessista* [“ Mediation of intimate partner violence: general features and parties’ experiences of the process”], p. 97, (in Finnish).

of Justice (2023), victims of trafficking and forced marriages have been seen suitable for mediation by the police, as the police had classified the situation as intimate partner violence.³²

A typical content of an agreement resulting from mediation is an apology, a promise to end using violence or/and a promise to seek treatment. Only in 8% of cases monetary compensation was agreed on, and the amounts involved were small.³³

Amnesty International opposes the common use of mediation in domestic violence cases as these are often not appropriate methods to deal with crimes of violence against women.³⁴ Mediation is often justified by its cost-efficiency: if a crime is referred to mediation it does not “burden” the resources of the criminal justice system. The continued rise in the number of cases referred to mediation indicates a worrying trend where the best interests of the victim may not always be adequately considered. According to the current Government Program, mediation in cases involving domestic or intimate partner violence will, as a rule, be discontinued, but the government is yet to publish a proposal for legal change.³⁵

3.4 FORCED MARRIAGES

The Committee recommended that Finland include forced marriage as a distinct criminal offence in the Criminal Code, but this change has not taken place. Forced marriage creates specific challenges that need to be addressed, such as ensuring the legal protection of the victim and any children born within the marriage.³⁶ Ministry of Justice is currently preparing a proposal to clarify legislation on forced marriages.

3.5 SEXUAL VIOLENCE AND THE LEGAL DEFINITION OF RAPE

According to Statistics Finland 43 % of women aged 16-74 have experienced sexual violence in their lifetime and 16 % of women have survived rape.³⁷ Alarmingly 60-62 % of girls with disabilities have experienced sexual harassment.³⁸

New legislation on sexual offences entered into force on 1 January 2023.³⁹ This legislation amended the definition of rape to align with human rights standards, focusing on a lack of consent in the surrounding

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164663/VNTEAS_2023_11.pdf?sequence=1&isAllowed=y (Accessed in 2 November 2023).

³² Pihlaja, Saara, Piiipponen, Juulia, *Selvitys Rikosuhrapäivystyksen asiakkuudessa olevien, seksuaaliväkivaltaa kokeneiden ihmiskaupan uhrin tapauksista ja tilanteista*. [Report on the cases and situations of victims of human trafficking who have experienced sexual violence and have been clients of Victim Support Finland], Ministry of Justice, pp. 26-27, 64. The study also reveals that some victims have experienced pressure to accept mediation - by the police, or by the abuser or by family member. Abstract in English.

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164941/OM_2023_23_SO.pdf?sequence=1&isAllowed=y.

³³ National Institute for Health and Welfare, *Lähisuhdeväkivaltarikosten sovittelu – Nykytila ja kehittämisehdotukset* [Mediation of domestic violence crimes – Current situation and development proposals], Discussion Paper 2/2019, https://www.julkari.fi/bitstream/handle/10024/137475/URN_ISBN_978-952-343-269-7.pdf?sequence=1&isAllowed=y, p.32.

³⁴ Amnesty International, Finland, Submission to the United Nations Committee Against Torture. 68th session, 11 November – 6 December 2019. (Index: EUR 20/0560/2019), <https://www.amnesty.org/en/documents/eur20/0560/2019/en/>

³⁵ Prime Minister Petteri Orpo's Government Programme, 2023, 10.2, <https://valtioneuvosto.fi/en/governments/government-programme/#/>

³⁶ Ministry of Justice, *Pakkoavioliittojen esiintyminen ja ilmitulo Suomessa*. [The prevalence and disclosure of forced marriages in Finland]. Virve Toivonen. Kriminologian ja oikeuspolitiikan instituutti. Selvitysmuistio, syyskuu 2017.

<https://oikeusministerio.fi/documents/1410853/4750802/Avioliittoon+pakottaminen+-+selvitysmuistio+2017+HY.pdf/8b68f4a4-8c0e-43e0-9314-a40af9e4c56f/Avioliittoon+pakottaminen+-+selvitysmuistio+2017+HY.pdf.pdf>

See also: Ministry of Justice, *Arviomuistio avioliittoon pakottamisen rangaistavuudesta*. Oikeusministeriön julkaisu, Mietintöjä ja lausuntoja 2021:29. [Memorandum on the Punishability of Forcing a Person to Enter into Marriage, Ministry of Justice publications 2021:29]

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163612/OM_2021_29_ML.pdf?sequence=1&isAllowed=y

³⁷ Henna Attila, Miina Keski-Petäjä, Marjut Pietiläinen, Laura Lipasti, Juhani Saari, Kimmo Haapakangas, *Sukupuolistunut väkivalta ja lähisuhdeväkivalta Suomessa 2021. Loppuraportti*. [Gendered and domestic violence in Finland. Final report]. Tilastokeskus [Statistic Finland]. In Finnish. P. 59.

https://www.stat.fi/media/uploads/sukupuolistunut_vakivalta_temasivu/sukupuolistunut_v%C3%A4kivalta_ja_%C3%A4hisuhdev%C3%A4kivalta_suomessa_2021_-loppuraportti.pdf

³⁸ Luoma, Valtokari et al., *Vammaisten henkilöiden kokeman lähisuhdeväkivallan yleisyys ja palvelujen saatavuus: Määrällinen ja laadullinen tarkastelu* [Prevalence of intimate partner violence experienced by persons with disabilities and access to services: A quantitative and qualitative review], 2022 pp. 34, 42-43 (in Finnish). <http://urn.fi/URN:ISBN:978-952-383-016-5>

³⁹ Finnish Government, Eduskunnan vastaus hallituksen esitykseen, [“Parliament's response to the motion”], 8 September 2022, valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f807c91d8 (in Finnish).

circumstances.⁴⁰ However, in some cases involving the abuse of a position of authority, sexual offences are still categorized as sexual abuse even when they involve rape.⁴¹ This includes, for example, cases where the perpetrator abuses their position of authority over a person who is hospitalized or living in an institution and breaches their duty of care. This results in such crimes carrying a lesser sentence, which is inconsistent with international human rights law and standards.

RECOMMENDATIONS

Amnesty International recommends that Finland:

- Allocate earmarked funding for government programs and state funded services to effectively prevent and combat violence against women. The funding of services must be extended to cover both services provided by shelters and those by other providers to survivors outside shelters. Ensure that the number of shelter places meet the minimum standards set out in the Istanbul Convention (one family place per 10,000 head of population) and provide accessible, nationwide support for victims of violence, including accessible, inclusive and non-discriminatory shelters.
- Create guidelines for the effective use of restraining orders alongside with multi-agency risk assessments to ensure the safety of survivors of VAWG/DV/GBV and raise public awareness of these mechanisms so people can use them when needed.
- Ensure that all incidents of violence against women are effectively investigated and prosecuted without undue delay. Reform legislation on mediation to prohibit discontinuation of criminal investigation and prosecution in violence against women cases. Ensure that all law-enforcement and prosecution staff are aware that mediation is prohibited in cases of repeated violence.
- Adopt legislation that prohibits and prevents any type of forced marriage.
- Ensure that sexual offences committed through the abuse of one's position of authority are classified as rape in the Criminal Code.

4. ASYLUM SEEKERS, REFUGEES AND MIGRANTS (ARTICLES 3 AND 16)

4.1 NON-REFOULEMENT AND ACCESS TO FAIR ASYLUM PROCESS

Amnesty International remains concerned that the legislative changes to the Aliens' Act from 2016 continue to place asylum seekers at risk of human rights violations such as refoulement.⁴² Finland has not amended its legislation and practice in accordance with the recommendations presented by the Committee in its Concluding Observations from 2017. Legislation continues to place asylum seekers and migrants at high risk of being subjected to refoulement.

A report commissioned by the government analysed the combined effects of the amendments to the Aliens Act and the practice of applying the Act between 29 May 2015 and 6 June 2019 with regard to the status of those requesting and receiving international protection. The report noted that the focus of the amendments was on making the asylum process efficient, rather than protecting the applicants' human rights. There was an increase in cases where applicants were not granted residence permits and, at the same time, it was not possible to remove them from the country. Therefore, several people were left in positions of marginalization and vulnerability and remained in Finland with undocumented status after the

⁴⁰ The new legislation highlights that voluntariness needs to be communicated throughout sexual acts. It can be either verbal or non-verbal. Finland, Sexual Offences Act, 2022, <https://www.finlex.fi/fi/laki/alkup/2022/20220723#Lidm46494959209728>, Chapter 20, section 5.

⁴¹ Finland, Sexual Offences Act, 2022, <https://www.finlex.fi/fi/laki/alkup/2022/20220723#Lidm46494959209728>, Chapter 20, section 5.

⁴² More information about the changes made to the Alien's Act in 2016 can be found in our submission to this Committee in 2019, <https://www.amnesty.org/en/documents/eur20/0560/2019/en/>.

2016 amendments.⁴³ Data on people affected in this way is scarce, but reports suggest that many are men of working age who come from Somalia, Iraq and Afghanistan.⁴⁴

Procedural amendments resulted in an increase in the number of appeals and subsequent asylum applications.⁴⁵ An article collection by the Finnish Refugee Advice Centre highlights how “the most vulnerable asylum seekers”, including victims of torture, suffered the most from the government’s tighter asylum legislation and the Finnish Immigration Services’ more stringent application of the law. Especially, the study reported that during 2015-2016, the identification of vulnerabilities was “arbitrary” - the worsening quality of reception, the lack of experience of new officers working in the immigration service as well as of the interpreters and the weakening of asylum seekers rights by several amendments in law resulted in the difficulties of identifying vulnerabilities.⁴⁶ As a result, it is questionable whether all applicants have had their grounds for asylum assessed adequately.

Amnesty International is concerned about the continuing impacts of the legislative amendments from 2015-2019, especially given the immigration policies pursued by the current government appointed in June 2023. The government program introduces a number of legislative plans that aim to, among other things, “efficiently” enforce forced returns and tighten the conditions for submitting subsequent applications even further. In general, the government’s objective is to “tighten asylum policy”.⁴⁷ Amnesty International is concerned that this approach would put the rights of asylum seekers at further risk, including at an increased risk of refoulement if their grounds for international protection would not be assessed sufficiently.

Amnesty International notes that the Finnish asylum procedure does not provide adequate guarantees to ensure that no individual is expelled, returned or extradited to a country where there are substantial grounds for believing that they would be in danger of being subjected to torture or other inhuman or degrading treatment or punishment. The Committee has concluded in two decisions in 2023 that the return of the complainant would constitute a breach of Article 3 of the Convention against Torture.⁴⁸ The Finnish Refugee Advice Centre has brought 17 cases to the Committee since 2009.⁴⁹ In five of these cases, the Committee has found that the Finnish authorities (the Finnish Immigration Service, the Administrative Court and the Supreme Administrative Court) failed to identify a risk of torture violating the principle of non-refoulement. In the other cases, the proceedings before the Committee have been or are being concluded because the Finnish authorities have granted the complainant the right to reside in the country, usually recognizing their right asylum, while the appeal was pending before the Committee.⁵⁰ This suggests the

⁴³ Elina Pirjatanniemi, Inka Lilja, Maija Helminen, Kristiina Vainio, Outi Lepola and Anne Alvesalo-Kuusi. *Ulkomaalaislain ja sen soveltamiskäytännön muutosten yhteisvaikutukset kansainvälistä suojelua hakneiden ja saaneiden asemaan*, [The combined effects of the amendments to the Aliens Act and the practice of applying the Act with regard to the status of those requesting and receiving international protection], 16 February 2021, https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162850/VNTEAS_2021_10.pdf?sequence=1&isAllowed=y (description sheet in English).

⁴⁴ Ministry of the Interior, *Selvitys mahdollisista kansallisista ratkaisuista maassa ilman oleskeluoikeutta olevien tilanteeseen* [A study on possible national solutions to the situation of those residing in the country without a right of residence], Publication of the Ministry of the Interior 2022:16, https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163827/SM_2022_16.pdf?sequence=1&isAllowed=y, pp. 12-13 and 28.

⁴⁵ Elina Pirjatanniemi, Inka Lilja, Maija Helminen, Kristiina Vainio, Outi Lepola and Anne Alvesalo-Kuusi. *Ulkomaalaislain ja sen soveltamiskäytännön muutosten yhteisvaikutukset kansainvälistä suojelua hakneiden ja saaneiden asemaan*, [The combined effects of the amendments to the Aliens Act and the practice of applying the Act with regard to the status of those requesting and receiving international protection], 16 February 2021, https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162850/VNTEAS_2021_10.pdf?sequence=1&isAllowed=y (description sheet in English).

⁴⁶ Laura Tarvainen (ed), Marjaana Laine, Mia Leisti, Matti Rautakorpi, Hedayat Selim and Jenny Skrifvars, *Haavoittuva asema turvapaikkaprosessissa* [A vulnerable position in the asylum procedure], 2022, Pakolaisneuvonta, https://www.pakolaisneuvonta.fi/wp-content/uploads/Haavoittuva_asema_turvapaikkaprosessissa.pdf, p.41.

⁴⁷ Finnish Government, *A Strong and Committed Finland: Programme of Prime Minister Petteri Orpo’s Government*, 20 June 2023, <http://urn.fi/URN:ISBN:978-952-383-818-5>, 10.3.

⁴⁸ UN Committee against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 1044/2020, adopted by the Committee at its seventy-sixth session (17 April – 12 May 2023, CAT/C/76/D/1044/2020; Decision adopted by the Committee under article 22 of the Convention, concerning Communication No. 1052/2021, adopted by the Committee at its seventy-eighth session (30 October–24 November 2023) CAT/C/78/D/1052/2021.

⁴⁹ Laura Tarvainen (ed), Marjaana Laine, Mia Leisti, Matti Rautakorpi, Hedayat Selim and Jenny Skrifvars, *Haavoittuva asema turvapaikkaprosessissa* [A vulnerable position in the asylum procedure], 2022, Pakolaisneuvonta, https://www.pakolaisneuvonta.fi/wp-content/uploads/Haavoittuva_asema_turvapaikkaprosessissa.pdf, p.14.

⁵⁰ Pakolaisneuvonta, *YK:n kidutuksenvastainen komitea: Suomen viranomaiset olisivat rikkoneet palautuskieltoa* [The UN Committee against Torture: The Finnish authorities would have violated the principle of non-refoulement], 13 December 2023, <https://www.pakolaisneuvonta.fi/ykn-kidutuksen-vastainen-komitea-suomen-viranomaiset-olisivat-rikkoneet-palautuskieltoa-2/>.

inadequacy of safeguards against refoulement as, in some instances, it has been necessary to turn to supranational entities to stop refoulement. Amnesty International also notes that the ability to resort to supranational entities depends highly on the expertise and resources of the lawyer.⁵¹

In 2021, the legal protection of asylum seekers was improved by repealing Sections 9(2), 190(3) and 196(3) of the Aliens Act. These amendments granted asylum seekers the possibility to have a legal counsel at their interview, which is now at the discretion of the counsel and no longer restricted to cases that present "particularly weighty reasons." Additionally, the amendments aligned the deadlines for lodging appeals in asylum matters with those in other administrative matters when previously the deadlines were shorter for asylum matters compared to all other matters.⁵² Finally, article 17a of the Legal Aid Act was repealed, resulting in compensation for international protection cases according to hours worked, instead of case-related fees, when previously the remuneration to private legal counsels working with asylum seekers was set to a standard fee, which often did not cover the entire work needed to process the case.⁵³

Amnesty International welcomes the recent improvements, although they are not enough to ensure adequate legal representation and assistance to asylum seekers. The amendments did not address the stringent criteria to appeal to Supreme Administrative Court, did not introduce the right to choose a legal adviser in the first instance nor did it repeal the high⁵⁴ threshold for assessing subsequent asylum applications or reintroduce the suspensive effect as regards deportation while the first subsequent application is pending. These restrictions violate asylum seekers' right to a fair asylum procedure and to an effective remedy and the risk of forcible returns in violation of the principle of non-refoulement remains.⁵⁵

Asylum seekers can only seek legal aid from the Public Legal Aid Offices in the first instance. The Public Legal Aid Offices decide whether the applicant requires legal aid and whether a Public Legal Aid Attorney will provide counsel or whether the applicant is referred to a private lawyer. In the appeal stage, one can choose their counsel and refer to an NGO or a law firm specialized in asylum law. However, lawyers providing legal counsel to asylum seekers reported to Amnesty International that in their experience, the Public Legal Aid offices have increasingly denied legal aid for the appeal stage in cases where the applicant has applied for asylum multiple times.

Moreover, the current Government programme includes various plans to weaken asylum seekers' legal protection. For example, the government has said it will examine the possibility of limiting appeals against deportation to the first instance court, meaning further appeals to the Supreme Administrative Court would not be possible.⁵⁶ If plans are implemented, this would mean that the final legal guarantee at the national level would be omitted. The Supreme Administrative Court also aligns the interpretation of the asylum legislation between different lower instance courts. Moreover, the government plans to accelerate deportations and expulsions at the appeal stage where enforcement is not prohibited by a court decision.⁵⁷

People who applied for asylum in 2015 are at particular risk. According to a number of studies the quality of asylum procedure was especially weak in 2015-2016,⁵⁸ because of several legislative and procedural

⁵¹ Laura Tarvainen (ed), Marjaana Laine, Mia Leisti, Matti Rautakorpi, Hedayat Selim and Jenny Skrifvars, Haavoittuva asema turvapaikkaprosessissa [A vulnerable position in the asylum procedure], 2022, Pakolaisneuvonta, https://www.pakolaisneuvonta.fi/wp-content/uploads/Haavoittuva_asema_turvapaikkaprosessissa.pdf, p.49.

⁵² Finland, Laki ulkomaalaislain eräiden säännösten kumoamisesta [Act on repealing certain provisions of the Aliens Act], 2021, <https://www.finlex.fi/fi/laki/alkup/2021/20210737> / Finlex 737/2021

⁵³ Finland, Laki oikeusapulain 17 a §:n kumoamisesta [Act on repealing Article 17 a of the Legal Aid Act], 2021, <https://www.finlex.fi/fi/laki/alkup/2021/20210738> / Finlex 738/2021.

⁵⁴ Previously, the Court could consider appeals to cases pertaining to the Aliens Act that were "important for the application of the Act to other similar cases, or for the sake of consistency in legal practice, to submit the case to the Supreme Administrative Court for a decision or if there is some other weighty reason for giving the leave." The language "some other weighty reason" was changed to "other particularly serious grounds", thus adding a very strict qualifier for appeals.

⁵⁵ Finland: Time to Address Remaining Gaps in Human Rights Protection: Amnesty International Submission for the 41st Session of the UPR Working Group, 7 – 18 November 2022, March 2022, <https://www.amnesty.org/en/documents/eur20/5402/2022/en/>

⁵⁶ Government programme, section 10.3

⁵⁷ Government programme, section 10.3.

⁵⁸ E. Saarikkomäki, N. Oljakka, J. Vanto, E. Pirjatanniemi, J. Lavapuro and A. Alvesalo-Kuusi, *Kansainvälistä suojelua koskevat päätökset Maahanmuuttovirastossa 2015–2017 - Pilottitutkimus 18–34-vuotiaita Irakin kansalaisia koskevista myönteisistä ja kielteisistä päätöksistä* [Finnish Immigration Service's decisions on international protection – A pilot study on positive and negative decisions concerning Iraqi nationals aged between 18 and 34], 2018, [https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/34268331/Kansainv%C3%A4list%C3%A4+suojelua+koskevat+p%C3%A4%C3%A4t%C3%B6kset+Maahanmuuttovirastossa+2015-2017+\(PDF\).pdf/ccc99990-a899-4029-a84b-](https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/34268331/Kansainv%C3%A4list%C3%A4+suojelua+koskevat+p%C3%A4%C3%A4t%C3%B6kset+Maahanmuuttovirastossa+2015-2017+(PDF).pdf/ccc99990-a899-4029-a84b-)

amendments weakening asylum seekers' rights, resulting in a situation where their application might have never been properly assessed. The amendment to the Aliens Act in June 2019 increased the threshold for getting one's subsequent application assessed.⁵⁹ The current government plans to further tighten the conditions for submitting subsequent applications and "prevent unfounded subsequent applications".⁶⁰ This means that their applications may never be adequately assessed, further increasing the risk of refoulement.

4.2 BORDER POLICIES

Citing the need to respond to possible security threats, the Government proposed amendments to the Border Guard Act in June 2022 and the amended provisions came into force in July 2022. The amendments entail barriers to access to territory and curtail the right to seek asylum, as they allow authorities to restrict people's ability to make asylum applications to specifically designated border crossing points and to close others. They also provide for the construction of barriers in the border zone.⁶¹ The Finnish office of Amnesty International and various other human rights actors criticized the amendments.⁶² Despite the criticism, in September 2022 the Border Guard proposed the construction of 200 kilometres of border fence along the 1300-kilometre-long border with Russia.⁶³ The Parliament approved the funding for the fence in the government's fourth supplement budget of 2023.⁶⁴

On 16 November 2023, and for a period of time going from 18 November 2023 to 18 February 2024, the government closed all four southeastern border crossing points between Finland and Russia, restricting the submission of asylum applications at only two crossing points near Salla and Vartiuss. Salla and Vartiuss were also closed from 24 November onwards leaving only Raja-Jooseppi, the northernmost border crossing point, open. Finally, the last border crossing point in the eastern border was closed from 30 November onwards, thus closing the entire eastern border. The decision to close all border crossing points is in effect until 14 April when a new decision is expected.

The government justified its action on its suspicion that Russia was directing asylum seekers toward the Finnish border as part of a "hybrid operation".⁶⁵ Gradually, in absence of safe and regular alternatives to enter Finland, the closure of all the border crossing points at the eastern border has in practice prevented individuals coming from Russia to access territory and seek asylum in Finland. The closure of the border can result in individuals being rejected at the border, in violation of the principle of non-refoulement.⁶⁶ The government has kept the border closed through temporary decisions but according to media sources, more permanent solutions are being explored.⁶⁷ Additionally, the reports suggest that the government is

[79fa46d558fa/Kansainv%C3%A4list%C3%A4-suojelua+koskevat+p%C3%A4%C3%A4tt%C3%B6kset+Maahanmuuttovirastossa+2015-2017+\(PDF\).pdf?version=1.2&t=1608046718316](https://www.oikeus.fi/79fa46d558fa/Kansainv%C3%A4list%C3%A4-suojelua+koskevat+p%C3%A4%C3%A4tt%C3%B6kset+Maahanmuuttovirastossa+2015-2017+(PDF).pdf?version=1.2&t=1608046718316), Oikeustieteellisen tiedekunnan tutkimusraportteja ja katsauksia 1/2018.

Owal group, Turvapaikkaprosessia koskeva selvitys [A study on the asylum procedure], 27 June 2019, <https://intermin.fi/documents/1410869/3723692/Turvapaikkaprosessia+koskeva+selvitys+27.6.2019/60bd290f-ffbd-2837-7f82-25fb68fe172c/Turvapaikkaprosessia+koskeva+selvitys+27.6.2019.pdf>.

⁵⁹ Amnesty International, *Finland: Submission to the United Nations Committee against Torture 68th session, 11 November - 6 December 2019*, (Index: EUR 20/0560/2019), 25 June 2019, <https://www.amnesty.org/en/documents/eur20/0560/2019/en/>

⁶⁰ Government program 10.3.

⁶¹ Finland, Border Guard Act, 1999, translation from Finnish by the Ministry of Interior, [en20050578.pdf \(finlex.fi\)](https://www.finlex.fi/en/consolidated-legislation/20050578.pdf), Section 16.

⁶² [Amnestyn lausunto hallituksen esityksestä rajavartiolain muuttamisesta | Amnesty, ai-fi-191_2022-4-lisatalousarvio_rajaeste.pdf \(amnesty.fi\)](https://www.amnesty.fi/Amnestyn_lausunto_hallituksen_esityksesta_rajavartiolain_muuttamisesta), Finland: amendments to Border Guard Act must be accompanied by clear human rights safeguards - Commissioner for Human Rights (coe.int), [Lausunto+luonnoksista+hallituksen+esityksiksi+rajavartiolain+ja+valmiuslain+muutoksiksi+\(pdf\).pdf \(yhdenvertaisuusvaltuutettu.fi\)](https://www.coe.int/t/taqde/p/lausunto/luonnoksista_hallituksen_esityksiksi_rajavartiolain_ja_valmiuslain_muutoksiksi+(pdf).pdf), [Lausunto rajaesteen rakentamisen vaikutuksista turvapaikan hakemiseen | Yhdenvertaisuusvaltuutettu](https://www.yhdenvertaisuusvaltuutettu.fi/lausunto/rajaesteen_rakentamisen_vaikutuksista_turvapaikan_hakemiseen), [Lausunto: itärajan raja-aitaa suunniteltaessa on huomioitava ihmisoikeudet | Ihmisoikeuskeskus / Människorättscentret / Human Rights Centre](https://www.yhdenvertaisuusvaltuutettu.fi/lausunto/itarajan_raja-aitaa_suunniteltaessa_on_huomioitava_ihmisoikeudet), [Lausunto: turvapaikan hakemisen tulee aina olla tosiasialisesti mahdollista | Ihmisoikeuskeskus / Människorättscentret / Human Rights Centre](https://www.yhdenvertaisuusvaltuutettu.fi/lausunto/turvapaikan_hakemisen_tulee_aina_olla_tosiasialisesti_mahdollista)

⁶³ The Finnish Public Service Media Company YLE, Finland's political party leaders express support for partial border fence, 18 October 2022, <https://yle.fi/a/3-12662282>.

⁶⁴ The Finnish Public Service Media Company YLE, €139m earmarked for border fence next year, 17 November 2022, <https://yle.fi/a/3-12678396>.

⁶⁵ Government Communications Department, Ministry of the Interior, Finland's entire eastern border to be closed, 28 November 2023, https://valtioneuvosto.fi/-/1410869/koko-suomen-itaraja-suljetaan?languaged=en_US.

⁶⁶ Amnesty International Finnish office has continuously criticized the decision to close the border, see for example: [Päätös jatkaa itärajan sulkua on kohtuuton](https://www.amnesty.fi/rajaeste) [Decision to continue closure of Eastern border is unreasonable], 8 February 2024, <https://www.amnesty.fi/rajaeste>

⁶⁷ The Finnish Public Service Media Company YLE, Finland to keep Russian border shut until mid-February, 11 January 2024, <https://yle.fi/a/74-20068969>.

considering carrying out summary returns at the borders without an assessment of people's protection needs (so called "pushbacks").⁶⁸

The Finnish Non-Discrimination Ombudsman wrote a letter to the Minister of Interior stating that in the current situation where the eastern border crossing points are closed, Finland is jeopardizing the right to seek asylum and risks breaching the principle of non-refoulement. The Ombudsman continued that these circumstances do not allow an effective and genuine access to asylum.⁶⁹ The Council of Europe's Human Rights Commissioner and UNHCR have also expressed their concerns about the risk of violation of access to asylum and non-refoulement.⁷⁰

4.3 DETENTION OF ASYLUM SEEKERS AND MIGRANTS

Amnesty International has repeatedly called for a complete ban on the detention of children in accordance with recommendations of Committee on the Rights of Child. Finland continues to detain unaccompanied children and families with children based on their migration status,⁷¹ and there are no plans in the current government programme to change the practice.

Amnesty International has also advocated for alternatives to detention in line with the recommendation of the Committee. The previous government programme suggested technical monitoring of asylum seekers whose applications have been refused as an alternative to detention.⁷² However, the process was not initiated during the previous government period 2019-2023.

Instead of complying with the Committee's recommendation, according to the current government programme "the detention of aliens on grounds of public order and security and the continuation of detention for 12 months will be enabled in place of the current six months. The possibilities to detain aliens guilty of serious offences will be expanded."⁷³ The proposal to amend the law will be submitted to the parliament during the autumn session of 2024.⁷⁴ In the government report on public finances for the government's plan for 2024–2027, 6,3 million euros of permanent funding has been reserved for increased detention costs.⁷⁵ Amnesty International has criticized the plans and the increased funding for detention as the funds would be better used to guarantee the realisation of asylum seekers' human rights instead of restricting them.⁷⁶

⁶⁸ Helsinki Times, YLE: Orpo's proposal for push-back procedure on eastern border shot down by experts, 3 January 2024, <https://www.helsinkitimes.fi/finland/finland-news/politics/24714-yle-orpo-s-proposal-for-push-back-procedure-on-eastern-border-shot-down-by-experts.html>

⁶⁹ Non-Discrimination Ombudsman Kristina Stenman, Letter to the Minister of the Interior Mari Rantanen, 30 January 2024, https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/42723475/YVW__30tammi2024+sis%C3%A4ministeri+Rantanen.pdf/185f41ff-7ab6-ea7b-3136-828f3eeebfc1/YVW__30tammi2024+sis%C3%A4ministeri+Rantanen.pdf?t=1706681621755

⁷⁰ Council of Europe Commissioner for Human Rights, Finland: Concern over right to seek asylum and need for human rights safeguards after full closure of Eastern land border, letter to the Minister of the Interior Mari Rantanen, 4 december 2023, <https://www.coe.int/en/web/commissioner/-/finland-concern-over-right-to-seek-asylum-and-need-for-human-rights-safeguards-after-full-closure-of-eastern-land-border>

Non-Discrimination Ombudsman, Itärajan rajanylityspaikkojen pitäminen suljettuina vaarantaa edelleen vakavasti oikeuden hakea turvapaikkaa, 12 January 2024, <https://yhdenvertaisuusvaltuutettu.fi/itarajan-rajanylityspaikkojen-pitaminen-suljettuina-vaarantaa-edelleen-vakavasti-oikeuden-hakea-turvapaikkaa>

UNHCR, UNHCR urges Finland to protect the right to seek asylum, 30 November 2023, [UNHCR urges Finland to protect the right to seek asylum – UNHCR Northern Europe](https://www.unhcr.org/press-releases/unhcr-urges-finland-to-protect-the-right-to-seek-asylum-northern-europe).

⁷¹ Detention of unaccompanied 15-17 year-old children is allowed in law for a period of 72 hours, extendable by a further 72 hours. Finland, Aliens Act 301/2004, 2004, finlex.fi/en/laki/kaannokset/2004/en20040301.pdf, section 122. The Aliens Act allows for families with children to be held in detention for up to 12 months. See for example Finland: Ending immigration detention of children in Finland and seeking adequate reception and care for them - Amnesty International submission to the UN Special Rapporteur on the human rights of migrants, May 18, 2020: <https://www.amnesty.org/en/documents/eur20/2335/2020/en/>

⁷² Government programme, p. 89.

⁷³ Finnish Government, A Strong and Committed Finland: Programme of Prime Minister Petteri Orpo's Government, 20 June 2023, section 10.3. <http://urn.fi/URN:ISBN:978-952-383-818-5>.

⁷⁴ Ministry of the Interior, Hanke säilöönottoa ja maahantulokieltoa koskeva sääntely [Reform of legislation on immigration detention and ban on entry], 2023, <https://intermin.fi/hankkeet/hankesivu?tunnus=SM043:00/2023>.

⁷⁵ Finnish government, Valtioneuvoston selonteko julkisen talouden suunnitelmasta vuosille 2024-2027 [The government report on the plan for public economy for 2024-2027], 2023, (VNS 1/2023 vp), <https://valtioneuvosto.fi/paatokset/paatokset?decisionId=0900908f8084f541>, p. 32.

⁷⁶ Amnesty International Finnish Office, Asiantuntijalausunto hallintovaliokunnalle hallituksen esityksestä eduskunnalle valtion talousarvioksi vuodelle 2024 [Submission to the Administration Committee of the Parliament on the Government Proposal for the state budget for 2024], 23 October 2023, <https://www.amnesty.fi/asiantuntijalausunto-hallintovaliokunnalle-hallituksen-esityksesta-eduskunnalle-valuation-talousarvioksi-vuodelle-2024/>.

The parliamentary ombudsman of Finland audited the Joutseno detention centre on 16 December 2022. The audit was pre-announced and the intention was to assess whether the treatment of migrants in the centre was lawful. At the time of the audit 15 people were detained. Even though many of the individuals were detained for more than 200 days - the longest was 324 days - the ombudsman only recommended that the medical treatment plan should be reviewed annually and the date of the review should be recorded even if there is no need to update it.⁷⁷ No comments were made on the length of detention and the grounds for such detention. Under the law, the maximum length of detention is 6 months or 12 months if the detained person does not cooperate with the return processes or the necessary return documents are not obtained and the return is therefore prolonged.

Much of the statistics concerning the detention of asylum seekers and others held solely for immigration purposes is available, on request, through the detention units of Helsinki and Joutseno, which host the majority of detained persons. However, there continues to be a lack of comprehensive and reliable statistics. The Committee recommended in its concluding observations from 2017 that Finland set up a mechanism to monitor and provide statistics, disaggregated by sex, age, ethnicity and country of origin, on asylum seekers and undocumented immigrants detained under the Aliens Act. In its reply, Finland notes that such a mechanism already exists to a certain extent and refers to the POLSTAT system wherein data on individuals detained by the Border Guard is collected. However, as this system only contains data on detentions by the Border Guard, the majority of detained asylum seekers and migrants fall outside of its scope as they are detained by the Police. Individuals are very rarely detained by the Border Guard. Overall, statistics on detention remain scattered and incomplete. The statistics provided by the police do not provide enough information to get an understanding of how detention is used. The statistics received from the Helsinki and Joutseno detention units do not specify the ground for detention nor the migration status of the detainee. According to an email exchange between Amnesty International and the Deputy Director of Joutseno Reception Centre, they do not hold statistics on the detainees' residence status and one's status might change during the detention, for example, if one applies for asylum⁷⁸. Amnesty International has repeatedly raised concerns with the Finnish government on the lack of comprehensive statistics on detention of asylum seekers and migrants.⁷⁹

Amnesty International is also concerned about the lack of adequate resources to identify people's needs and vulnerabilities, when the authorities prepare to 'return' them to a different country. The Finnish Non-Discrimination Ombudsman's report on "how to strengthen the rights of returnees - identifying vulnerability and taking it into account in the return process" recommends that structures, operating models and guidelines should be put in place for the police and the reception services of asylum seekers, to safeguard the rights of people with specific needs and vulnerabilities who were not granted asylum in the preparation for and during their return to a different country.⁸⁰ According to the report, significant improvements to the procedures are needed. For example, the police do not always notify the reception centre of the return time, even though the guidelines require notification. Instead, the police picks up the person unexpectedly, in which case the reception centre staff cannot prepare the person for departure, for example by taking care of their medication or providing pre-return counselling. The problem is highlighted in the case of people living in private accommodation who are subject to this 'returns' process.

In the report, the Non-Discrimination Ombudsman also presents concerns about the enforcement of removals even after receiving information that a supranational treaty monitoring body is considering an

⁷⁷ Parliamentary Ombudsman of Finland, Tarkastus: Joutsenon säilöönottokysikkö 16.12.2022 [Inspection: Detention Unit in Joutseno 16 December 2022], 7 February 2023, <https://www.oikeusasiamies.fi/rfi/ratkaisut/-/eoar/7487/2022>.

⁷⁸ E-mail response from the Deputy Director of Joutseno Reception Centre to Amnesty International Finnish office, 26 October 2023.

⁷⁹ See for example, Finland: Ending immigration detention of children in Finland and seeking adequate reception and care for them - Amnesty International submission to the UN Special Rapporteur on the human rights of migrants, 18 May 2020, <https://www.amnesty.org/en/documents/eur20/2335/2020/en/>.

⁸⁰ Non-Discrimination Ombudsman, Miten vahvistaa palautettavien oikeuksia – haavoittuvuuden tunnistaminen ja huomioon ottaminen palautustoiminnassa [How to strengthen the rights of returnees – identifying vulnerabilities and taking them into account when in return activities], 2021, [https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/100512501/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+\(PDF\).pdf/91518ab2-43d9-1af3-8efc-cbb30cb8694e/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+\(PDF\).pdf?version=1.2&t=1655990037494](https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/100512501/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+(PDF).pdf/91518ab2-43d9-1af3-8efc-cbb30cb8694e/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+(PDF).pdf?version=1.2&t=1655990037494)

See also decision of the Parliamentary Ombudsman from 2019: <https://www.oikeusasiamies.fi/rfi/ratkaisut/-/eoar/3417/2018> where a mother and her child were separated for four days when preparing for their return because there was no place for them to be together in the Joutseno detention centre's family unit.

enforcement ban. The Non-Discrimination Ombudsman recommends that enforcement of deportation should be postponed until the supranational treaty monitoring body has taken a decision.⁸¹

4.4 NON-URGENT HEALTH CARE SERVICES FOR UNDOCUMENTED MIGRANTS

The Finnish government has announced plans to replace existing legislation, which guarantees undocumented migrants some necessary non-urgent healthcare services in addition to urgent services.⁸² The planned legislation would revoke access to any non-urgent services, mainly affecting those people who do not have a valid residence permit, such as persons whose application for asylum has been denied and other undocumented migrants. According to an independent review commissioned by the Finnish Ministry of the Interior, the increase of asylum applications in Finland during 2015 and 2016 strained the asylum system, with notable problems in the quality of asylum processes, and more people ending up as undocumented migrants.⁸³

RECOMMENDATIONS

Amnesty International recommends that Finland:

- Refrain from adopting measures that restrict the right to asylum and respect the principle of non-refoulement at all times. Ensure access to territory and to a fair and effective asylum procedure.
- Ensure that all asylum seekers can choose their legal counsel during all stages of the proceedings, including subsequent applications.
- Put an end to the detention of children, as it is never in their best interest. Refrain from detaining asylum seekers and promote alternatives to detention.
- Ensure that the rights and specific needs of people who were not granted asylum, especially those who may have specific vulnerabilities, are protected when they are being 'returned' to a different country.
- Continue to ensure necessary healthcare services for all, including undocumented migrants, in line with human rights obligations.

5. REHABILITATION OF SURVIVORS OF TORTURE (ARTICLE 14)

Amnesty International has repeatedly raised concerns about the dire situation regarding the recognition, treatment, and rehabilitation of torture survivors in Finland, particularly relating to the insufficient and unstable funding of services for torture survivors.

Currently, rehabilitation services for torture survivors are mainly provided by two Rehabilitation Centres for Torture Victims in the cities of Helsinki⁸⁴ and Oulu⁸⁵, operating under the Helsinki and Oulu Deaconess Institutes respectively, (these are non-governmental organizations providing social and healthcare services). The centres assess, treat, and rehabilitate torture survivors and their family members. They also offer

⁸¹ Non-Discrimination Ombudsman, *Miten vahvistaa palautettavien oikeuksia – haavoittuvuuden tunnistaminen ja huomioon ottaminen palautustoiminnassa* [How to strengthen the rights of returnees – identifying vulnerabilities and taking them into account when in return activities], 2021, [https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/100512501/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+\(PDF\).pdf/91518ab2-43d9-1af3-8efc-cbb30cb8694e/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+\(PDF\).pdf?version=1.2&t=1655990037494](https://yhdenvertaisuusvaltuutettu.fi/documents/25249352/100512501/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+(PDF).pdf/91518ab2-43d9-1af3-8efc-cbb30cb8694e/Miten+vahvistaa+palautettavien+oikeuksia+%E2%80%93+haavoittuvuuden+tunnistaminen+ja+huomioon+ottaminen+palautustoiminnassa+(PDF).pdf?version=1.2&t=1655990037494), p. 40

⁸² Government Programme of Prime Minister Petteri Orpo, 20 June 2023: <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/165044/Programme-of-Prime-Minister-Petteri-Orpos-Government-20062023.pdf?sequence=4>, p. 223.

⁸³ Owl Group, Review commissioned by the Finnish Ministry of Interior on the asylum process in Finland (in Finnish): <https://intermin.fi/documents/1410869/3723692/Turvapaikkaprosessia+koskeva+selvitys+27.6.2019/60bd290f-ffbd-2837-7f82-25fb68fe172c/Turvapaikkaprosessia+koskeva+selvitys+27.6.2019.pdf>, pp. 94-97.

⁸⁴ Centre for Torture Survivors at the Helsinki Deaconess Institute: <https://www.hdl.fi/en/rehabilitation-for-torture-victims/>.

⁸⁵ Rehabilitation Centre for Torture Victims at the Oulu Deaconess Institute (in Finnish): <https://odl.fi/palvelut/odl-yhdessa/kuntoutuminen-tai-kotoutuminen/traumakuntoutus-kitu/>.

consultations and trainings on torture rehabilitation. Alongside the Rehabilitation Centre for Torture Victims, the Helsinki Deaconess Institute also operates War Trauma Rehabilitation and a Child and Youth Team as a part of their Centre for Psychotraumatology.⁸⁶ The Child and Youth Team provides rehabilitation and consultations for refugee child survivors of torture and severe trauma.⁸⁷ In 2022, there were 2,880 appointments at the Centre for Psychotraumatology.⁸⁸

Additionally, some services are provided by the public sector. Rehabilitation services for refugees in Pirkanmaa, a region in South-Central Finland, are provided by the Psychiatric Polyclinic for Refugees run by the Wellbeing Services County of Pirkanmaa.⁸⁹ Consultations and examinations are also provided in the capital area by the Polyclinic for Cross-Cultural Psychiatry in Helsinki University Hospital and outpatient treatment for traumatized migrants in Helsinki is provided by the PAKO team at the Kalasatama Health and Well-being Centre.⁹⁰

The operations of the Rehabilitation Centres for Torture Victims are not funded from the State budget. Instead, they are funded by the Funding Centre for Social Welfare and Health Organisations (STEA), an independent state aid authority operating in connection to the Ministry of Social Affairs and Health.⁹¹ Organisations need to apply for project-based funding annually, and funding covers a maximum of 90 per cent of operating or activity costs.⁹²

The EU AMIF (Asylum, Migration and Integration Fund) funded the Child and Youth Team's work of the Helsinki Deaconess Institute's Centre for Psychotraumatology until the end of 2022.⁹³ According to Helsinki Deaconess Institute, AMIF decided to end funding with the justification that continuous activities should be funded with permanent funding instead of project-based funding.⁹⁴ Helsinki Deaconess Institute applied for funding for the Child and Youth Team's work from STEA, but was denied and has self-funded the operations since 2023.⁹⁵ Lack of state funding for the rehabilitation of torture survivors poses a significant risk for the continuity and sufficiency of services

Finnish academic research suggests a need to strengthen not only recognition of torture survivors and those traumatized among asylum seekers and refugees, but also build up their confidence and trust in authorities and public service providers.⁹⁶

RECOMMENDATION

Amnesty International recommends that Finland:

⁸⁶ Centre for Torture Survivors at the Helsinki Deaconess Institute: <https://www.hdl.fi/en/rehabilitation-for-torture-victims/>.

⁸⁷ Centre for Torture Survivors at the Helsinki Deaconess Institute, rehabilitation for child and youth survivors of torture and severe trauma (in Finnish): <https://www.hdl.fi/psykotraumatologian-keskus/lasten-ja-nuorten-toiminta/>.

⁸⁸ Helsinki Deaconess Institute, Action report 2022 (in Finnish): <https://www.hdl.fi/wp-content/uploads/2023/04/Diakonissalaitos-Tilinpaatos-ja-toimintakertomus-2022.pdf>, p. 10.

⁸⁹ The Wellbeing Services County of Pirkanmaa, Psychiatric Polyclinic for Refugees (in Finnish): https://www.pirha.fi/web/guest/toimipisteet/toimipistehakemisto/pakolaispsykiatrian-poliklinikka-tays-hallituskatu?p_back_url=https%3A%2F%2Fwww.pirha.fi%2Fpalvelut%2Fsairaalat-tays.

⁹⁰ Finnish Institute for Health and Wellbeing, Services for refugees in Southern Finland (in Finnish): <https://thl.fi/aiheet/maahanmuutto-ja-kulttuurinen-moninaisuus/yhteistyedot/paloma-osaamiskeskus/tuki-ja-toiminta/etela-suomen-yhteistyovalue>.

⁹¹ For more information, please see Funding Centre for Social Welfare and Health Organisations (STEA): <https://www.stea.fi/en/about-stea/92>; <https://www.stea.fi/en/applying-grants/who-can-apply/>; and (in Finnish) <https://www.stea.fi/wp-content/uploads/2022/03/STEA-avustusopas-2023.pdf>.

⁹² EU Asylum, Migration and Integration Fund, funding decisions for Finland, updated in 2021: <https://eusa-rahastot.fi/documents/3488306/3943718/Turvapaikka-,+maahanmuutto-+ja+kotouttamisrahaston+hankkeet,+p%C3%A4ivitetty+1.11.2021.pdf/e5d236f4-49d8-6a00-c65d-6aced93fd4fe/Turvapaikka-,+maahanmuutto-+ja+kotouttamisrahaston+hankkeet,+p%C3%A4ivitetty+1.11.2021.pdf?t=1636101601515>.

⁹³ Helsinki Deaconess Institute blog, ["When the Finnish state forgot child and youth survivors of torture"], 27 February 2023, (in Finnish): <https://www.hdl.fi/blog/kun-suomen-valtio-unohti-kidutetut-lapset-ja-nuoret/>.

⁹⁴ Helsinki Deaconess Institute blog, ["When the Finnish state forgot child and youth survivors of torture"], 27 February 2023, (in Finnish): <https://www.hdl.fi/blog/kun-suomen-valtio-unohti-kidutetut-lapset-ja-nuoret/>.

⁹⁵ Ferdinand Garoff and others, 'Iranian and Iraqi torture survivors in Finland and Sweden: findings from two population-based studies', *European Journal of Public Health*, June 2021: <https://academic.oup.com/eurpub/article/31/3/493/6210708>, pp. 493–498; Carla C. Schubert and others, 'Trauma, Psychosocial Factors, and Help-Seeking in Three Immigrant Groups in Finland', *Journal of Behavioral Health Services & Research*, 13 February 2018: <https://link.springer.com/article/10.1007/s11414-018-9587-x>, pp. 80–98.

- Allocate sufficient and stable funding to the rehabilitation of torture survivors. Ensure funding for the rehabilitation of child and youth torture survivors. Funding should be continuous to guarantee that there is no risk of gaps in the services provided by Rehabilitation Centres.

6. ADMISSIBILITY OF EVIDENCE OBTAINED THROUGH TORTURE OR OTHER ILL-TREATMENT (ARTICLE 15)

The Code of Judicial Procedure provides in Chapter 17, Section 25(1) that a court cannot use evidence that has been obtained through torture. However, this prohibition does not specifically extend to other ill-treatment nor to other violations. Section 25(3) provides that a court may use evidence obtained unlawfully if it will not prejudice a fair trial. While determining this the court will take into consideration the case in question, the gravity of the violation by which the evidence was obtained, whether the way in which the evidence was obtained impacts the reliability of the evidence, and other circumstances. It therefore remains for the court to decide, on a case by case basis, whether evidence obtained through ill-treatment is admissible.

RECOMMENDATION

Amnesty International recommends that Finland:

- Amend the Code of Judicial Procedure and explicitly prohibit the admissibility of evidence in judicial proceedings which is obtained through ill-treatment that is less severe than torture.

7. USE OF FORCE BY LAW ENFORCEMENT OFFICIALS (ARTICLE 16)

While the right to freedom of peaceful assembly is protected in the constitution, the police have increasingly used unnecessary force in non-violent protests.

On 3 October 2020 in Helsinki, police used OC-spray⁹⁷ against Elokapina (Extinction Rebellion Finland) activists who refused to move a peaceful sit-in action from a street to a location designated by police.⁹⁸ At least one of the activists who were targeted with OC-spray was a child.⁹⁹ Seven police officers faced charges of assault or breach of duty concerning the use of OC spray in the situation.¹⁰⁰ In its decision of 21 June 2023, the district court fined the police officer in charge of the operation who approved the use of OC spray, for negligent breach of duty.¹⁰¹ The court found that the use of the OC-spray could not be considered justified and in accordance with the principle of proportionality. The prosecutors appealed the case for an assessment of whether criminal liability for the use of the spray should be extended also to the other police officers involved in the case.

Amnesty International collects information on the state of the right to freedom of peaceful assembly by monitoring demonstrations. On 6 December 2023, the police dispersed a demonstration called 'Helsinki without Nazis' by force, without giving the demonstrators clear instructions or adequate exit orders.¹⁰²

⁹⁷ Also known as pepper spray.

⁹⁸ The event was covered widely in the media, see for example MTV News, "Video näyttää, miten poliisi kaasutti istuvia mielenosoittajia Helsingissä – asiantuntija arvioi poliisin voimankäyttöä: "On perusoikeus osoittaa mieltä"", 4 October 2020, mtv uutiset.fi/artikkeli/video-nayttaa-miten-poliisi-kaasutti-istuvia-mielenosoittajia-helsingissa-asiantuntija-arvioi-poliisin-voimankayttoa-on-perusoikeus-osoittaa-mielta/7943718#gs.rbc5si; Iltalehti, "Video: Poliisi sumutti kadulla istuvia mielenosoittajia Helsingissä – sisäministeri Ohisalo saanut alustavan selvityksen voimankäytöstä", 3 October 2020, iltalehti.fi/kotimaa/a/bf8f6ca8-bddd-44b4-b3f0-37d88d94802d, which includes video material.

⁹⁹ Preliminary investigation report 27.5.2021 (confidential), 5560/R/52607/20

¹⁰⁰ UN Human Rights Committee, General Comment 37: the right of peaceful assembly (article 21), 17 September 2020, UN Doc. CCPR/C/GC/37, para. 86: Force that is likely to cause more than negligible injury should not be used against individuals or groups who are passively resisting.

Yle News, "Six police officers are suspected of assault or breach of duty concerning the use of OC spray", 1 October 2021, yle.fi/news/3-12124597.

¹⁰¹ Helsinki District Court decision 23/126076, registration number R 22/4140

¹⁰² The police had informed organizers of the Helsinki without Nazis -demonstration in advance that the location was not suitable as another organizer had given their notification earlier and also had the privilege of tradition to use the square. Police also argued that it was not possible to organize the two demonstrations, which had conflicting interests, simultaneously.

According to Amnesty International's observations from the site of the demonstration, the police repeatedly rode horses into the crowd and used horses to push people away from the Töölö square where the demonstration took place. The police caused several incidents by riding over people. The police also hit, pushed and shoved people. Physical force was used by the police to restrain people who were apprehended/detained although Amnesty International observers did not observe any violent behaviour from the side of the demonstrators towards the police or any violent resistance to the arrests. In addition, police dragged demonstrators along the ground and tied their hands with zip ties. For example, in a video filmed by the Finnish public service media company Yle, four riot police dragged one demonstrator along the ground so that his head and torso hit the ground.¹⁰³

In some other peaceful demonstrations observed by Amnesty International, where protesters have not obeyed police orders to disperse, police have also dragged passively resisting demonstrators in a way that suggests the use of unnecessary and disproportionate force.¹⁰⁴ In a demonstration organized by students at the University of Helsinki and the University of the Arts Helsinki on 29 November 2023 in solidarity with Palestinian people, police dragged several demonstrators dozens of meters along the ground, causing the body of a demonstrator to hit the ground. Same kind of treatment was observed towards Elokapina (Extinction Rebellion Finland) activists in October 2022 and to some extent in two different occasions in 2023.¹⁰⁵

RECOMMENDATION

Amnesty International recommends that Finland:

- Protect the right to freedom of peaceful assembly and ensure, including through training and guidance, that law enforcement authorities recognize non-violent civil disobedience as a legitimate form of peaceful assembly covered by article 21 of the ICCPR, and cease any measures against peaceful protesters that may breach their right to freedom of peaceful assembly or expression.

8. HATE SPEECH AND HATE CRIMES (ARTICLES 2, 12, 13, 14 AND 16)

Amnesty International notes that the government's measures to combat hate speech and hate crimes remain insufficient in Finland. Amnesty considers that the activities lack overall coordination, and that limited government projects exist to address these issues.¹⁰⁶ Most notably, a permanent national coordination structure and a whole-of-government action plan to combat hate speech and hate crimes, as well as a comprehensive data collection system to record and analyze hate incidents, are lacking.

According to a 2022 follow-up survey commissioned by the Ministry of Justice (MoJ) on hate speech against and harassment of marginalized groups, the results of many governmental actions taken to combat hate speech are not yet reflected in the experiences of marginalized groups.¹⁰⁷ Another study commissioned by the government acknowledged that hate speech has become "an integral part of the online culture".¹⁰⁸ According to a report by the Police University College which operates under the Ministry

¹⁰³ Yle News, Oikeustieteilijä arvioi poliisin voimankäyttöä Töölöntorilla ja tarttuu erityisesti yhteen hetkeen: "Ei ole asianmukaista", <https://yle.fi/a/74-20063814>.

¹⁰⁴ According to the representative of Helsinki Police Department, in their training the police is instructed to drag people so that their heels touch the ground, if carrying is not a feasible option. Discussion with the Helsinki Police Department 30.1.2024.

¹⁰⁵ In Elokapina demonstrations at the UPM factory on 22 May 2023 and on the motorway Western Highway on 16 October 2023, Amnesty International observed police dragging demonstrators during arrests.

¹⁰⁶ European Commission against Racism and Intolerance (ECRI), Report on Finland (Fifth monitoring cycle), 18 June 2019, CRI (2019)38, <https://rm.coe.int/fifth-report-on-finland/1680972fa7>, para. 44-45.

¹⁰⁷ Owl Group, "Että puututtaisiin konkreettisesti": Seurantaselvitys vihapuheesta ja häirinnästä ja niiden vaikutuksista eri vähemmistöryhmiin ["Hoping for a Concrete Intervention": Follow-Up Survey on Hate Speech and Harassment and Their Effects on Different Minority Groups], 2022, <http://urn.fi/URN:ISBN:978-952-400-482-4> (in Finnish)

¹⁰⁸ Valtioneuvoston kanslia, 2022, Verkkoviha: Vihapuheen tuottajien ja levittäjien verkostot, toimintamuodot ja motiivit ["Online hate: networks, patterns and motivations of hate speech producers and disseminators"] https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164244/VNTEAS_2022_48.pdf?sequence=1&isAllowed=y (in Finnish)

of the Interior, the number of suspected hate crimes has increased in the past two years, with most of the suspected offences seemingly motivated by the victim's ethnic or national background.¹⁰⁹

The issue of under-reporting hate incidents to the authorities remains a significant problem.¹¹⁰ Anti-Racist Forum, an NGO working to fight for social justice, has developed an online tool to monitor hate incidents.¹¹¹ A 2022 report by Anti-Racist Forum noted that hate incidents reported through the online tool were rarely reported to the authorities. In cases where the respondent had indicated whether they had reported or would report the incident also to the authorities, only 8% responded having done or doing so. Very few of these respondents were satisfied with the authorities' response, often due to experiences of slowness and victim-blaming or receiving a response that the authorities would not investigate the incident.¹¹²

According to a recent study commissioned by the MoJ, there are shortcomings in the identification and processing of hate motives in the criminal procedure. The study criticized the guidelines by the National Police Board (NPB) for not requiring the police to assign hate crime codes to reported offences.¹¹³ According to the study, the police had recorded a significant number of hate crimes, that led to a conviction, without a hate crime code.¹¹⁴ The study also pointed out problems in investigating whether hate was a motive for crime, as the interviewing instructions issued by the NPB make no reference to examining the motives.¹¹⁵

Racist harassment and discrimination remain high. According to a 2022 survey by the EU Agency for Fundamental Rights, 43% of people of African descent in Finland reported experiencing racist harassment and 54% reported experiencing racial discrimination within a year before the survey.¹¹⁶ According to a 2021 report by Anti-Racist Forum, most of the hate incidents reported through their online tool were directed at persons who belonged or were presumed to belong to an ethnic minority, often at people of African or Asian descent.¹¹⁷

According to the European Islamophobia Report 2022, many politicians and public officials still portray Muslims as a threat to national security. The report highlights that anti-Muslim racism and xenophobic sentiment have been fueled by several events, including the parliamentary elections in April 2023. According to the report, parties like the Finns Party (FP) and the National Coalition Party (NCP) used

¹⁰⁹ In 2022, the police recorded 930 reports on these motives. The suspected crimes were associated with the victims' sexual orientation, gender identity or gender expression in 140 cases. 121 hate crime reports were related to religion or belief, and most of these crimes were committed against Muslims. These statistics only describe the number of suspected hate crimes reported to the police.

Police University College, "Growth continues in the number of suspected hate crimes", 26 October 2023, https://polamk.fi/-/viharikosepailyjenmaara-jatkaa-kasvuaan?languageId=en_US.

¹¹⁰ According to a survey, only approximately 20% of hate crime victims reported to the police. Ministry of Interior, Finland, "Suurin osa viharikoksista on rasistisia rikoksia" motiivit ["The majority of hate crimes are racist crimes"], <https://intermin.fi/poliisiasiat/viharikollisuus> (in Finnish). (accessed on 14 February 2024).

A report from 2018 reveals that only a small proportion of respondents had reported hate crime incidents to the police. The main reason for not reporting to the police was due to distrust of police action in hate crime cases. According to the report frustration and numbness, fear and anxiety were also evident in many responses.

Victim Support Finland (RIKU) and The National Forum for Cooperation of Religions in Finland (CORE Forum), Uhrien kokemuksia viharikoksista Suomessa vuosina 2014-2018 ["Victims' experiences of hate crime in Finland 2014-2018"], March 2018, https://www.riku.fi/content/uploads/su_file/2140__Uhrien_kokemuksia_viharikoksista_2014_2018.pdf (in Finnish).

¹¹¹ The tool does not substitute reporting a crime to the authorities, but it aims to gather information on the number and quality of hate incidents and to offer victims and witnesses a low-threshold way to report hate incidents anonymously. It was developed as a part of an EU-funded Facts Against Hate project in 2019-2021.

Anti-Racist Forum, "Together Against Hate – Hate incident monitoring tool", <https://www.yhdessavihaavastaan.fi/en/>.

¹¹² Anti-Racist Forum, Shadow report II: Together against Hate, 2022, <https://static1.squarespace.com/static/5c61e3977980b3278f57db6e/t/64229adf38df2175890c39c3/1679989474426/Together+Against+Hate+%20+Shadow+Report+II.pdf>.

¹¹³ The National Police Board, Epäilyyn viharikoksen tai sellaisia piirteitä sisältävän rikoksen luokittelu poliisiasiain tietojärjestelmään (Ohje 2020/2011/2098) ["Classifying a suspected hate crime or a crime containing such elements in the police information system (Guideline 2020/2011/2098)"], 13.12.2011 (in Finnish), cited in Marko Juutinen, Hate Crimes and their Handling in the Criminal Process, 2021, <http://urn.fi/URN:ISBN:978-952-259-934-6>.

¹¹⁴ Marko Juutinen, Hate Crimes and their Handling in the Criminal Process, 2021, <http://urn.fi/URN:ISBN:978-952-259-934-6>.

¹¹⁵ The National Police Board, Ohje esitutkintapöytäkirjan laadinnasta. Liite 2. Käsikirja kuulustelujen kirjaamisesta. (Ohje POL-2016-8514) ["Instructions for preparing the preliminary investigation report. Attachment 2. Manual for recording interrogations (Guideline POL-2016-8514)"], cited in Marko Juutinen, Hate Crimes and their Handling in the Criminal Process, 2021, <http://urn.fi/URN:ISBN:978-952-259-934-6>.

¹¹⁶ EU Agency for Fundamental Rights, Report: Being Black in the EU: Experiences of People of African Descent, 2023, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-being-black_in_the_eu_en.pdf.

¹¹⁷ Anti-Racist Forum, Shadow report: Together against Hate, 2021, https://static1.squarespace.com/static/5c61e3977980b3278f57db6e/t/61ccab3ce30d5d5fb14fd853/1640803133935/togetheragainsthate_ant_rasict_forum_A4_eng.pdf.

negative stereotypes of Muslims and so-called youth gangs to “hype up ‘the immigrant problem’ to lure voters” ahead of the parliamentary elections.¹¹⁸

The new government consisting of the NCP, the FP, the Swedish People’s Party and the Christian Democrats was appointed in June 2023. Amnesty International regrets that the new government programme lacks adequate commitments to combat racism, hate speech and hate crimes.¹¹⁹ Instead, the government has announced plans to tighten migration and asylum policy.¹²⁰ Comparing the plans to the more favourable treatment offered to people fleeing Ukraine, migration researchers have highlighted the “policy of inequality” based on ethnicity in the government programme for other people seeking protection.¹²¹ Amnesty International is concerned that the governments’ framing of migrants as “security threats” and “abusers of the system”¹²² may legitimize and fuel xenophobic attitudes.

In August 2023, after media reports concerning past racist speeches and writings by three newly appointed ministers of the FP, the government introduced an equality statement that includes a list of measures to combat racism. According to the statement, these would be implemented through a separate action plan that continues the work of the previous government action plan for combating racism in 2021-2023.¹²³

A 2023 evaluation report commissioned by the MoJ found that the previous governmental anti-racism action plan was meeting the criteria set by the EU. Despite the positive overall assessment, the report recommended the government “allocate sufficient resources for anti-racism policies”, “develop specific measures to combat Afrophobia, Islamophobia and antisemitism”, and “amend the Criminal Code to comply with the EU Framework Decision 2008/913/JHA”.¹²⁴

Amnesty International highlights that the government needs to take urgent steps to improve its response to racism, and to include affected and marginalized communities in all phases of planning, implementing, monitoring and evaluating the government’s anti-racism work.

Discrimination and bias-motivated violence against LGBTI persons remain common. A 2021 survey by the Finnish Institute for Health and Welfare shows that more than half of the LGBTI youth in the eighth or ninth grade have experienced discrimination at schools or in their free time.¹²⁵ According to ILGA Europe’s

¹¹⁸ Enes Bayrakli & Farid Hafez (eds.), European Islamophobia Report 2022, 2023, <https://islamophobiareport.com/islamophobiareport2022.pdf>.

¹¹⁹ Finnish Government, A Strong and Committed Finland: Programme of Prime Minister Petteri Orpo’s Government, 20 June 2023, <http://urn.fi/URN:ISBN:978-952-383-818-5>; Amnesty International Finnish Section, “Amnesty: Hallitusohjelma ihmisoikeuksien näkökulmasta heikko ja ristiriitainen” [“Amnesty: The Government Programme is Weak and Contradictory from a Human Rights Perspective”], 21 June 2023, <https://www.amnesty.fi/amnesty-hallitusohjelma-ihmisoikeuksien-nakokulmasta-heikko-ja-ristiriitainen/>.

¹²⁰ The government program lays down plans to “minimize the use of the asylum mechanism based on crossing European borders and applying for asylum in Finland”. According to the program, “the Government will bring Finland’s key asylum policy statutes up to the general level of Nordic countries”. Moreover, the government programs includes plans to tighten the requirements of family reunification, obtaining permanent residency and citizenship, as well as to “differentiate the social security system and social benefits of immigrants and permanent residents of Finland from each other”. Finnish Government, A Strong and Committed Finland: Programme of Prime Minister Petteri Orpo’s Government, 20 June 2023, pp. 220, 223- 224, <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/165044/Programme-of-Prime-Minister-Petteri-Orpos-Government20062023.pdf?sequence=4>.

¹²¹ Bodström, Erna, Blog post: “Hallitusohjelma ja eriarvoistamisen politiikka”, [“The government programme and the policy of inequality”], 7 September 2023, <https://raster.fi/2023/09/07/hallitusohjelma-ja-eriarvoistamisen-politiikka/> (in Finnish).

¹²² Hallituksen esitys eduskunnalle valtion talousarvioksi vuodelle 2024, [“Government proposal to Parliament on the state budget for 2024”], 9 October 2023, p. 241, https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/HE_41+2023.pdf (in Finnish).

¹²³ Finnish Government, Government statement to Parliament on promoting equality, gender equality and non-discrimination in Finnish society, 31 August 2023, <http://urn.fi/URN:NBN:fi-fe20230829112043>; Ministry of Justice, Finland, An Equal Finland: Government Action Plan for Combating Racism and Promoting Good Relations between Population Groups, 2022, <http://urn.fi/URN:ISBN:978-952-259-813-4>.

¹²⁴ MAP Finland ry, Arviointi valtioneuvoston Yhdenvertainen Suomi -toimintaohjelmasta rasismin torjumiseksi ja väestösuhteiden edistämiseksi [“Evaluation of the Government Action Plan on Equal Finland to Combat Racism and to Promote Good Relations”], 2023, <http://urn.fi/URN:ISBN:978-952-400-655-2>.

European Commission has started an infringement procedure against Finland. According to the European Commission, the Finnish legislation incorrectly transposes hate speech inciting to violence and fails to criminalize hate speech when addressed to individual members of a group defined by reference to race, colour, religion, descent or national or ethnic origin. The European Commission saw Finland also failing to criminalize the public condoning, denial or gross trivialization of international crimes and the Holocaust, as well as to ensure that the criminal offences concerning racism and xenophobia can be investigated and prosecuted without a report or an accusation made by the victim. European Commission, Press release: “February infringements package: key decisions”, 18 February 2021, https://ec.europa.eu/commission/presscorner/detail/en/INF_21_441.

¹²⁵ Finnish Institute for Health and Welfare, Kouluterveyskysely 2021: Sukupuolivähemmistöjen tulokset [“School Health Promotion Study 2021: Results of Gender Minorities”], 2022, <https://thl.fi/documents/10531/3554284/KTK2021-taulukot-sukupuolivahemmistot-FI.pdf/c2b63fab41fa-00ae-1abf-1033635182a7?t=1656333051663>; Finnish Institute for Health and Welfare, Kouluterveyskysely 2021: Seksuaalivähemmistöjen tulokset [“School Health Promotion Study 2021: Results of Sexual Minorities”], 2022, <https://thl.fi/documents/10531/3554284/KTK2021-taulukot-seksuaalivahemmistot-FI.pdf/fe3aaa6f-a16d-1d1b-3df8-1043ccfc2aa?t=1656333083769>.

Annual Review 2023, several hate speech incidents against trans people and especially trans women took place during the parliamentary debates for legal gender recognition reform.¹²⁶ In 2022, 22 out of 25 Pride organizers that responded to an NGO questionnaire reported experiencing some sort of harassment or violence.¹²⁷

In November 2023, 14 NGOs expressed concern that neither the government programme nor the equality statement include specific measures to promote the rights of LGBTI persons in Finland.¹²⁸ Amnesty further regrets that no LGBTI action plan has been established, despite the calls of NGOs and recommendations of human rights bodies.¹²⁹

RECOMMENDATIONS

Amnesty International recommends that Finland:

- Establish a permanent body to coordinate and develop national efforts to combat hate speech and hate crimes.
- Ensure that hate crimes are effectively investigated and those perpetrating them are held accountable, including by making it mandatory for police to include a separate classification for whether a reported offence is a suspected hate crime or not, and by updating the instruction on police interviews to include the examination of motives.
- Collect data on hate crimes at all levels, including reporting, investigation, prosecution and sentencing. Data should be disaggregated by protected grounds, made publicly accessible (considering privacy and in line with human rights law and standards), and regularly reviewed to assist the development of policies to combat hate crimes.
- Renew the action plan for combating racism and ensure that it contains adequate measures to address the root causes and contemporary manifestation of racism in line with international human rights law and standards, and implement the recommendations included in the assessment report of the previous action plan.
- Public officials and politicians must refrain from engaging in any stereotypical, stigmatizing and discriminatory discourses targeting affected and marginalized communities including people on the move and/or Muslims. The authorities and politicians must not entrench discriminatory conduct and contribute to a portrayal of people on the move and/or Muslims as security threats.
- Establish a comprehensive action plan for protection of the rights of LGBTI people.

¹²⁶ ILGA Europe, 2023 Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia, 2023, <https://www.ilga-europe.org/files/uploads/2023/02/annual-review-2023.pdf>.

¹²⁷ Most common types of acts reported were inappropriate and offensive speech, vandalism, and theft of Pride flags. Vandalism included burning and destructing rainbow symbols such as Pride flags, painted stars, and park benches. Harassment and violence were also taking place during Pride events. Far-right protesters aimed to disrupt a drag story time event in the Oodi Central Library during Helsinki Pride month. In Mikkeli, two young persons detonated a homemade bomb close to where the Pride march was taking place.

Yle – The Finnish Public Media Service Company, “Most Pride event organisers in Finland report harassment, violence”, 17 June 2022, <https://yle.fi/a/3-12498465>; ILGA Europe, 2023 Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia, 2023, <https://www.ilga-europe.org/files/uploads/2023/02/annual-review-2023.pdf>.

¹²⁸ Seta – LGBTI Rights in Finland, Yhteiskannanotto: Sateenkaari-ihmistien oikeuksia edistettävä konkreettisilla toimilla [“Joint statement: LGBTIQ+ rights must be promoted by concrete actions”], 9 November 2023, <https://seta.fi/2023/11/09/yhteiskannanotto-sateenkaari-ihmistenoikeuksia-edistettava-konkreettisilla-toimilla/> (in Finnish).

¹²⁹ Seta – LGBTI Rights in Finland, Yhteiskannanotto: Sateenkaari-ihmistien oikeuksia edistettävä konkreettisilla toimilla [“Joint statement: LGBTIQ+ rights must be promoted by concrete actions”], 9 November 2023, <https://seta.fi/2023/11/09/yhteiskannanotto-sateenkaari-ihmistenoikeuksia-edistettava-konkreettisilla-toimilla/> (in Finnish); ECRJ General Policy Recommendation No. 17 on preventing and combating intolerance and discrimination against LGBTI persons, 28.9.2023, <https://rm.coe.int/general-policy-recommendation-no-17-on-preventing-and-combating-intolerance/1680acb66f>; European Commission, Union of Equality: LGBTIQ Equality Strategy 2020-2025, 12.11.2020, https://commission.europa.eu/system/files/2020-11/lgbtiq_strategy_2020-2025_en.pdf; UN Human Rights Council, Universal Periodic Review of Finland (4th Cycle – 41st Session): Thematic list of recommendations, 9.11.2022, https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/fi/UPR41_Finland_Thematic_List_of_Recommendations.doc.

9. RIGHTS OF INTERSEX PEOPLE (ARTICLES 2 AND 16)

According to a study (2016) by the Finnish National Advisory Board on Social Welfare and Health Care Ethics (ETENE), intersex children in Finland are routinely subjected to medical and surgical treatments, often while very young, in order to align their physical appearances with either of the binary sexes. According to ETENE, such surgeries are often done for social reasons rather than out of medical necessity.¹³⁰

Research conducted by Tikli Oikarinen in March 2019¹³¹ adds to the evidence of the human rights violations experienced by intersex people in Finland. The study is based on the experiences of intersex persons and parents of intersex children within the Finnish healthcare system and in society. It examines how decisions around health care are made when an intersex child is born and how the treatment the child receives in childhood and adolescence can affect all aspects of their life: health, education, work life and personal relationships.¹³²

RECOMMENDATIONS

Amnesty International recommends that Finland:

- Ensure that medical procedures performed on intersex infants and children are performed solely in the best interests of the child and in full compliance with internationally adopted medical ethical standards and human rights law.

¹³⁰ There are variations between hospitals how parents are involved in the decision making in cases of non-emergency operations and the assignment of legal sex for an intersex infant. Some stress the authority of health professionals, some report the final decision is always solely the parents'. Out of the five existing University Hospitals, Oulu University is the only one that refuses to operate on intersex children for any other reason than medical necessity. In addition, according to ETENE, resources of health care units to support intersex individuals are inadequate.

¹³¹ Oikarinen, Tikli, *Ei tietoa eikä vaihtoehtoja : Selvitys intersukupuolisten ihmisten oikeuksista ja kokemuksista* [No information or options. Study on the rights and experiences of intersex persons]. Ministry of Justice and Ministry for Foreign Affairs, 2019. https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161410/OMSO_3_2019_Ei_tietoa_eika_vaihtoehtoja_.pdf?sequence=1&isAllowed=y

¹³² Amnesty International have made similar recommendations in the context of other countries. See reports: First do no harm <https://www.amnesty.org/en/documents/eur01/6086/2017/en/> and Iceland: No shame in diversity <https://www.amnesty.org/en/documents/eur28/9498/2019/en/>

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