



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the sixth periodic report of Finland

Addendum

Information received from Finland on follow-up to the concluding observations*

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Paragraph 10 — The State party should use alternatives to detaining asylum seekers and irregular migrants whenever possible. The State party should also guarantee that administrative detention for immigration purposes is justified as reasonable, necessary and proportionate in the light of the specific circumstances, and subjected to periodic evaluation and judicial review, in accordance with the requirements of article 9 of the Covenant. The State party should strengthen its efforts to improve living conditions in the Metsälä detention centre.

1. In 2011 the Ministry of the Interior set up a project to revise the legislation on the detention of aliens. The project is intended to amend the Aliens Act (3011/2004), the Act on the Treatment of Aliens Placed in Detention and Detention Units (1161/002), and, if necessary, any other legislation, as required by the entries in the Government Programme concerning the development of detention and alternatives to it, and by other needs. The project will revise the legislation on the detention of aliens and examine alternatives to detention in Finland. According to the Government Programme, the detention of unaccompanied minor asylum seekers will be prohibited. Moreover, alternatives will be developed for detention.

2. The project proposes amendments to the Act on the Treatment of Aliens Placed in Detention and Detention Units in order, firstly, to improve the position and conditions of detained vulnerable aliens as required by the EU Reception Directive, and, secondly, to improve the safety of the Detention Unit and its clients and staff as required by domestic needs.

3. The proposal will have positive impacts on the position of children and the realisation of their best interest. The proposal intends to prohibit all detention of

* The present document is being issued without formal editing.



unaccompanied minors applying for international protection, and to restrict the duration of the detention of all other unaccompanied minors to a very short period. Furthermore, after the proposed amendment of the legislation, children would no longer be placed in police detention facilities at all. The new legislation guarantees children, families and vulnerable groups the detention conditions required by the Directive.

4. The proposed legislation would prohibit authorities from placing unaccompanied children seeking international protection in Finland in detention. The length of the detention of other unaccompanied children would be limited to a very short time (72 hours + another 72 hours for a special reason). In addition, the Aliens Act would contain more precise and clearly delimited provisions on the preconditions for placing children in detention. The preconditions would apply to both children detained with a custodian and those detained without a custodian. All children detained on the basis of the Aliens Act would be placed in a detention unit, irrespective of the question whether they are accompanied or unaccompanied while staying in Finland. The current legislation already prohibits the placement of unaccompanied children in police detention facilities. The proposed amendment of the legislation would expand the prohibition to apply to all children. In other words, after the legislative amendment children would not be placed in police detention facilities at all.

5. Similarly, the placement of applicants for international protection in detention facilities of the police or the Border Guard would be avoided with all possible means. The proposal intends to improve the procedure for hearing social welfare authorities on the detention of children. The legislation currently in force requires that social welfare authorities be heard for decisions to place children in detention. In practice, such hearings have taken place without contacts between the authorities and the children. The proposal makes the detention of children conditional upon an opportunity given to the social welfare authorities to issue a statement on the matter before the detention decision. The authorities are required to issue the statement at the latest when the matter is being heard before a district court for the first time. Moreover, the social welfare authorities are given an opportunity for a statement during the reconsideration of the matter.

6. According to the proposal, the provisions of the Aliens Act on the requirements for holding aliens in detention, the information to be given to detainees and the placement of detainees should be clarified in order to implement the EU Reception Directive appropriately. For reasons based on domestic needs, the obligation of aliens to report at regular intervals to police or border control authorities would be revised by adding reception centres as alternative authorities responsible for receiving such reports. The proposed amendment is intended to increase the use of the obligation to report as an alternative to detention.

7. The Aliens Act would be supplemented with a provision on the opportunity to arrange district court hearings on the continuation of detention as video conferences or by using other applicable communication technologies. The proposal is intended to ensure consistency in the application of law regarding the preconditions for detention.

8. In line with the objectives of the Government Programme, the budget for 2014 contains additional funds for expanding the detention capacity. The additional funds will be used for founding a 30-place detention unit under Joutseno Reception Centre in Konnunsuo village, Lappeenranta city, Eastern Finland. In this unit, a separate department with 10 places will be reserved for families, children and other persons in a vulnerable position. The new unit makes it possible to better take account of the special needs of children and families with children.

9. When applicable, the new detention unit can take measures alternative to detention and make use of the operation of Joutseno Reception Centre. The closest cooperation

partners, i.e. the Finnish Immigration Service, the Aliens' Police and the Finnish Border Guard, all have offices in the vicinity, and the existing good cooperation relations will become increasingly close. The premises of the new unit make it possible to take account of special needs considerably better than in the existing Metsälä Detention Unit in Helsinki. The new detention unit will be opened in autumn 2014.

10. Sections 121–129 of the Aliens Act contain provisions on the requirements for holding an alien in detention, on detention decisions, and related court proceedings and appeals.

11. The conditions in Metsälä Detention Unit comply with the relevant requirements. For instance, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) found during its inspection visit to Finland in 2008 that the conditions in Metsälä Detention Unit were good (Report to the Finnish Government on the visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5). Although Metsälä Detention Unit is nearly always fully occupied, the capacity is never exceeded, which helps to maintain the good living conditions there. The Finnish Immigration Service is obliged to use the reception and detention places efficiently.

Paragraph 11 — The State party should provide the Committee with the required information and, in any event, ensure that persons arrested on criminal charges are brought before a judge within 48 hours of initial apprehension, and transferred from the police detention centre in the event of a continuation of detention. The State party should also ensure that all suspects are guaranteed the right to a lawyer from the moment of apprehension, irrespective of the nature of their alleged crime.

12. Chapter 3, section 4 of the Coercive Measures Act stipulates that the request for remand of a person under arrest must be made to the court without delay and at the latest before noon on the third day from the day of apprehension. According to Chapter 3, section 5 of the Act, a request for remand must be taken up by the court for consideration without delay. A request regarding a person under arrest must be taken up for consideration within four days of the apprehension. Thus, the time limit of 96 hours mentioned by the Committee is the maximum limit, not the minimum limit.

13. The overall reform of the Coercive Measures Act took effect on 1 January 2014. The drafters of the reformed Act considered the time limits very broadly (Report of the criminal investigations and coercive measures committee 2009, pp. 110–112). The time limit of four days was regarded to accord with the interpretation practice of the European Court of Human Rights, at least so far. However, the drafters noted that the international interpretation practice might change later.

14. The Ministry of Justice is monitoring the implementation of the reformed Coercive Measures Act and possible defects in it and will, if necessary, initiate legislative amendments.

15. On 24 February 2014 the Ministry of Justice appointed a working group to examine i.a. the possibility of introducing different alternatives to remand imprisonment and the holding of remand prisoners in detention. The mandate of the working group lasts from 3 March 2014 to 30 April 2015. The group will also examine the possibility of strengthening the supervision of compliance with the travel ban connected with remand imprisonment by electronic means, and the possibility of transferring the responsibility for the custody of remand prisoners from the police – under the Ministry of the Interior – to the Ministry of Justice. The group will also assess the impacts of the transfer of responsibility on the custody conditions of remand prisoners.

16. According to Chapter 4, section 10 of the Criminal Investigations Act a suspect in an offence has the right in a criminal investigation to retain counsel of his or her own choice. The suspect must be notified in writing of this right without delay when he or she has been deprived of his or her liberty in connection with apprehension, arrest or remand. The criminal investigation authority must also otherwise, with consideration to the offence under investigation and to the circumstances connected with the investigation of the offence and the party himself or herself, ensure that the right of a party to retain counsel is in fact realized when he or she wants this or when the ensuring of due process requires this. These provisions guarantee all apprehended persons the right to retain counsel from the moment of apprehension.

17. According to the government proposal on the Criminal Investigations Act (HE 222/2010 vp pp. 198–199) the obligation to ensure the realization of the right to retain counsel relates to the creation of the framework for retaining counsel. In addition to informing the suspect about the right to retain counsel, the investigation authorities must, if necessary, inform the suspect about the details of receiving legal aid and having a defender appointed for him or her. To the extent necessary, the investigation authorities must assist the suspect in choosing the counsel. The authorities must also enable the suspect to contact the counsel or inform the counsel about any urgent need for his or her presence in the investigation.

Paragraph 16 — The State party should advance the implementation of the rights of the Sami by strengthening the decision-making powers of Sami representative institutions, such as the Sami parliament. The State party should increase its efforts to revise its legislation to fully guarantee the rights of the Sami people in their traditional land, ensuring respect for the right of Sami communities to engage in free, prior and informed participation in policy and development processes that affect them. The State party should also take appropriate measures to facilitate, to the extent possible, education in their own language for all Sami children in the territory of the State party.

18. A working group of the Ministry of Justice has proposed a revision of the Act on the Sámi Parliament (974/1995). According to the report of the group (Ministry of Justice OM 55/2013), the proposal generally aims to improve the opportunities to safeguard the constitutional cultural autonomy of the Sámi and the functioning of the Sámi Parliament. The revision is intended to strengthen the dynamics of the Sámi Parliament's operation and its active obligation to promote the rights of the Sámi as an indigenous people.

19. The group proposes that the provision of the Act obligating authorities to negotiate with the Sámi Parliament be amended to increase emphasis on their mutual cooperation. In line with recommendations from international bodies, the regulation is intended to strengthen the right of the Sámi Parliament to participate in and influence decision-making in matters affecting the Sámi in a specific way. Moreover, the revision is intended to emphasise that the negotiation procedure is a more far-reaching form of participation than the ordinary procedure of hearing and requesting opinions. It is important to reserve sufficient time for the negotiations and the related preparations.

20. The proposal of the working group would expand the scope of the obligation to negotiate with the Sámi Parliament. Negotiations should be held concerning all important measures which may affect the Sámi language or culture or the status or rights of the Sámi as an indigenous people in a specific way, irrespective of whether the direct effects of the measures extend to the Sámi Homeland. Such measures may relate e.g. to the Sámi language. The working group proposes that the authorities should prepare a record from the negotiations.

21. The Government will submit a related legislative proposal to the national Parliament by autumn 2014.

22. A legislative project is going on concerning the reorganisation of Metsähallitus, i.e. the state enterprise managing state-owned lands and waters. This project too, takes account of the participation rights of the Sámi. On 16 July 2013 the Ministry of Agriculture and Forestry set up a working group to draft a proposal for increasing the participation rights of Sámi in decision-making on the use of state-owned lands and waters in the Sámi Homeland. The group proposed in its report (working group memorandum 2014:2 of the Ministry of Agriculture and Forestry) that the Act on Metsähallitus (1378/2004) be supplemented with a chapter including special provisions applicable to the Sámi Homeland. The chapter would contain provisions on planning in the Sámi Homeland and on the prohibition against letting the use of natural resources there undermine the opportunities of the Sámi to carry on and promote their traditional livelihoods and culture. Moreover, the working group proposed that the Act should include provisions on advisory boards to be set up in each municipality in the Sámi Homeland to deal with the sustainable use and management of the State's lands and waters and the natural resources belonging to them. The draft government proposal on the reorganisation of Metsähallitus has been sent out to a large number of actors for comment.

23. Finland promotes, by appropriate measures, the right of the Sámi to be taught in their own language.

24. According to the Basic Education Act, the instruction in the Sámi Homeland must be given mainly in the Sámi language. The Government pays the full costs for education in and of Sámi in the municipalities of Sámi Homeland. The National Board of Education grants providers of education and teaching government transfers for the instruction of Sámi during basic education and general upper secondary education. A teaching group of two pupils is required for eligibility for a government transfer.

25. The Ministry of Education and Culture supports annually the production of teaching material published in Sámi. In 2014 the amount of the support increased considerably, from EUR 290,000 to EUR 400,000. In 2014 the National Board of Education granted the Sámi Parliament a government transfer for arranging further training for teaching staff regarding the development of teaching provided in Sámi.

26. One educational institution in Finland, the Sámi Education Institute in Inari, provides vocational basic education in the Sámi language. The teaching languages of the Institute are Finnish and Sámi. Providers of education themselves decide independently what kind of education they provide in the languages of their institutions. The education is funded as any other vocational education in Finland, in accordance with the Act on the Financing of the Provision of Education and Culture (1705/2009).

27. The Ministry of Education and Culture has prepared a nation-wide action plan to revive the Sámi language in Finland. The Government is expected to make a decision-in-principle on the action plan in June 2014.

28. The Finnish society's commitment to sustainable development ("The Finland we want by 2050"), adopted by a broad-based committee on sustainable development in December 2013, supports the right of the Sámi to practice their culture. Of the eight objectives of the commitment, the first one, concerning equal prospects for well-being, reads as follows: "We will support possibilities for the indigenous Sámi people to practice their own culture in accordance with sustainable development and to transmit their culture from one generation to the next."

Additional information

29. As regards issues discussed between the Committee and the Government during the review of Finland's sixth periodic report in Geneva in July 2013, the Government would like to provide the following additional information on the question of the expressed

allegations that the Finnish air space or airports might have been used for illegal transports of persons since 2005.

30. As indicated earlier, Finland has investigated the expressed allegations that the Finnish air space or airports might have been used for illegal transports of persons since 2005, including a thorough investigation in 2011–2012. Those investigations were conducted by the Ministry for Foreign Affairs, with involvement of the relevant authorities. The material available to the Ministry did not, in any manner, support the allegations that Finnish authorities might have been party to illegal rendition flights in any way. With the means available to the Ministry for Foreign Affairs no evidence was found, either, to support claims that any aircraft transporting persons illegally had landed at Finnish airports. However, limited information available did not permit overall definitive conclusions concerning all flights.

31. In 2012, the Ministry for Foreign Affairs forwarded the material collected during the investigations to the Parliamentary Ombudsman. The Parliamentary Ombudsman is an independent body exercising oversight to ensure that public authorities and officials observe the law and fulfil their duties in the discharge of their functions. The aim is to ensure good administration and the observance of constitutional and human rights. The Parliamentary Ombudsman initiated an investigation into the issue, and published his decision on the matter on 29 April 2014.

32. According to the decision of the Parliamentary Ombudsman, the Finnish authorities were not involved in the US secret prisoner flight programme. Nor was there any reason to suspect that Finnish territory had been used for prisoner flights knowingly to the Finnish authorities.

33. Furthermore, the Ombudsman had no grounds for criticizing the Finnish authorities for not having tried to investigate the existence of prisoner flights adequately on the basis of the information available to them at the time.

34. The investigation could not, however, give guarantees that none of the flights investigated had been a prisoner flight. It could not be ruled out that Finnish airspace or airports could have been used for rendition flights without the knowledge of the Finnish authorities.

35. The Ombudsman stated that a substantial part of the specific information concerning the individual flights was no longer available because of lapse of time and changes in data systems. Thus, the details of the flights could not be investigated in greater depth. It is also possible that even though the flight plans for aircraft used for rendition flights may have indicated Finland as a stopover place, the flights never landed in Finland in reality.

36. The Ombudsman proposes that the authorities heard in the matter should consider how they, by means available in their respective branches of administration, including international cooperation, could improve the capacity to identify possible rendition flights and to intervene in them.

37. A summary of the Ombudsman's findings is included in a press release of 29 April 2014 entitled "Ombudsman finds nothing reprehensible about the actions of the authorities as regards rendition flights" that is found at the following address: <http://www.oikeusasiamies.fi/Resource.phx/pubman/templates/5.htx?id=1046>

38. The findings were based on a comprehensive survey conducted by the Ombudsman, who had requested information from all the Finnish authorities that could have had knowledge of the issue.