

LIST OF ISSUES

in response to the 7th Periodic Report of the Finnish Government on the implementation of the International Covenant on Economic, Social and Cultural Rights

prepared for the 64th session of the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights

This is a joint report of 16 NGOs:

- **Central Union for Child Welfare** (Lastensuojelun Keskusliitto)
- **European Anti-Poverty Network Finland** (EAPN-Fin – Suomen köyhyyden ja syrjäytymisen vastainen verkosto)
- **The Family Federation of Finland** (Väestöliitto)
- **Finnish Committee for UNICEF** (Suomen Unicef)
- **Finnish Development NGOs – Fingo** (Suomalaiset kehitysjärjestöt Fingo ry)
- **Finnish League for Human Rights** (Ihmisoikeusliitto)
- **Finnish Refugee Advice Centre** (Pakolaisneuvonta)
- **Finnish Society of Social Rights** (Suomen sosiaalioikeudellinen seura, SSOS)
- **The Mannerheim League for Child Welfare** (Mannerheimin Lastensuojeluliitto)
- **No Fixed Abode NGO** (Vailla vakinaista asuntoa ry)
- **Organization for Social and Health Affairs of the Sámi** (SámiSoster)
- **Physicians for Social Responsibility – Finland** (Lääkärin sosiaalinen vastuu ry)
- **Save the Children Finland** (Pelastakaa Lapset)
- **Seta LGBTI Rights in Finland** (Seta ry)
- **SOSTE Finnish Federation for Social Affairs and Health** (SOSTE Suomen sosiaali ja terveys)
- **Supporting Foundation for Children and Youth with Disabilities** (Vamlas - Vammaisten lasten ja nuorten tukisäätiö)

The Finnish League for Human Rights has coordinated the report.

Issue 1:	Discrimination
Art. of ICESCR:	2,2
E/C.12/FIN/CO/6, Para	12
QUESTION	1) What measures will the government take to effectively combat discrimination? 2) How does the State party intend to address work discrimination?
EXPLANATORY NOTE: 1) Several studies show that minorities and immigrants continue to face discrimination in Finland. For example the recent EU-MIDIS Study found that in Finland 63% of respondents of African descend have experienced racial harassment in the past five years. Studies also show that the level of trust in	

police is significantly lower amongst minorities than in the population at large. Education at all levels provides insufficient information about minorities and anti-discrimination training of government officials, police, teachers and health care professionals is unsystematic and uncoordinated.

2) Minorities, like the Finnish Roma¹ and people of African descent², and disabled persons³ face discrimination when applying for work.

¹ [https://www.syrjinta.fi/documents/10181/10850/52878_romaniselvitys_verkkoon+\(1\).pdf/584516fc-d3a7-4f88-8ecc-c8b2271ebf41](https://www.syrjinta.fi/documents/10181/10850/52878_romaniselvitys_verkkoon+(1).pdf/584516fc-d3a7-4f88-8ecc-c8b2271ebf41)

² <https://fra.europa.eu/en/publication/2017/second-european-union-minorities-and-discrimination-survey-eu-midis-ii-muslims>

³ <https://www.syrjinta.fi/documents/14490/0/A+report+on+the+discrimination+experienced+by+the+disabled+in+every-day+life+-+summary/5f79059b-aff7-4b5f-9f08-2a064c27293a>

Issue 2:	Strengthening Protection Against Discrimination. The rights of transgender and intersex persons
Art. of ICESCR:	Art. 2, 10 and 12
E/C.12/FIN/CO/6, Para	-
QUESTION	<p>1) How and within what timeframe does the State party intend to strengthen its anti-discrimination legislation?</p> <p>2) What are the Government plans with regard amending the Trans-legislation and especially removing the infertility requirement from the process of legal recognition of gender?</p> <p>3) Does the Government have plans to ban medically unnecessary procedures on intersex children without their free and informed prior consent?</p>
EXPLANATORY NOTE	
<p>1) The new, broader Non-Discrimination Act came into force in 2015. However, it is problematic that the Non-Discrimination Ombudsman’s supervision mandate excludes discrimination in employment. Although the Equality Act acknowledges gender identity, gender expression and sex characteristics, the demand to promote equality applies to only equality between men and women. The National Non-Discrimination and Equality Tribunal can examine cases of discrimination in employment, but only regarding gender-based discrimination and discrimination based on sexual orientation and gender identity.</p> <p>The current legislative framework makes it difficult to recognise multiple discrimination. For an individual person experiencing discrimination, the asymmetric mandates of the Ombudsman and the Tribunal may be confusing and hinder access to justice. Under the current law, the Non-Discrimination Ombudsman cannot take a case of discrimination to the Tribunal for processing without naming the victim. Tribunal cannot award compensation for victims of discrimination.</p> <p>2) The current procedure to obtain legal gender recognition in Finland is very lengthy, taking up to 2-3 years, exposing trans people to discrimination in situations where they are required to present documents with gender markers not corresponding to their gender identity and expression. The pro-</p>	

cedure also requires trans people to be sterilized and to obtain a psychiatric diagnosis that pathologizes trans identities, and leads to discrimination and the violation of their sexual and reproductive rights. The current age limit (18) of legal gender recognition needs to be re-evaluated. The medical and legal procedures need to be separated. Medical intervention needs to be offered according to individual needs. The ICD-11 recommendation needs to be adopted.

3) Intersex children are still exposed to unnecessary medical interventions that discriminate the child's right to self-determination, physical integrity and bodily autonomy.

Issue 3:	Official Development Assistance (ODA)
Art. of ICESCR:	Art. 2
E/C.12/FIN/CO/6, Para	8
QUESTION	How does the State party intend to reach its international target of allocating 0.7 percent of its gross national product to official development assistance?

EXPLANATORY NOTE

Finland reached 0.59 percent level in 2014 with 1,232 billion euros allocated to ODA. Instead of following up on the CESRC recommendation to step up efforts of allocating 0.7 percent of the gross national product for official development assistance, funding was in fact cut as a result of government negotiations in 2015. The cut amounted to 38 percent of ODA over a three-year period. The cuts took effect in 2016. The lowest level of ODA was reached in 2018 with the allocation of 886 million euros and 0.38 percent of GNP.

Finland has officially committed to allocating 0.2 percent of ODA to least developed countries (LDCs). This share was reached in 2014 (it stood at 0.21 percent) but has since then dropped to 0.13 percent in 2018, with emphasis shifting to private sector collaboration.

For 2019, the Government has proposed to allocate 909 million euros to official development assistance. The allocation amounts to 0.41 percent of GNP - still remaining below the levels of 2014 and far from the pledge of 0.7 percent. In addition to CESRC, the OECD has also asked Finland to implement a clear plan to rectify the situation.

Furthermore, there has been important shift in allocating funds within ODA. Since the 2016, the share allocated to private sector actors working in developing countries has increased markedly and majority of funding increases have been earmarked to private sector collaboration. OECD DAC recommendation states that "For humanitarian aid and development co-operation, care must be taken to ensure that work with the private sector is clearly focused on delivering a more effective humanitarian and development response rather than on benefits for Finland's companies."

Issue 4:	Right to work and just and favourable conditions of work
Art. of ICESCR:	Art. 6, Art. 7
E/C.12/FIN/CO/6, Para	-

QUESTION	<p>1) How does the State party intend to promote the employment of disabled persons?</p> <p>2) What measures will the State party take to guarantee the rights of the persons with disabilities participating in working-life (work activity)</p>
<p>EXPLANATORY NOTE</p> <p>1) The Finnish labour market does not support people with disabilities well enough to participate in working life. It is estimated that only 15-20 % of persons with disabilities participate in the labour market. About 30 000 disabled persons could be employed in open labour market, either in full-time or part-time work.¹</p> <p>The social security system seems to sustain a situation where disabled persons are put on disability pension even when they are capable of paid work. Some disabled persons get a disability pension already when they turn 16.</p> <p>2) Different kind of work activities provided by municipalities are the main employment policy for people with intellectual disabilities. Tasks in these work activities are mainly monotonous and disabled people are not paid for their work. The remuneration for work activity is between 0-12 e per day, and it can be performed also in normal labour market, not just in special institutions.²</p> <hr/> <p>¹ https://helda.helsinki.fi/bitstream/handle/10138/144151/Tutkimuksia133.pdf?sequence=4</p> <p>² https://verneri.net/yleis/avotyotoiminta</p>	

Issue 5:	Improving and ensuring the quality of child protection
Art. of ICESCR:	Art. 10
E/C.12/FIN/CO/6, Para	-
QUESTION	What measures does the State party intend to adopt to ensure high-quality child protection services and resources for safe residential care in the future?
<p>EXPLANATORY NOTE</p> <p>There has been an attempt in Finland to shift the focus of child welfare services from treatment to prevention. However, there are still considerable gaps and regional differences access to these services, resulting in inequality between different children and families.</p> <p>Teenagers are overrepresented as clients of child welfare services. The high number of youth shows that the actions taken to support them are insufficient and that more efficient ways are needed.</p> <p>There has been an effort to reinforce the position of foster care as a form of residential care by defining foster care as the primary form of residential care in the 2012 amendment to Child Welfare Act, by enacting new foster care legislation in 2015 and by strengthening the position of foster family carers. In practice, however, the implementation of foster care legislation is hampered by difficulties in recruiting foster carers, unexpected terminations of foster care placements and differences in municipality resources for supporting foster care.¹</p>	

Stronger, nationwide guidance and supervision are prerequisites for functioning, high quality child welfare services. It is problematic for the quality control and development of residential care that there is no repository of basic information on residential care locations, their functions or quality. Another key challenge to high quality child welfare services are lacking resources for supervision and guidance. Although problems in residential care supervision and the need for outside supervision have been repeatedly brought up through the years in studies and reports examining child welfare services, it is worrying that lacking supervision is still an issue in residential care.

¹ https://www.julkari.fi/bitstream/handle/10024/132434/URN_ISBN_978-952-302-857-9.pdf?sequence=1

General sources:

<https://thl.fi/fi/tilastot-ja-data/tilastot-aiheittain/lasten-nuorten-ja-perheiden-sosiaalipalvelut/lastensuojelu>

https://www.lskl.fi/materiaali/lastensuojelun-keskusliitto/mitakuuluuulastensuojelu2_19.8.pdf

Issue 6:	Gender-based violence against women
Art. of ICESCR:	Art. 3, 10 and 12
E/C.12/FIN/CO/6, Para	21
QUESTION	How does the State party intend to ensure proper resources and permanent, stable structures for prevention of violence against women?

EXPLANATORY NOTE

Finland has often received recommendations from international monitoring bodies (e.g. CEDAW, UPR) to strengthen its measures to tackle violence against women. At the end of 2016, the government established a coordinating body, the Committee for Combating Violence Against Women and Domestic Violence as part of implementation of the Council of Europe's Istanbul Convention. It, however, lacks independent and sufficient resources and an independent mandate to act. Thus, robust national structures to eradicate violence against women are still lacking.

17% of women in Finland have experienced sexual violence and 71% have experienced some form of sexual harassment since the age of 15. Every third woman in Finland has suffered physical or sexual violence by her current or former partner during her lifetime.¹ It is estimated that annually 45,000 to 58,000 women suffer sexual violence.

In the Finnish Criminal Code rape continues to be categorized according to the degree of physical violence used or threatened by the perpetrator. The definition of rape should be revised so that it is based on the lack of consent rather than the degree of violence used or threatened by the perpetrator. The government's response to sexual harassment is insufficient. Only physical sexual harassment is criminalised.

Despite the high prevalence of sexual violence, the state has a very poor support service network for victims. Specialized support services are scarce and fall short of international standards. For women who are in especially vulnerable situations it is difficult to access support services, and in some cases, they are excluded from them.

Mediation remains widely used in crimes of domestic violence and violence against women in Finland. Mediation undermines the principle of equality before the law, and frequently leads to repeated re-victimization of women at risk. It should not be used as an alternative to criminal proceedings.

Finland does not have national structures or guidelines to tackle so called honour based violence and forced marriages. The work to prevent honour based violence and forced marriage, as well as helping the victims, lies heavily on the civil society. Forced marriage is not criminalised in Finland, nor is it possible to void forced marriage, although both acts are required in the Istanbul Convention (articles 37 & 32), which Finland ratified in 2015. Other sections in the penal code, such as the section on trafficking in human beings, are not functional enough for tackling forced marriages, which is also noted in the memo commissioned by Ministry of Justice in 2017.

On a positive note, a new national action plan to prevent female genital mutilation (FGM) has been drafted by the National Institute for Health and Welfare and it will be published in the early 2019. However, there are not specific resources for its implementation, which raises concerns about its efficiency in reality.

¹ FRA: Violence against women survey 2014 <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

Issue 7:	Right to social security & poverty
Art. of ICESCR:	Art. 9, Art. 11
E/C.12/FIN/CO/6, Para	23
QUESTION	What measures does the State party intend to take to ensure the sufficient level of social security and other social benefits?

EXPLANATORY NOTE

In 2016, 849 000 people were at risk of poverty or social exclusion ¹. Poverty in families with children has started increasing and affects 119 000 children (11,1% of all children in 2017) in Finland. The poverty rate of single-guardian families (22%) is three times higher than that of families with two guardians (7%).² There have been several cuts to social security benefits for families with children, including an 8 % cut to child allowances from the beginning of 2015 and the removal of index-linking from child allowances.

It has been stated in the legally stipulated evaluation of the sufficiency of basic social security³ that the level of basic social security is not sufficient to cover reasonable minimum costs stipulated in the reference budget. For a single person living in a rented home, basic social security covers 73–93 per cent of reasonable minimum costs. The European Committee of Social Rights has issued repeated warnings to Finland for its inadequate level of basic social security. After this basic social security benefits have been weakened.

Budget cuts have reduced the subsistence of persons with low income.⁴ The cuts have been targeted at the unemployed, families with children, and students. Additionally, subsistence of groups dependent on basic social security benefits has been made more difficult by the increased taxation of benefits and allowances.

As part of the UN Agenda 2030 goals for sustainable development, Finland has committed to halving poverty by the year 2030. Additionally, as part of EU’s 2020 strategy, Finland has committed to reducing the number of people living at the risk of poverty or social exclusion by 150 000 between 2010 and 2020. The goal of 770 000 is still quite a distance away.

¹ https://tilastokeskus.fi/til/tjt/2016/04/tjt_2016_04_2018-05-24_kat_001_fi.html

² Number of persons at risk of poverty in 2016: https://www.stat.fi/til/tjt/2016/01/tjt_2016_01_2017-12-21_tie_001_en.html

³ <http://www.julkari.fi/handle/10024/125703>

⁴ https://www.soste.fi/wp-content/uploads/2018/11/soste_sosiaaliturvaraportti_14022018_valmis.pdf

Issue 8:	Equality in social and health services
Art. of ICESCR:	Art. 12
E/C.12/FIN/CO/6, Para	-
QUESTION	<p>1) How will the State party ensure (especially in reforming of health and social services) equal access to social and health services?</p> <p>2) How will the government ensure that transgender and intersex individuals are protected from cruel, inhuman or degrading treatment and from unnecessary medical procedures?</p>
EXPLANATORY NOTE	
<p>1) At the moment a major reform of health and social services is prepared in Finland together with a regional reform.¹</p> <p>Shortcomings in Finnish mental health services and services to substance abusers compromise the equality of services and endanger the health of people in need of said services. It has been estimated that only half of the people in need of mental health services and 1/3 of the people in need of services to substance abusers receive the services they need.² The access to mental health services is difficult and often possible only when the problems have reached a critical level. Support to the whole family of the person with mental health problems is insufficient.</p> <p>Access to emergency medical care is not regionally equal, and there are problems especially in Lapland.</p> <p>The right to equal health and social services is not fulfilled for the Sámi people. The existing legislation does not explicitly require service providers and producers to maintain and develop services appropriate to Sámi cultural and language needs, even in Sámi homeland. Education and training of social and health care professionals in Sámi languages is insufficient and will remain so without specially targeted resources.</p> <p>Socioeconomic determinants have an impact on sexual and reproductive health. Abortion and teenage parenthood are more common in youth from families with socioeconomic problems, such as mental health problems, need of basic social assistance and low level of education. Access to contraception is regionally unequal.</p> <p>2) The current procedure to obtain legal gender recognition in Finland is humiliating and violates trans people's right to the highest attainable standard of health. Trans people face many obstacles arising from lack of awareness and transphobic attitudes when trying to access both general and trans-related health care. Trans and gender nonconforming youth face severe barriers in accessing</p>	

psychological and social support as well as trans specific health care: they are often met with negative attitudes, disbelief and denied referral to proper professional guidance and treatment. The principle of the best interest of the child is ignored and trans and gender non-conforming youth's right to the highest attainable standard of health is jeopardized.

Medically unnecessary "normalising" treatment of intersex persons is being carried out for "social" or cosmetic purposes, including irreversible genital surgery and sterilisation, that are carried out without the free and fully informed consent of the person concerned.

¹ <https://alueuudistus.fi/en/frontpage>

² <https://stm.fi/documents/1271139/1977545/Arviomuistio+miententerveyslain+ja+p%C3%A4ihdehuoltolain+palvelut.pdf/22c2f719-e424-4c80-81fa-6caf7c9e2d7e>

Issue 9:	Children, families and adults on the move - their rights to services and social benefits
Art. of ICESCR:	Art. 9 ja 12
E/C.12/FIN/CO/6, Para	14
QUESTION	What measures does the State party intend to take to ensure access to health care and other essential services for undocumented migrants and asylum seekers, and what legislative and administrative changes does the State party intend to adopt to eliminate the violations of economic, social and cultural rights of asylum seeker children?
EXPLANATORY NOTE	
<p>Finnish national legislation guarantees medical treatment to undocumented migrants only in urgent situations, at the actual cost of treatment. Currently other treatment is not guaranteed even for special groups such as undocumented migrant children or pregnant individuals. This can lead to pregnant women avoiding medical services altogether or seeking treatment too late, posing a major health risk to both mother and child. Individual municipalities have decided on more comprehensive services, but access to medical services is not equal.</p> <p>Finnish immigration legislation and officials do not treat undocumented migrant or asylum seeking children primarily as children, but as immigrants. Services for children entering the country as asylum seekers are fragmented, and these children do not hold an equal status in relation to children of the general population. The government's 2015 political program addressing asylum seekers further weakened the status of children seeking asylum.</p> <p>Family reunification has been made unreasonably difficult through for example income requirements that have even been extended to children arriving alone and receiving subsidiary protection.¹ Children seeking asylum do not always receive the equal social and health services they are entitled to², such as child welfare services, because of an interpretation of the law by the Association of Finnish Local and Regional Authorities.³</p> <p>The right of asylum seeking children to receive early childhood education is not enforced equally compared to other children living in Finland. Finnish early childhood education laws make it possible for individual municipalities to decide whether they want to provide early childhood education to asylum seeker children.⁴ Detaining an asylum seeker child is still possible in Finland, despite it being under no circumstances in the best interests of the child.⁵ The guardianship system for asylum</p>	

seeker children arriving without a guardian is currently fragmented and uncoordinated, and unable to guarantee quality or independence from immigration officials.⁶

¹ Aliens Act (301/2004), 39 §

² <https://www.julkari.fi/handle/10024/131609>

³ <http://www.kuntaliitto.fi/yleiskirjeet/2016/turvapaikanhakijoiden-sosiaali-ja-terveyspalvelut-vastaanottokeskuksissa-ja>

⁴ Early Childhood Education and Care Act (540/2018), 6 §

⁵ Aliens Act (301/2004), 122 §

⁶ <http://julkaisut.valtioneuvosto.fi/handle/10024/161040>

Issue 10:	Equality and inclusion in education
Art. of ICESCR:	Art. 13
E/C.12/FIN/CO/6, Para	28
QUESTION	How does the State party plan to ensure equality and inclusion in education?
<p>EXPLANATORY NOTE</p> <p>Since the early 2000's Finland has ranked high in international education assessments such as PISA studies. PISA scores have been lower since 2006, with a marked decline starting in 2009. In the most recent 2015 PISA study Finland's scores for learning show continued decline as well as weakened development of equity in education. According to the 2015 PISA results the impact of parents' education and profession and household financial assets has quickly increased, while in other developed countries it has remained at previous levels. Furthermore, the score differences between girls and boys in Finland are the highest among OECD countries. The performance of students with an immigrant background is markedly behind that of other Finnish students.¹ According to the National Audit Office of Finland, the performance differences between original population and immigrant students were the highest in Europe.² Cuts to vocational education have weakened educational equity. The cuts especially impact disadvantaged youths.</p> <p>Children and youth with disabilities still have a segregated educational system in Finland. Elementary schools have inadequate resources to ensure equal study opportunities to children with special needs compared to other students. Children and youth with disabilities study in separate vocational schools, which do not provide real access to the labour market. The level of education is lower than that of the rest of the population.</p>	
<p>¹ http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/79052/okm41.pdf</p> <p>² https://www.vtv.fi/julkaisut/maahanmuuttajaoppilaat-perusopetuksen-tuloksellisuus/</p>	

Issue 11:	Quality and equality of early childhood education and care
Art. of ICESCR:	Art. 10
E/C.12/FIN/CO/6, Para	-
QUESTION	<p>1) What measures does the State party intend to adopt to ensure quality as well as availability of early childhood education and care?</p> <p>2) How will the State party promote the participation of disadvantaged children in ECEC to support their healthy development and learning?</p>

EXPLANATORY NOTE

1) Following the austerity measures taken in 2016, the group sizes in early childhood centres were increased, so that there are now 8 instead of previous 7 over 3 year olds in full time care per adult in a group. The subjective right to early education was restricted to 20 hours per week for a child whose parent is unemployed or on parental leave caring for another child. The concern is that budget cuts and austerity measures focus on already disadvantaged groups that would receive the most benefit from ECEC.

2) Changes to legislation concerning ECEC in 2015 and 2016 have resulted in more regional inequality. The changes in ECEC affect not only children whose right to early education has been restricted but all children in ECEC. Larger group sizes make it more difficult for the adults to meet the individual needs of the children. This does, however, affect the already disadvantaged children the most.

General sources: <https://tietokayttoon.fi/julkaisu?pubid=23203>.

Issue 12:	Application and knowledge of ICESCR and resources to human rights structures
Art. of ICESCR:	General
E/C.12/FIN/CO/6, Para	32
QUESTION	What measures does the State party intend to take to improve the recognition of ICESCR in the courts and among the general public? What measures does the state party intend to take to ensure resources for Human Rights Centre?

EXPLANATORY NOTE

ICESCR is not referred to regularly in the published decisions of highest national courts. After 2010, ICESCR has been referred to in four cases in the Supreme Court of Finland¹ and in one case in the Supreme Administrative Court of Finland². Similarly, of all decisions given by the Supreme Administrative Court of Finland in 1991–2010, ICESCR was referred to only in seven.³

ICESCR and individual complaints mechanism provided by The Optional Protocol are not well known among rights-holders in Finland. The awareness raising about ICESCR is also a matter of resources. For example, the resources of The Human Rights Centre are not adequate at the moment. Moreover, we are also concerned about the inconsistency in financial support for human rights organisations that focus on human rights in Finland.

¹ KKO 2013:10; KKO 2013:11; KKO 2016:12 ja KKO 2017:29

² KHO 2014:22

³ <https://www.edilex.fi/oikeus/9294>