

*Submission to the Committee on the Elimination of Racial Discrimination
for the twenty third periodic report of Finland*

The situation of LGBTIQ asylum seekers in Finland

Multiple discrimination (arts. 2, 3 and 5)

- Information on the measures, including training activities, taken to ensure that asylum adjudicators and other personnel do not discriminate LGBTIQ asylum seekers and do not reach conclusions based on stereotypical, inaccurate or inappropriate perceptions of individuals.
- Information on the steps to inform LGBTIQ asylum seekers that the fear of persecution on the basis of SOGIESC¹ could be accepted as a ground for asylum.
- Information on the number of LGBTIQ persons' asylum applications and the results of their assessment.
- Information on the measures taken to ensure that LGBTIQ individuals are not discriminated against, harassed or stigmatized by civil servants and other detainees in asylum facilities.

Contact person:
Kerttu Tarjamo
Secretary General
Seta LGBTIQRights in Finland
+358 50 309 8108
paasihteeri@seta.fi

This report was prepared by Seta with the support of ILGA

¹ SOGIESC - abbreviation for sexual orientation, gender identity, gender expression, sex characteristics.

Introduction

While the Convention on the Elimination of All Forms of Racial Discrimination ratified by Finland does not mention explicitly sexual orientation, gender identity and expression and sex characteristics (SOGIESC), the CERD Committee has addressed several times intersection between racial discrimination and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.²

Specifically, in its review of the Netherlands in 2015, the Committee examined **the status of LGBTIQ asylum seekers** pointing out its concerns on the *“reports of cases of homophobic, biphobic and transphobic behaviour by employees at asylum facilities, as well as questioning by civil servants about sexual acts, and harassment by fellow detainees”* and the *“reports of cases of refoulement of asylum seekers fearing persecution because of their sexual orientation”* and recommending that the State Party *“[t]ake measures of protection with regard to [...] LGBTIQ persons seeking asylum, because of their particular vulnerability.”*³

Just like in the Netherlands, the situation of LGBTIQ asylum seekers in Finland is problematic and illustrates the difficulties faced by affected persons because of their race, colour, descent, or national or ethnic origin and because of their SOGIESC at the same time. While Finland does consider persecution on grounds of sexual orientation or gender identity as relevant grounds for asylum, LGBTIQ asylum seekers find themselves in extremely challenging situation because of:

- inadequate assessment by officials,
- unsafe living conditions in asylum centres, and
- lack of LGBTI-specific support while in Finland.

The Finnish anti-discrimination and equality legislation has recently been reformed and now explicitly takes into account sexual orientation, gender identity, gender expression and sex characteristic as grounds for protection. The authorities are under obligation to promote non-discrimination and equality in all areas of life.⁴ There currently exist severe implementation gaps in the case of LGBTIQ asylum seekers. Although some positive cooperation and initiatives to improve the situation of LGBTIQ asylum seekers exist there is a clear lack of a systematic and comprehensive assessment of the situation and policy measures.

1. Assessment of LGBTIQ asylum claims

Problems: There still exists a lack of competence in assessing asylum claims made by LGBTIQ asylum seekers in Finland. An initial problem is that there is very little information available from

² See e.g.: CERD, Concluding observations, Germany, CERD/C/DEU/CO/19-22 (2015), para 16; CERD, Concluding observations, Netherlands, CERD/C/NLD/CO/19-21 (2015), paras 25-26; CERD, Concluding observations, Uruguay, CERD/C/URY/CO/21-23 (2016), paras 27-28.

³ CERD, Concluding observations, Netherlands, CERD/C/NLD/CO/19-21 (2015), paras 33-34.

⁴ Non-discrimination Act. <http://www.finlex.fi/en/laki/kaannokset/2014/en20141325.pdf>.

the authorities about the fact that asylum claims can be made on grounds of SOGIESC. This means that asylum seekers are not aware that they have the possibility to apply for asylum on SOGIESC grounds and that it is safe to disclose this information to the authorities. Many LGBTIQ asylum seekers do not trust the authorities enough to disclose information about their SOGIESC as they are from countries where there exist persecution on these grounds.

Another issue is the inappropriate assessment of the asylum seekers identity. Although the migration authorities pertain that there are clear guidelines regarding credibility assessment of SOGIESC asylum claims, asylum applicants' right to privacy is infringed upon with inappropriate questions and applicants are expected to tell about their identity in a manner which does not take into account cultural differences. Seta has been invited to train officials at the Finnish Immigration Service but this has happened some years ago.

As more and more SOGIESC asylum claims are given negative decisions the problems are thus transferred to the courts. *It is a concern whether the administrative courts will have the necessary skills to review appeals by LGBTIQ applicants.*

An additional issue is the lack of data about the number of LGBTIQ asylum seekers. There is no data available regarding the number of applications on SOGIESC grounds and the result of the applications. This makes it difficult to assess the phenomenon and make informed policy decisions about it. Seta is contacted by asylum seekers almost on weekly basis and our member organisation HeSeta estimates that it has been contacted by closer to 500 LGBTIQ asylum seekers since autumn 2015 and c. 200 LGBTIQ asylum seekers have been met and/or participated in the peer activities targeted at LGBTIQ asylum seekers/refugees.

Case examples:

In December 2016, two gay Iraqi men's applications for asylum were denied by Finnish authorities after officials asked them inappropriate questions, including personal questions on sexual practices, that did not take into account cultural differences and socialization of the men in the Iraqi society.⁵

In December 2016, two Ugandan asylum seekers, a woman and a man, who had been active participants of the peer support groups at HeSeta, were given negative decisions, with statements such as;

"Immigration office does not approve as a fact your telling of sexual orientation".⁶

Recommendations:

- Provide systematic training to staff to ensure that asylum claims based on sexual orientation, gender identity, gender expression and sex characteristics are appropriately assessed. Ensure through training that necessary competence exists also at the courts which assess complaints made after negative asylum decisions.

⁵ See: <https://svenska.yle.fi/artikel/2017/02/07/asylsokande-migrationsverket-tror-inte-att-jag-ar-homosexuell> (date of access: 9 February 2017).

⁶ See: <https://svenska.yle.fi/artikel/2017/02/07/asylsokande-migrationsverket-tror-inte-att-jag-ar-homosexuell> (date of access: 9 February 2017).

- Provide information to asylum applicants about the possibility to apply for asylum based on persecution on sexual orientation, gender identity, gender expression or sex characteristics. Ensure that LGBTIQ asylum applicants are aware that it is safe to disclose information about SOGIESC to authorities in Finland.
- Gather data on the number of asylum applications made on SOGIESC grounds in order to be able to make informed policy decisions.

2. Living conditions in asylum centers (threats to their safety)

Problems: LGBTIQ asylum seekers are often placed in asylum centers where they have to keep hiding their sexual orientation or gender identity/gender expression due to fear of discrimination and violence from other residents.

Setas member organisation HeSeta has cooperated with the authorities in Helsinki in an attempt to create safe spaces for LGBTIQ asylum seekers at asylum centers. However, the lack of *resources prevents systematic work to meet the needs of LGBTIQ asylum seekers. There is lack of safe places for LGBTIQ asylum seekers as most of the centers at capital area are being closed down.* The majority of asylum seekers are placed initially at transit centers and then accommodated at centers in other cities also in areas where they cannot access LGBTIQ sensitive accommodation or services.

Another member organisation of Seta, Pirkanmaan Seta is currently cooperating with local asylum facilities in order to improve the safety of LGBTIQ residents in a framework of a larger project intended to enhance trust ie between residents at asylum centers. *These are positive initiatives but a comprehensive assessment of the situation and a plan for policy measures is needed.*

Another problem currently is the transfers of LGBTIQ asylum seekers away from Helsinki which places them away from the social networks they have found and safe services provided by Heseta, the local LGBTIQ organisation.⁷

HeSeta, the member organization in Helsinki region, has been organizing targeted social services with peer support groups for LGBTIQ asylum seekers and refugees since autumn 2015.⁸ Hundreds of asylum seekers have contacted and taken part in the peer activities since. *Majority of people contacting HeSeta have reported being scared, discriminated and threaten at their centers.*

Cases of physical violence and even rape have also been reported. In some cases months after the incidence, as people have been either scared of reporting the situation at the center or the case has not been taken forward to the officials such as police. HeSeta has been in contact with the police and immigration and required easier access to the social and health services at centers as well reporting about violence LGBTIQ asylum seekers have to face.

Case examples:

⁷ See <http://www.heseta.fi/migrinjapk-seudunkuntientuleepuuttualhbtqi-turvapaikanhakijoidenkohteluun> (Date of access 13.2.2017.)

⁸ See <http://www.heseta.fi/together>.

In November 2015 a gay man from Iraq told about being afraid while living in asylum centers in Finland. He reported being discriminated by and threatened by other residents at the center.⁹

In June 2016 a young gay man from Iraq was transferred to an asylum center which collaborates with HeSeta. The asylum center has a floor with rooms reserved for LGBTIQ asylum seekers, all of whom have been interviewed by HeSeta and offered the possibility to attend peer support groups available at the local LGBTIQ organisation. After his transfer to the Helsinki area, the young man told that he had been raped in the previous center just few months ago and had been too scared to tell anyone about this. Only after talking with HeSeta he was able to access necessary medical services.¹⁰

In February 2017 a rainbow family, two mothers and a child, were told that they would be transferred away from Helsinki. The family has been able to establish a support network in Helsinki region and their child is attending day care in Helsinki. Activists were trying to organise accommodation in private homes for the family in order to avoid their transfer and ensure some stability for the family and especially the child.¹¹

Recommendations:

- Provide training on SOGIESC issues, equality and non-discrimination for staff at asylum centers.
- Ensure that LGBTIQ asylum seekers are not subjected to discrimination, violence, stigmatization and harassment by personnel or other detainees at asylum facilities. Ensure that there are enough safe places for LGBTIQ asylum seekers at asylum centers.
- Provide information about equality, non-discrimination and human rights of LGBTIQ people in Finland for all residents at asylum centres.

3) Lack of LGBTIQ-specific support while in Finland

Problems:

Most LGBTIQ asylum seekers come with traumatic experiences from the home country, some facing racist and/or homo- and transphobic violence and/or different forms of human trafficking on their journey.¹² *The lack of recognition and understanding the layers of traumatic background and vulnerability leads not only to causing a threat to how LGBTIQ asylum seekers may disclose their experiences and identities open to the officials, but also in how they are able to rehabilitate and intergrate in the country of asylum.*

The only LGBTIQ specific support services to asylum seekers are organized by HeSeta, an LGBTIQ organisation in Helsinki region (and a member organisation of Seta). HeSeta provides both professional and peer support to LGBTIQ asylum seekers and also advises service providers.

⁹ See YLE <http://yle.fi/uutiset/3-8453642> (Date of access 12.2.2017.)

⁵ See YLE <http://yle.fi/uutiset/3-9290820> (Date of access 12.2.2017.)

¹⁰ See YLE <http://yle.fi/uutiset/3-8453642> (Date of access 12.2.2017.)

¹¹ Information provided to Seta by an LGBTIQactivist.

¹² <https://www.state.gov/j/tip/rls/tiprpt/2014/226646.htm> (Date of access 13.2.2017)

The resources for this work are very limited and cannot respond to the needs of all LGBTIQ asylum seekers in Finland.

Case examples:

In October 2016 a 19 year old man from Iraq committed suicide at an asylum center. The man who was a member of Together - a peer support group for LGBTIQ asylum seekers organised by Heseta, feared being transferred away from Helsinki area as he had previously experienced discrimination and violence while living at an asylum facility in Western Finland.¹³

In winter 2013 HeSeta was contacted by an African refugee who had lived in Finland for about four years. He lived in a city outside of the capital area and told that he was very lonely and mostly stayed at home. He was on heavy medication and his mental health was burdened. He needed advice as he had been denied services provided by the Centre for Torture Survivors (Kidutettujen kuntoutuskeskus). At the first meeting at HeSeta he told that the nurse who weekly visited him had become aware of his orientation accidentally when she found some magazines which revealed his orientation in his apartment. The man felt that ever since this both the nurse and the doctor treating him started to behave more negatively towards him. Now that he had applied for the therapy and other services of the Centre for Torture Survivors, the nurse had just informed him of negative decision. The nurse had not, neither had the doctor, informed the client of the possibility of appealing the decision. As HeSeta read the negative treatment decision and contacted the Centre, it was found that the application was lacking information that he could have filled in. After HeSetas intervention the client was supported to find a new doctor and nurse, as well a positive decision about treatment at the Centre for Torture Survivors.¹⁴

Recommendations:

- Ensure that asylum seekers and people with refugee background can access vital LGBTIQ sensitive support for dealing with traumatic experiences arising from homo-, bi- and transphobic violence and discrimination.
- Ensure that LGBTIQ asylum seekers are not transferred to areas where there is no availability of LGBTIQ sensitive support and ensure that those who are already affiliated with LGBTIQ sensitive services are not transferred to areas where they cannot access these services.

Seta – LGBTI Rights in Finland is a national human rights NGO established in 1974. Seta aims for a society of equality and individual welfare that includes everyone regardless of sexual orientation, gender identity or gender expression. Seta has 24 member organisations around the country, ranging from local branches to national thematic organizations such as the Rainbow Families and elderly LGBTIQ people's organisations. Seta advocates for human rights of LGBTIQ

¹³ Information provided by HeSeta, www.heseta.fi.

¹⁴ Information provided by HeSeta.



people and equality regardless of sexual orientation, gender identity, gender expression or sex characteristics and trains and provides information to authorities and other stakeholders.

Setä has previously interacted with UN mechanisms such i.e during the UPR cycles and recently with the Committee Against Torture. Setä is a member of ILGA.