

7.8.2025

YVV/1234/2025

To the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
cat@ohchr.org

Statement of the Finnish Non-Discrimination Ombudsman to the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the Consideration of the State Report of Finland

The mandates of the Finnish Non-Discrimination Ombudsman

The Non-Discrimination Ombudsman is an autonomous and independent authority. The task of the Ombudsman is to promote equality and to prevent discrimination. The Ombudsman also supervises removal from the country and is the National Rapporteur on Trafficking in Human Beings as well as the National Rapporteur on Violence against Women. The Ombudsman further works towards improving the rights and status of foreign nationals.¹

Based on these mandates, the Ombudsman wishes to inform the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment about issues concerning asylum and non-refoulement (recommendation 19a of the Concluding Observations of the Committee) as well as hate crimes (recommendation 39a).

Asylum and non-refoulement (recommendation 19a)

In its concluding observations, paragraph 19(a), the Committee expressed its concern of the access to asylum procedure on the eastern border of Finland. Since the

¹ [Our work | Non-Discrimination Ombudsman \(yhdenvertaisuusvaltuutettu.fi\)](https://www.yhdenvertaisuusvaltuutettu.fi/en/our-work)

recommendation was given, the situation at the eastern border has remained unchanged and the border closure has continued.

The Finnish Non-Discrimination Ombudsman regrets that the Government does not mention the continuing border closure in its report to the Committee regarding the implementation of recommendation 19(a). During the over one and a half years of eastern border closure, the reception of asylum seekers has been centralised to only airports and seaports based on the Border Guard Act.

The Ombudsman reiterates his earlier assessment that the continuing closure of the eastern border seriously jeopardises the right to seek asylum.² The state has an obligation to safeguard real and effective access to the asylum procedure. This means, among other things, an obligation to keep a sufficient number of border crossing points open for persons seeking international protection, and to accept and examine asylum applications.

The Ombudsman also reiterates his earlier recommendations that Finland stops the full closure of the eastern border in order to ensure the access to asylum procedure and the realisation of the human rights of asylum-seekers, and that the Border Guard Act is re-evaluated to ensure that the Act can only be implemented and interpreted in a manner fully in line with international and European human rights obligations.

In addition to the current border closure in place based on the Border Guard Act, Finland has legislated the new Temporary Act on Measures to Combat Instrumentalised Migration, according to which the Government may decide to restrict the reception of applications for international protection when certain conditions are met. In this situation, instrumentalized migrants in certain areas would be prevented from entering the country or removed from the country without delay and guided to move to a place where applications for international protection are received. There are two possibilities to derogate from the removal of the country: if this is essential for safeguarding the rights of a child, a person with disabilities or another person in a particularly vulnerable position; or if there are circumstances which make it evident that the person faces a real risk of being subjected to the death penalty, torture or other treatment violating human dignity primarily in the state from which the person has arrived in Finland. The possibility to apply these derogations would be assessed in a short summary interaction between the person

² [Non-Discrimination Ombudsman: the closing of nearly all border crossing points on the eastern border seriously jeopardises the right to seek asylum](#) (24.11.2023); [Keeping the Eastern border crossing points closed continues to seriously compromise the right to seek asylum](#) (12.1.2024).

wishing to seek asylum and the border guard, and the summary assessment would not result in an administrative decision that could be formally appealed.

The Constitutional Law Committee of the Parliament, which is responsible for assessing whether government proposals are in line with the constitution and international agreements, stated that it is already obvious from what is stated in the Government's proposal that the regulation is in conflict with the unconditionality of the prohibition of non-refoulement. In the opinion of the Constitutional Law Committee, the regulation is incompatible with Finland's international human rights obligations.³ The Act is thus construed as an exception from international human rights obligations, even though the principle of non-refoulement is absolute and cannot be restricted or derogated from.

The Non-Discrimination Ombudsman considers the Act to be in clear contradiction with, among others, the principle of nonrefoulement, the prohibition of collective expulsion and access to effective remedies. Similarly, the Council of Europe High Commissioner for Human Rights, upon visiting Finland in September 2024, stated that “the Commissioner remains of the view that the temporary measures, if ever implemented, would entail a violation of several international obligations, including the principle of nonrefoulement, the prohibition of collective expulsion and access to effective remedies.”

The Government has in its report highlighted that the personnel of the Border Guard has been trained on applying the Act. The Non-Discrimination Ombudsman has observed some of the contingency training exercises and the training material regarding potential application of the Act. The Ombudsman raises, based on these observations, his serious concern about the identification of vulnerable applicants as well as the application of the principle of non-refoulement, including chain refoulement, during a short summary interaction. The Ombudsman reiterates, however, that even with more comprehensive training, the legislation would still be fundamentally in contradiction with central human rights principles.

Hate crimes (recommendation 39a)

The Non-Discrimination Ombudsman would like to highlight three points of concern related to the Committee's concluding observations on hate crimes.

³ PeVL 26/2024 vp.

First, it should be noted that the provision in the Finnish Criminal Code concerning public incitement to hatred or violence (Agitation against a population group) remains rather limited in scope. The European Commission considers that Finland fails to comply with the provisions of Council Framework Decision 2008/913/JHA on combating racism and xenophobia by means of criminal law.

Second, with regard to the information provided by Finland in follow-up to the concluding observations about the Strategy on Preventive Police Work, the Ombudsman wishes to bring to the Committee's attention that the Helsinki Police Department disbanded its preventive policing unit at the end of 2024.

Third, the Non-Discrimination Ombudsman regrets that gender-based hate speech is not criminalised in the Finnish legislation, as 'gender' is excluded in the essential elements of the offence of incitement against a population group according to Section 10, Chapter 11 of the Penal Code. The Non-Discrimination Ombudsman agrees with the Ombudsman for Equality's views⁴, indicating that when the Government rejected the proposal of including gender in the offence of incitement, it did not consider how misogyny and the historically subordinate status of women could be addressed as structural social issues partly like racism and racist crimes. The Ombudsman for Equality stated that legislation should be developed to recognise gender-based hate speech and crimes motivated by misogyny. The Non-Discrimination Ombudsman agrees with the Ombudsman for Equality's view on that the Penal Code of Finland and the criminal justice system should be revised with the aim of decreasing hate speech and violence against women. The CEDAW Committee noted as of July 4, 2025, in its view on Finland that Finland has not addressed the specific enforcement of measures concerning gender-related hate speech as recommended by the Committee.

Head of Unit

Tiina Valonen

Specialist

Elsa Korkman

Distribution cat@ohchr.org

⁴ Expressed in the Equality Ombudsman's Report to the Parliament (K 1/2022).

