



TO THE COMMITTEE AGAINST TORTURE

Written contributions on Finland to the CAT 59th session, 7 november – 7 december 2016

The Finnish Refugee Advice Centre is a non-governmental organisation founded in 1988 by other Finnish NGOs. The Refugee Advice Centre provides legal aid and advice to asylum seekers, refugees and other foreigners in Finland. The organisation is recognised as an expert in refugee and aliens affairs in Finland. The Refugee Advice Centre works in close co-operation with the United Nations High Commissioner for Refugees (UNHCR) as well as European refugee organisations.

The Finnish Refugee Advice Centre submits these comments to the Committee against Torture for consideration of Finland's seventh periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in November 2016.

Non-refoulement and fair asylum procedure (Article 3)

Both legislative amendments and changes in the practices in past years and especially during 2016 have again increased asylum seekers' risk of being subjected to re-foulement. Legislation restricting the right of asylum seeker to a fair and effective asylum determination procedure and effective remedies entered into force in September 2016. At the moment access to counsel and in practice also right to judicial review and effective remedy are not any more guaranteed in Finland.

The deadlines for lodging appeals were cut from 30 days to 21 days before the Administrative Court of Helsinki and from 30 days to 14 days for an application for leave to appeal before the Supreme Administrative Court. Further, the right to appeal a case pertaining to the Aliens Act to the Supreme Administrative Court was restricted¹.

¹ Previously, the Supreme Administrative Court could consider appeals if it was "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 last part of the sentence was amended so that appeals are currently restricted to situations



In the ordinary asylum determination procedure the appeal to the Administrative Court of Helsinki has a suspensive effect. According to Article 200 applying for leave to appeal from Supreme Administrative Court does not prevent the enforcement of a decision unless otherwise ordered by the Supreme Administrative Court. Appeal does not have a suspensive effect, inter alia when the application is dismissed because the applicant has arrived from a safe country of asylum; when the asylum application has been dismissed due to the Dublin regulation; or if the application has been declared manifestly unfounded. In accelerated procedures, the applicant has seven days deadline for applying interim measure to stop deportation.

During the year 2016 the Finnish Immigration Service has increased the use of accelerated procedure and “manifestly unfounded claims” also for applicants from countries like Afghanistan and Iraq.

Assistance of legal counsel in the first instance during the personal interview before the Immigration Service, is no longer covered by legal aid unless there are particularly serious grounds for this, or the applicant is under 18 years.² The Public Legal Aid Offices determine afterwards whether an applicant is in need of legal counsel during the personal interview. Previously, applicants were also allowed to choose their own counsel but not anymore. Until now asylum seekers have had a right to choose a counsel from specialised lawyers working for the NGO Refugee Advice Centre or for other private lawyers. Since the beginning of September, asylum seekers can seek legal aid during the first instance (before the decision by Immigration Service) only from the Public Legal Aid Offices. It's up to the Public Legal Aid Attorney to decide if they will provide a counsel or whether the applicant can seek support from private lawyer. In practice Public Legal Aid Attorneys have not before specialised in assisting asylum seekers and working on refugee law. At the moment it is unclear whether, and how much support asylum seekers will receive during their asylum determination procedure. This is problematic also in the sense of right to choose a lawyer.

At the moment and especially after the increase in the number of asylum seekers in 2015, the risk that victims of torture are not recognised and that evidence of torture is

where there would be particularly weighty reason for giving the leave, thus adding a further qualifier for appeals concerning the Aliens Act.

² Aliens Act, Section 9



not taken into account in the asylum procedure has increased significantly. All asylum seekers have not had access even to basic medical investigations. The possibility to get mental health services differs a lot between asylum centres. In many reception centres neither sufficient or even basic mental health services nor therapy and psychiatric care for traumatized torture victims are provided,. Especially since the autumn of 2015 reception centre staff haven't had enough resources and knowledge to encounter and recognize victims of torture.

No guarantees for early identification victims means delays in the procedure and access to treatment and rehabilitation. If a victim of torture is not recognised at all, it also increases the risk of refoulement. There is a huge need of training to immigration and court officials in particular, but in general to any stakeholder involved in the asylum process, to be able to identify victims of torture and to recognise the symptoms and signs exhibited by victims of past torture or trauma.

Detention of asylum seekers and migrants (Articles 3 and 16)

Detention of asylum seekers and migrants remains an issue of concern in Finland. Asylum seekers and other migrants can still be detained in police detention, when the immigration detention centres are full or for four days if detention happens far away from a detention centre. There are now two detention centres in Finland, one in Helsinki (Metsälä) and one in Joutseno. Also unaccompanied children and families with children continue to be detained. The detention of unaccompanied children who are under 15 years old was prohibited recently. However, the Aliens Act still allows for the detention of unaccompanied children aged between 15 and 17 for up to 72 hours when there is an enforceable decision on their removal from Finland; the period of detention can be extended by 72 hours for extraordinary reasons. Children have no access to education during their detention. The Aliens Act provides for no specific maximum time for the detention of families with children or for other vulnerable groups.

A person can also be transferred from the immigration detention centre to the police detention facility as a sanction following misconduct at the detention centre. This decision is made by the Director of the detention centre. There is no judicial review of this decision.



Human trafficking (Articles 2, 12, 13 and 16)

There are many so called Dublin cases where victims of trafficking are transferred back to the first EU member state like Italy, where the applicant faces a real risk of being victimized again.

There is still need for continuous, systematic training and guidelines for professionals who may come into contact with victims of trafficking to better identify and support the victim

One of the challenges with the current system is still that support and identification is strongly linked with criminal proceedings of the case and is unpredictable from the victim's perspective. Legislative amendments which came into effect in 2015 did not fundamentally change this. The legislation is not clear enough by whom, when and on what grounds the proper identification of a victim is made.

Rehabilitation of survivors of torture (Article 14)

Currently rehabilitation services for torture victims are mainly provided by two Rehabilitation Centres for Torture Survivors in the cities of Helsinki and Oulu. The funding of services of these Centres for Torture Survivors is insufficient and unstable. They are not funded by the State but by the Finnish Slot Machine Association (RAY) and they have to reapply for funding annually.

Additionally, rehabilitation services are provided by a psychiatric clinic for refugees run by the City of Tampere. Asylum seekers have possibility to any services only in the Centre for Torture Survivors in Helsinki. During last year 2015 a total of 32 476 individuals applied for asylum in Finland. Even before the significant increase in, thousands of torture survivors in need of treatment have been estimated to reside in Finland.

17.10.2016

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