NATIONS UNIES
DROITS DE L'HOMME
HAUT-COMMISSARIAT

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE:GH/fup-120

8 August 2017

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 10, 11, and 16 of the concluding observations on the report submitted by Finland (CCPR/C/FIN/CO/6), adopted by the Committee at its 108th session in July 2013.

On 11 April 2016, the Committee received the third follow-up reply of the State party. At its 120th session, held in July 2017, the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see CCPR/C/120/2). I hereby attach a copy of the relevant section of the said report (advance unedited version).

The Committee considered that some of the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee requests the State party to provide this information in the context of its next periodic report due on 26 July 2019.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Mauro Politi
Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

Her Excellency Ms. Terhi Hakala
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Email: sanomat.gen@formin.fi

Report on follow-up to concluding observations of the Human Rights Committee, CCPR/C/120/2:

Assessment of replies[1]

A **Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.

B **Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.

C **Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.

D **No cooperation with the Committee:** No follow-up report has been received after the reminder(s).

E **Information or measures taken are contrary to or reflect rejection of the recommendation**

Finland

Concluding observations:	CCPR/C/FIN/CO/6, adopted 24 July 2013
Follow-up paragraphs:	10, 11 and 16
First reply:	CCPR/C/FIN/CO/6/Add.1, 23 June 2014
Committee's evaluation (see CCPR/C/113/2):	Additional information required on paragraphs 10**[B2][C2]**, 11**[C1][C1]** and 16**[B2][B2]**
Second reply:	CCPR/C/FIN/CO/6/Add.2, 1 May 2015
Committee's evaluation (see CCPR/C/115/2):	Additional information required on paragraphs 10**[B1][C2]**, 11**[C1][A]** and 16**[C1][B2][A]**
Third reply:	11 April 2016
Committee's evaluation:	10**[A][B][A]**, 11**[B][A]** ([A] previously evaluated, see CCPR/C/115/2), and 16**[B][B][A]** ([A] previously evaluated, see CCPR/C/115/2)

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.

Follow-up question (see CCPR/C/115/2)

(a)[B1]: The Committee welcomes the amendments to the Aliens Act and the Act on the Treatment of Aliens Placed in Detention and Detention Units, which prohibit placing

[1] Full assessment available from CCPR/C/119/3 and http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf

Finland

children in police detention facilities and detaining unaccompanied children who are seeking asylum. Additional information is required on:

(i) All legislative changes introduced regarding the process and circumstances for detaining asylum seekers and irregular migrants, and the improvement of living conditions in detention facilities, in addition to those already mentioned by the State party;

(ii) The progress of the project on alternatives to detention, launched by the Ministry of the Interior, including the changes being proposed;

(iii) The progress made by the National Police Board in reviewing its instructions and making the changes needed to comply with the new legislation. Further information is also required on additional measures taken by the State party to ensure that administrative detention for immigration purposes is justified as reasonable, necessary and proportionate, including for the detention of adults.

(b)[C2]: The Committee welcomes the opening of the new Joutseno Detention Unit and the fact that there is no longer any need to place detained aliens in police facilities. However, the Committee notes that the State party has not provided information on the number of irregular migrants and asylum seekers detained in Metsälä in the last three years and on the length of their detention. The Committee reiterates its recommendation.

Summary of State party's reply

On paragraph (a)(i)

The State party repeats information from its replies to the list of issues (see CCPR/C/FIN/Q/6/Add.1, para. 115 and CCPR/C/FIN/CO/6/Add.2, para. 4) on interim alternatives to detention provided for in the Aliens Act (Act 301/2004; amendments 813/2015) and on its provisions on the detention of aliens and procedures therefore (CCPR/C/FIN/CO/6/Add.1, para. 10). In 2015, the Act was amended to limit detention by requiring that both the general and the special preconditions for detention must be fulfilled, that detention be a last resort measure, and by requiring an individual assessment. The amendment emphasised the primacy of the alternative measures over detention, and included reception centres, in addition to the police and the border control authority, among the possible authorities to which an alien can report as obligated. The detention of an alien is subject to an administrative decision, which is temporary and possible only if the detention is necessary either for examining the eligibility of the person for entering the country or residing there or for enforcing a decision to remove the person from the country, and is not used for punitive purposes. Alternatives to detention must be examined before deciding on detention and are used especially for persons in a vulnerable position. Decisions are made individually, and the detention of minors is avoided to the extent possible.

Section 122 of the amended Aliens Act states that an unaccompanied child younger than 15 years of age must not be detained, nor an unaccompanied child aged 15 years or more before a decision to remove the child from the country has become enforceable. A detained unaccompanied child must be released at the latest after 72 hours. Thereafter the detention may, for special reasons, be extended up to 72 hours. Detention is also used when, according to an individual assessment, the alternatives to detention are insufficient and detention as the last resort measure is necessary. The child must have been heard before making the decision. Moreover, an official designated by a social welfare body must have been given an opportunity to be heard. According to section 124(2), the District Court must hear a matter concerning the detention of an unaccompanied child without delay and no later than 24 hours from the notification. The Aliens Act also requires that social welfare authorities present to the District Court a written statement on the matter. In respect of a child detained with his or her guardian, it is also required that the detention must be indispensable to maintain the family ties between the child and the guardian. Under section 129, a decision on detention made by authorities or a District

Finland

Court is not subject to appeal. The person held in detention may complain about the decision of the District Court (no deadline) and such complaints must be handled with urgency.

The State party repeats information from its second follow-up report (CCPR/C/FIN/CO/6/Add.2) on freedom of movement of aliens accommodated in reception centres, on the two detention units (closed institutions) and their capacity (para. 1) and the newly opened detention unit at Joutseno Reception Centre (para. 2).

On paragraph (a)(ii)

The State party repeats information from its second follow-up report (CCPR/C/FIN/CO/6/Add.2) about the project on alternatives to detention launched by the Ministry of Interior.

On paragraph (a)(iii)

The Aliens Act (301/2004 and amendments), the Act on the Treatment of Aliens in Detention and Detention Units (116/2002 and amendments) and the Act on the Treatment of Persons under Police Custody (841/2006 and amendments) contain very detailed procedural provisions based on the related aspects of human rights and basic rights and liberties. Consequently, there has been no need to give the police any separate instructions on the new legislation and the measures required by it.

On paragraph (b)

In 2013, 1, 678 persons were detained by virtue of the Aliens Act; in 2014 - 1,450 persons; and in 2015 - 1,204 persons. In all three years in question the average length of detention was 12 days per case.

Committee's evaluation

(a)(i) [A]: The Committee welcomes the information regarding the process and circumstances for detaining asylum seekers and irregular migrants, including minors, and the preference for alternatives to detention, and considers the State party's response largely satisfactory. Clarification is requested in the next periodic report regarding the unavailability of an appeal against a decision on detention taken by authorities of a District Court (Section 129 of the Aliens Act) and the statement that the person held in detention may complain about the decision of the District Court (no deadline) and such complaints must be handled with urgency.

(a)(ii) and (iii) [B]: The State party provided no new information on the progress of the project on alternatives to detention launched by the Ministry of Interior and on the changes being proposed, therefore the Committee reiterates its request. Additionally, should the project become law, information would be required regarding the alternatives to detention it envisions and on their implementation in practice.

The Committee notes the State party's information that, given the detailed human-rights related procedural provisions in the relevant acts, there has been no need for separate instructions to police on the new legislation. The Committee regrets that the State party provided no further information on the improvement of living conditions in detention facilities for asylum seekers and irregular migrants, and reiterates its request in that regard.

(b) [A]: The Committee considers the State party's response largely satisfactory.

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

Finland

of apprehension, irrespective of the nature of their alleged crime.

Follow-up question (see CCPR/C/115/2)

(a)[C1]: The Committee encourages the efforts of the working group to examine the possibility of introducing alternatives to remand imprisonment and requests information on any progress in that respect. The Committee expresses regret that the State party has not required that suspects be brought before a judge within 48 hours of their arrest on criminal charges and reiterates its recommendation in that regard.

(b)[A]: The Committee notes the information provided by the State party on the provision of a defender for suspects and welcomes the new provisions in the Criminal Investigations Act for notifying suspects. The State party should provide information in its next periodic report on training sessions for criminal investigation officials on the new provisions in the Criminal Investigations Act, particularly to ensure that the right to legal assistance is respected in practice.

Summary of State party's reply

The working group on alternatives to remand imprisonment and the organization thereof completed its work on 31 December 2015 and proposed that the Coercive Measures Act be supplemented with provisions on a strengthened travel ban and investigative confinement as alternatives to remand imprisonment. A court could impose on a criminal suspect a strengthened travel ban supervised by technical devices rather than ordering detention if an ordinary travel ban was insufficient and if the other preconditions laid down in the Coercive Measures Act were fulfilled. The same alternative measure could be ordered by a court in the case of a person sentenced to unconditional imprisonment if the said preconditions were fulfilled and the punishment for the offence was less than two years of imprisonment. One precondition for a strengthened travel ban and investigative confinement would be that the suspect or sentenced person must commit themselves to complying with the orders and obligations imposed on them and that their compliance with the orders and obligations could be considered probable in light of their personal circumstances or other similar circumstances.

The working group also considered that the practice of detaining remand prisoners in police detention facilities should be abolished as soon as possible and the responsibility for accommodating remand prisoners and implementing remand imprisonment should be imposed on prisons gradually due to lack of capacity currently. At the first stage, the Detention Act (768/2005) should be amended by shortening the current permitted length of holding a remand prisoner in police detention facilities, and by tightening the preconditions for detention in police facilities. It would not be permissible to hold a remand prisoner in police facilities longer than for seven days without an exceptionally important reason related to the safety or separation of the prisoner. The proposals of the working group were circulated for comments in February 2016 and these would serve as basis for the work of the Ministry of Justice on a bill to be submitted to Parliament in September 2016.

Committee's evaluation

[B]: The Committee notes the amendments proposed to the Coercive Measures Act (806/2011) by the working group on the alternatives to remand imprisonment. Further and updated information is required on whether the Ministry of Justice submitted to the Parliament a bill based on the recommendations of the working group, as planned; on the content of the bill and on the progress towards its adoption. The Committee once again expresses regret that the State party has not required that suspects be brought before a judge within 48 hours of their arrest on criminal charges and reiterates its recommendation in that regard.

[A]: See previous evaluation, CCPR/C/115/2.

Paragraph 16:

Finland

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.

Follow-up question (see CCPR/C/115/2)

(a)[C1]: The Committee notes the information provided on the progress made towards adopting the two legislative proposals. Given the withdrawal of the bill on the Act on the Sami Parliament, the Committee reiterates its recommendation that the State party advance the implementation of the rights of the Sami by strengthening the decision-making powers of Sami representative institutions.

[B2]: The Committee notes that the proposed amendments to the Metsähallitus law, including the initiative to ratify ILO Convention No. 169, are under consideration. Additional information is required on measures taken to ensure that Sami people participate in the discussion about these amendments, and on the progress made in adopting the proposed amendments.

(b)[A]: The Committee welcomes the information provided by the State party regarding measures taken to facilitate education in their own language for all Sami children in the territory of the State party. The State party should provide additional information in its next periodic report on the impact of the Action Programme for the Revitalization of the Skolt Sami, Inari Sami and North Sami Languages and the nationwide action plan to revive the Sami language.

Summary of State party's reply

The Ministry of Justice intends to present again to Parliament most of the proposed revisions of the Act of the Sámi Parliament, including the proposal that the current obligation to negotiate (section 9) should be amended to better comply with the principle of free, prior and informed consent.

The reading of the bill on ratification of the ILO Convention No. 169 was transferred to the post-electoral new Parliament.

In 2016 the Government has commissioned a new study which draws from the international norms, experiences and practices relating to the rights of indigenous peoples. A new Act on Metsähallitus, the Finnish state forestry enterprise, was adopted on 30 March 2016 (in force since 15 April 2016) and provides that the management, use and protection of natural resources governed by Metsähallitus in the Sámi Homeland must be adjusted to ensure the opportunities of the Sámi people to practice their culture. Also, municipal advisory committees – a new institution - will be set up in all municipalities located entirely in the Sámi Homeland to deal with the sustainable management and use of State-owned lands and waters and related natural resources, and are estimated to strengthen to some extent the right of the Sámi as an indigenous people to maintain and develop their language and culture. A representative of the Sámi Parliament and of the Skolt Sámi Village Council participated in the working group that drafted this provision.

The Fishing Act that took effect at the beginning of 2016 strengthens the rights of the Sámi to participate in planning the use and management of fish resources through a representative of the Sámi Parliament at the general meeting of the fisheries region and in the regional fishery committee. Compliance with the obligation to negotiate under the Act on the Sámi Parliament is a statutory precondition for the approval of management plans for the Sámi Homeland. Moreover, the Fishing Act safeguards the traditional Sámi fishing culture by granting exceptional permits (such as using a fishing method otherwise

Finland

prohibited by the Act) to maintain a fishing tradition.

The State party elaborates on the Act on Structural Support for Reindeer Economy and Natural Sources of Livelihood (986/2011) that gives the Sámi the right to participate in support funding granted by the Act.

Committee's evaluation

(a) [B]: The Committee notes the intention of the Ministry of Justice to present again to Parliament most of the proposed revisions of the Act of the Sámi Parliament. The State party should provide in its next periodic report information on the progress of the initiative and on any new revisions, and on how they will strengthen the decision-making powers of Sami representative institutions.

[B]: The Committee notes the adoption of the new Act on Metsähallitus on 30 March 2016 and the entering into force of the Fishing Act in 2016. The Committee requires additional information on the participation of Sámi in the preparation of these laws, including on the views of the Sámi Parliament, and on the impact of these laws on the enjoyment by Sámi of their rights in their traditional land and on their effective participation in decision-making that may affect their rights. The State party should also provide information on the status of the bill on ratification of the ILO Convention No. 169 and on the findings of the new study on the rights of indigenous peoples commissioned by the government in 2016 in its next periodic report.

(b) [A]: See previous evaluation, CCPR/C/115/2.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested will be included in the list of issues prior to submission of the seventh periodic report of Finland.

Next periodic report: 26 July 2019