

Statement by the Ombudsman for Children to the UN Committee on the Rights of the Child

The Ombudsman for Children in Finland (hereinafter the Ombudsman) provides her views on the list of issues in relation to the combined fifth and sixth reports of Finland (CRC/C/FIN/Q/5-6) and the Government's replies thereto (CRC/C/FIN/RQ/5-6). Same matters have been highlighted in the previous reports and statements by the Ombudsman.

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Paragraph 2 (e):

The Ombudsman is grateful that the Government decided in April to reinforce the resources of the office by establishing another permanent lawyer's post. However, the information the Government has provided in their replies to the list of issues (CRC/C/FIN/RQ/5-6) is inaccurate: a designer is working at the Office of the Ombudsman only until the end of June 2023.

Paragraph 2 (f):

Year after year, communications received by the Ombudsman indicate that custodians do not have enough information about the means and processes of legal protection available to them. The same applies to children. The Ombudsman has highlighted that particular attention should be paid to teaching children and young people their rights and what to do and who to contact if their rights are violated.

Paragraph 3 (b) (and paragraph 5 (d))

So far, no progress has been made in ensuring intersex children's right to bodily integrity. The Ombudsman has continuously called for effective measures that prevent irreversible medical interventions on intersex children. Many steps are still to be taken before no child (intersex or any other) is subjected to unnecessary surgery or treatment.

Paragraph 3 (c):

The Ombudsman is extremely disappointed that the Sámi Parliament Act was not reformed during the past Government term as was planned. The proposed legislative reform would

have strengthened the self-determination of the Sámi people and thus it would have had indirect effect on children as well. The study (conducted by the Office of the Ombudsman for Children) on the well-being and the realisation of the rights of Sámi children reveals that children too feel strongly about the legislation. The respondents were asked whether they are concerned about anything related to the Sámi and The Act on the Sámi Parliament was mentioned in individual responses.¹ The key results of the study were 1) Sámi children's strong relationship with nature and concern over the effects of climate change on northern nature; 2) challenges in mobility and access to services in sparsely inhabited areas; 3) opportunities to use the Sámi language and 4) Sámi identity and rights. The Ombudsman has on many occasions highlighted that the linguistic challenges Sámi children face (e.g. the lack of education material in Sámi languages and the possibilities to use one's own language in health care) are unacceptable.

The Office of the Ombudsman for Children also conducted a study on the well-being of Roma children and the realisation of their rights and the discrimination and racism Roma children continuously face is very much present in the results. The results of the study can be boiled down to four themes related to well-being and the realisation of rights. They are 1) the significance of family and relatives; 2) pride in Roma culture and wish to learn the Roma language; 3) experiences of bullying and harassment and 4) future plans and dreams. According to the results, the children felt the most important means for promoting their well-being and the realisation of their rights to be increasing awareness of Roma culture, meetings between Roma children and the majority population, changing the majority population's attitude towards Roma, and the ability to see Roma children as individuals.²

The measures taken to ensure the realisation the rights and well-being of Sámi and Roma children have to be of structural nature. Short-term stand-alone projects are not efficient.

Paragraph 3 (f):

The Ombudsman underlines that despite the very welcome amendments to the gender recognition regulation, no tangible progress was made when it comes to children's right to legal recognition of their gender identity. The Constitutional Law Committee even noted that the age limits proposed in the bill were somewhat unconstitutional and based on this statement the Social Affairs and Health Committee proposed a resolution in which the Parliament requires the Government to evaluate and prepare necessary changes in the legislation in order to promote transgender children's right to self-determination. The Parliament approved the Committee's resolution. As the Government changes due to

elections on April 2, it remains unclear what the next steps are. The Ombudsman is worried about the anti-gender movement and the hostile social media discussions around the topic. Another deep concern is the lack of resources and staff of the two trans clinics in Finland.

Paragraph 4 (a):

No steps have yet been taken in order to include the best interest of the child into the Constitution (731/1999).

Paragraph 4 (b):

Despite the progress that has been made in taking children's views into account regardless of their age, the Ombudsman would like to point out that the national legislation still contains provisions that limit the mandatory hearing of a child to a certain age group.³ Also, even if the law provides for a possibility to hear children under the given age limit, children under that specific age limit are rarely heard in practice.

Paragraph 4 (d):

The regulatory framework in Finland emphasises the rights of parents to choose their children's religion without effective respect for the evolving capacities of a child. Only when the child turns 18, they are entitled to freedom of religion in the meaning of joining to or resigning from a religious community.

In addition, it is not objectively justified in the Basic Education Act (628/1998) nor in the Government Proposal thereto, why the option to choose between religious/ethics education is not granted to everyone. The Ombudsman regrets to inform that no measures have been taken to ensure children's equal right to freedom of religion. Also, the Ombudsman refers to the drafting process of the CRC, some 30 years ago, in which Finland underlined the child's right to have their views given due weight in accordance with their age and maturity and the applicability of this right to religious matters.⁴ The domestic regulation does not reflect the aforementioned view.

Paragraph 5 (d):

The Ombudsman regards the effective prevention of FGM of utmost importance. The working group that was established to propose clarification of the Criminal Code, as regards to FGM, assessed a number of different regulatory options, all of which included problematic aspects in the working group's opinion. Consequently, the working group did not end up proposing any amendments to the Criminal Code in order to clarify the punishability of genital

mutilation but it presented the various regulatory options discussed and assessed by the working group.⁵

However, the status of FGM as a criminal offence is clear whereas the bodily integrity of intersex children (see para. 3 (b) above) and boys (in relation to non-medical circumcision) has not been ensured. The Ombudsman finds it worrying that no steps have been taken to ensure little boys' right to have a say in the performance of non-medical circumcisions through legislation despite the statement by the Legal Affairs Committee.⁶ The Ministry of Social Affairs and Health has issued a recommendation on the matter, but the Supreme Court found that it does not resolve the ambiguity in questions concerning circumcision, such as the criminal liability of persons who have violated the recommendation.⁷

Paragraph 8 (e):

The reform of mental health and substance abuse legislation (HE 197/2022 vp) will likely, in general, improve the availability of mental health and substance abuse services and strengthen the clients' right to receive the services they need. In her comments to the bill the Ombudsman however noted that it is not clear how the services are meant to put into practice for children as well. Also, a problem that remains is that children are unaware of the services they are entitled to. Substance abuse services for minors are not sufficiently available, and they are not easily accessible.

The problems in children's mental health services are alarming. A recent unannounced legality overseeing visit (21 March) by the Regional State Administrative Agency of Northern Finland to an adolescent psychiatry ward in Oulu shed light to the enormous need of mental health services.⁸ The State Agency had received many communications regarding patient safety and the matter is currently under scrutiny. Worrying study reports that illustrate how Finnish girls' mental health deteriorated during COVID-19 pandemic were also recently published.⁹

The Ombudsman is not convinced that the resources of the Ministry of Social Affairs and Health are sufficient to cover the extensive preparatory work of the planned reform of the Child Welfare Act.

Paragraph 10 (b):

The Ombudsman is especially concerned about the realisation of educational rights of detained children and those in alternative care.

Paragraph 10 (e):

While the changes to the Youth Act (1285/2016) were mainly positive, the Ombudsman criticised the aspect that the amendments disregarded the needs for free leisure activities of those over 15 years old. Also, the law doesn't take a stand on how the practicalities are taken care of if a child is entitled to school transportation (in 2021 ca. 105 000 children in preschool and basic education). The Ombudsman is aware of practical obstacles these children face in attending the leisure activities as the transportations are fixed so that they leave straight after school.

¹ Elina Weckström, Karri Kekkonen & Outi Kekkonen (2023). "I'm happy that I get to study this language and it's part of my culture": The well-being of Sámi children and the realisation of their rights. Publications of the Office of the Ombudsman for Children 2023:1. Available in English at: <http://urn.fi/URN:ISBN:978-952-400-314-8>.

² Elina Weckström, Karri Kekkonen & Outi Kekkonen (2023). "I get the feeling that these people really accept who I am": The well-being of Roma children and the realisation of their rights. Publications of the Office of the Ombudsman for Children 2023:3. Available in English at: <http://urn.fi/URN:ISBN:978-952-400-426-8>.

³ One example is section 6 of the Aliens Act (301/2004) which states as follows: "Before a decision is made concerning a child who is at least twelve years old, the child shall be heard unless such hearing is manifestly unnecessary. The child's views shall be taken into account in accordance with the child's age and maturity. A younger child may also be heard if the child is sufficiently mature to have his or her views taken into account."

⁴ E/CN.4/1989/48, para. 284.

⁵ Tyttöjen ja naisten sukuelinten silpomisen rangaistavuuden selkeyttäminen rikoslaissa. Oikeusministeriön julkaisuja, Mietintöjä ja lausuntoja 2023:6. Available in Finnish (description in english) at: <http://urn.fi/URN:ISBN:978-952-400-422-0>.

⁶ LaVM 6/2020 vp – KAA 1/2019 vp.

⁷ See: [KKO 2008:93](#) (unofficial English translation), KKO 2016:24 and KKO 2016:25.

⁸ [Press announcement in Finnish](#).

⁹ See: [Finnish girls' mental health deteriorated during COVID-19 pandemic, new data show \(who.int\)](#).