

Finlandⁱ

IHF FOCUS: national and ethnic minorities; intolerance, xenophobia, and racial discrimination; asylum seekers; women's rights; right to family life.

The general political and economic situation remained stable in Finland during 2002. The so-called rainbow coalition of the governing political parties, consisting of a group of parties as diverse as the Social Democratic Party, the conservative National Coalition Party, and the left wing Left Alliance, stayed more or less united regardless of the forthcoming parliamentary elections in March 2003.

The quick growth that the Finnish economy had witnessed in the previous years slowed down during 2002. As a consequence, the unemployed rate, which had been shrinking steadily for eight years, stabilized between 8 and 9% putting an additional strain on the already tight financial situation. The government was widely criticized for inadequate measures to fight increased income inequality and social exclusion. One example of lacking social equality was the fact that Finland continued to have difficulties in fulfilling the requirements of the EU norms on equal salary for men and women.

The main human rights concerns were related to minority rights – particularly to the rights of the indigenous Sami and those of the Roma. Intolerance persisted towards immigrants: nearly half of the immigrants interviewed for a study complained that they had been offended or harassed due to their immigrant background.

The number of recognized refugees was extremely low, and the asylum determination procedure overly long, sometimes up to three years.

In one case, the European Court upheld that Finland had violated respect for private and family life when it took two children from a family and put them into public care, one directly after the moment of birth. This case gave rise to the serious questions of finding a balance between the protection of the best interests of the child and the protection of family and parental rights, issues that were under public debate in Finland.

National and Ethnic Minorities

At the beginning of 2001, there were about 290,000 Swedish-speaking Finns (5.6% of the total population) and 28,000 Russian-speakers (0.5%) in Finland.ⁱⁱ The Roma minority numbered around 10,000. Moreover, there were about 6,900 Samis, of whom about 2,400 lived outside the Sami Homeland.ⁱⁱⁱ

The new Constitution, adopted in March 2000, states that everyone is equal before the law and that no person shall be treated differently from other persons on the grounds of sex, age, origin, language, religion, conviction, opinion, health, disability, or any other reason that concerns his/her person. The law also stipulates that the national languages are Finnish and Swedish and that the Sami and the Roma have the right to maintain and develop their own language and culture. However, the European Commission against Racism and Intolerance (ECRI) pointed out in its July report that there were deficiencies in implementing these legislative provisions.

The ECRI report on racism, xenophobia, anti-Semitism, and intolerance in Finland^{iv} noted with appreciation that Finland had ratified the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Finland had also ratified the International Convention on the Elimination of All Forms of Racial Discrimination, including its article 14 on communications.

The ECRI urged Finland to ratify the Revised Social Charter of 1996, the European Convention on Nationality, and Protocol No. 12 to the European Convention on Human Rights as soon as possible. In addition, the ECRI encouraged Finland to sign and ratify the European Convention on the Legal Status of Migrant Workers.

Sami Minority

In its report, the ECRI urged Finland to swiftly ratify the ILO Convention No. 169 on Tribal and Indigenous Peoples in Independent Countries and to resolve the outstanding controversial issues concerning the question of Sami land rights, which have delayed the ratification so far. The government in office in 2002 outlined a draft law which would have removed the restrictions for the ratification of the ILO Convention, but the law had not reached parliament by the end of 2002.

The 2000 Constitution ensures the indigenous Sami people the right to enjoy their traditional means of livelihood such as hunting, fishing, and reindeer husbandry. The representatives of the Sami people, however, claimed also in 2002, that they were not able to exercise those rights in practice. The Ministry of Agriculture and Forestry, which oversees the use of state-owned land in Finland, has made decisions which, in effect, have not honored the constitutional guarantees but have put traditional means of livelihood in a disadvantageous position as compared with modern agriculture. The ministry has been especially reluctant to grant the Sami people the right of self-determination in land use, an integral part of the ILO Convention No. 169. Indeed, the representatives of Sami people claimed that the ministry did not *de facto* recognize the status of the Sami as an indigenous people despite the constitutional provisions to that effect.^v

The Sami maintained that the core of the problem was the ministry's profit-oriented policy with regard to the use of state-owned land under its control in the traditional Sami areas. Instead of granting the Sami the right to use the land for traditional means of livelihood, the ministry has preferred to rent the land for more profitable use, such as tourism. To remedy this deficiency, the Sami have proposed that the control of the contested Sami lands be transferred from the Ministry of Agriculture and Forestry to the Ministry of the Environment. However, at the end of 2002 the issue remained unresolved.^{vi}

Roma Minority

Although the rights of the Roma minority were well protected by law, the Roma minority continued to be disadvantaged and marginalized, especially in the fields of housing, education, and employment. Every-day discrimination continued in these fields, but also in other areas, including denial of entry into restaurants and bars.

Roma organizations reported that the problems the Roma people faced in accessing housing were not only due to the general difficulties in the housing market. Discrimination was reported to occur frequently in the private sector. In addition, some municipalities have discriminated against the Roma when allocating publicly owned apartments. Similar problems occurred also when changing apartments. Roma organizations suspected that this was due to lack of knowledge about the Romani culture and way of life. In order to survey the housing situation of the Roma and to chart the problems, the Advisory Board on Romani Affairs^{vii} together with authorities at municipal, regional, and national levels is preparing a questionnaire on access of housing.^{viii}

As for education, the Romany language, *kàlo*, has been taught in comprehensive schools since 1989. The teaching of the Romany language has revitalized the every-day use of the language and increased the number of articles published in *kàlo* in Romany papers. In recent years, however, this positive development has come to a standstill. In practice, also in 2002, the teaching of *kàlo* was hampered by insufficient resources, poor training and recruitment of teachers, and limited production of suitable teaching materials. Moreover, the practice of teaching the Romany language after the official school day discouraged Romani children from participating in lessons.

Under the Basic Education Act (628/1998), schools were able to choose Romany as the language of instruction. This act also provided that Romany may be taught as a mother tongue in accordance with the choice of the pupil's custodians.

In 2002 the Romany Education Unit of the National Board of Education conducted a survey on school attendance of Roma children. In the 2001-2002 school year, teaching of Romany language and culture was organized only in nine municipalities. The Romany language was taught in 20 comprehensive schools, which represented 5% of the schools with Roma pupils. Only 73 (8.5%) of the total of 859 Roma pupils had the possibility of studying their own language. The number was significantly lower compared, for example, to 1998 when 240 Roma students were taught the Romany language.^{ix} This decrease was partly explained by budget cuts at the municipal level.

Many Romani children faced difficulties at school. The Advisory Board on Romani Affairs believed that the principal reason for these problems was the underdeveloped linguistic competencies of Romani families both in the Finnish and Romani languages. The dropout rate of Roma students was considerably higher than that among the majority population. The combination of inadequate command of their own language and poor command of the majority language was, according to the Advisory Board, conducive to social exclusion of Roma youth and inequality in society.^x

Roma also faced serious problems in the field of employment with at least 52-56% unemployment. The main reasons for the high unemployment rate were the generally low level of vocational education amongst the Roma and the prevailing prejudice against the Roma among the majority population. Moreover, there has been a decline in the traditional trades of the Roma community.

Roma claimed that they faced discrimination, especially in the recruitment process. Roma women wearing traditional costume were particularly affected by discrimination.^{xi} In order to improve the situation, the ombudsperson for minorities made an initiative to enhance the services provided by the labor administration to find means to increase the participation of the Roma in working life.^{xii}

The Advisory Board on Romani Affairs reported to have received information indicating that Roma inmates were regularly put into isolation in prisons. The prison authorities claimed that the isolation practice guaranteed the safety of Roma prisoners and protected them from inter-group tensions within prison facilities. The Advisory Board stated that the isolation practice – which should be done neither on a collective basis nor on ethnic grounds – in fact increased the severity of the punishment based solely on ethnic grounds. In some prisons, traditional cultural clothing was not allowed during visiting hours. In practice, this meant that Roma inmates were not always able to meet their relatives.^{xiii}

Intolerance, Xenophobia, and Racial Discrimination

Ethnic agitation was punishable under chapter 11, section 8 of the Penal Code. The code penalized the spreading of statements or other information which would threaten, insult, or defame a certain "race," national, ethnic, or religious group, or a comparable group. Section 9 of the chapter also criminalized the following forms of discrimination: denying access to public gatherings, restaurants, and similar places, denying entry to a public place, and refusing to serve people on the basis of race, national or ethnic origin, color, language, religion, or other comparable reason.

Discrimination in working life was also punishable (chapter 47, section 3). However, in its Second Report on Finland, the ECRI noted that it appeared that these provisions were under-utilized despite the fact that discrimination was widely reported as a significant problem in Finland.^{xiv} On January 31, 2003, the parliament adopted a Penal Code reform under which one of the grounds for a more severe punishment is the targeting of a person belonging to a national, racial, ethnic, or other group on the basis of his/her membership in that group.^{xv}

The ECRI observed that discrimination of minority groups in daily life, though difficult to quantify, was estimated to be a generally widespread phenomenon in Finland. Visible minorities in particular, such as Roma or black persons, but also Russian-speakers, suffered from racism and intolerance. The ECRI referred to Finnish studies, according to which, over a quarter of immigrants had experienced discrimination in restaurants and half of which, while searching for employment.^{xvi}

The ECRI was especially concerned with attitudes of intolerance among civil servants whose behavior is likely to have an impact on the daily experiences of minority groups in Finland. In order to tackle the problem, the ECRI recommended that authorities take strong measures to change the prevalent attitudes. Although certain aspects of the legislation need to be improved, the main cause for concern was the inadequate implementation of the existing legislative provisions. The ECRI encouraged the Finnish government to take the following steps: to work harder toward implementing anti-discriminatory legislation more effectively and to increase the awareness of people, especially civil servants, about questions of discrimination.^{xvii}

The results of the largest ever survey on immigrants' experiences of racism and discrimination in Finland was published in 2002.^{xviii} The relationship between these experiences and the psychological well-being of the immigrants was also studied. The population studied consisted of 36,962 immigrants in the 18 - 64 age bracket who represented seven different groups: Kosovo Albanians, Arabs, Russians, Vietnamese, Estonians, Somalians, and immigrants of Finnish descent.^{xix}

The results of the study showed that the immigrants' experiences of racism and discrimination were common both in working life and in general everyday life. For example, half of those who had tried to get a job reported that they had failed at least once because of their immigrant background. Nearly half (43%) of the immigrants complained that they had been offended or harassed in buses and on the street due to their immigrant background. Every fourth (26%) immigrant studied had been harassed by a neighbor. One fourth of the immigrants had experienced discrimination when trying to rent or buy an apartment or a house.

According to the survey, almost one third (31%) of the immigrants had been victims of a racist act within the past year. Half of these acts were slander (49%) and nearly a fifth (19%) were threats. However, most of the immigrants had never reported a racially motivated crime (71%) nor an act of discrimination (86%) to the police. The main reason for the failure to report such acts was that the immigrants either considered them to be too insignificant or they suspected that reporting the event would not lead to redress. Irrespective of their area of residence, the Somalians suffered significantly more experiences of racism and discrimination than the Arabs, and the Arabs, in turn, suffered significantly more such experiences than the other five groups studied.

Asylum Seekers

The number of people seeking asylum in Finland went up substantially, from 1,651 in 2001 to 3,129 in 2002. Fourteen people were recognized as refugees and granted asylum, 250 were granted the right to stay for reasons of protection, and 269 for other reasons, including humanitarian ones. In addition, 58 cases of family reunification were approved.^{xx}

The ECRI expressed particular concern about the Finnish asylum procedure. It noted that very few asylum seekers (0.22% in 2001) had been granted refugee status, and that the determination procedure was overly long, sometimes up to three years. The ECRI urged the Finnish authorities to make sure that the Directorate of Immigration has sufficient staff and resources to process the applications properly and within a reasonable time frame.^{xxi}

In July 2000 Finland introduced the so-called "accelerated procedure" for refugee determination. This procedure provided that an asylum seeker, whose application was considered "manifestly unfounded" or who was deemed to come from a "safe" country of origin or of asylum,

could be deported within eight days after he/she had received a negative decision from the Directorate of Immigration. The law provided for a right of appeal within 30 days, but the deportation of the person in question could nevertheless be carried out.^{xxii}

The ECRI noted that it was unclear whether the "accelerated procedure" was in compliance with the requirements of an effective remedy as required by article 13 of the European Convention on Human Rights (ECHR). The ECRI also pointed out that concerns have been expressed that the "safe country of origin" concept has, in fact, led to group decisions being taken on asylum applications rather than individual decisions based on the specific circumstances and experiences of each asylum seeker.^{xxiii} It has also been noted that negative decisions based solely on the country of origin of the asylum seeker might be in breach of article 3 of the Geneva Convention (*non-refoulement*).^{xxiv} Although the ECRI referred to 2001 data, the situation did not improve in 2002.

The present Aliens' Act came into force in 1991, but had already been amended a number of times. Consequently, it suffered from lack of clarity and coherence, and there was a widespread consensus that a completely new law should be formulated.^{xxv} The government appointed a committee to reformulate the Aliens' Act with the aim that the new legislation be operative in 2003. The reformulation was delayed, however, because the political parties involved were not able to reach a consensus on a number of proposed reforms of the law. One especially disputed issue was whether or not to include the "accelerated procedure" into the new legislation. The reformulation was eventually shelved and it remains to be seen whether the next government will take it up.

Women's Rights

Although the status of women in Finland was relatively good compared to most other countries, there was still room for improvement. According to a study published in 2001 by the office of the ombudsperson for equality, women's wages were 10 % lower than those of men with the same education, age, and profession. The same study also found that male-dominated professions were more likely to have a higher salary than female-dominated professions and that age and education did not raise women's level of income in the same degree as it did men's.^{xxvi}

According to the 2001 statistics, women had an inferior position compared to men in many other respects as well. Women had a higher unemployment rate than men (9.7% vs. 8.6%); they were more likely to have part-time employment (70% of those employed part-time were women); they were seriously underrepresented among upper management and senior officials. The situation did not improve markedly in 2002. However, in political life and in education the status of women had improved steadily. There were more women teachers than men in secondary school education and 37% of the members of the outgoing parliament were women.^{xxvii}

Prostitution and Trafficking in Women^{xxviii}

In spring 2002, the National Research Institute of Legal Policy (NRILP) published a report entitled, *Trafficking of Women, Illegal Migration and Finland*. The NRILP noted that most of the prostitutes who came to Finland were of Russian origin, either from Russia or from Estonia. The NRILP estimated that about 4,800-5,800 foreign prostitutes regularly worked in Finland in 2002. Approximately 90% of all the prostitutes in Finland were foreigners.

The main finding of the study was that authorities, researchers, and social workers were not sufficiently informed about prostitution run and organized by foreigners in Finland. The NRILP regretted the fact that reliable or systematic sources were hard to find but, nevertheless, came to the conclusion that trafficking in women in Finland was not as yet a significantly widespread phenomenon. There were almost no criminal cases connected to "eastern prostitution." However, it was possible that the lack of trafficking cases could be linked to the inadequate financial resources of the police and border guards as well as to the lack of legislation explicitly dealing with trafficking in

women. It was suggested that specific laws on the criminalization and prevention of trafficking would significantly facilitate monitoring and combating the phenomenon.

Finland has failed to ratify the Palermo Convention because the witness protection laws need to be amended before ratification.

According to the NRILP study, extreme forms of forced prostitution were not the norm in Finland. For example, the position of prostitutes vis-à-vis pimps was better than in many other countries. This was assumed to be due to the following facts: the recruitment areas were located close to Finland, movement from one place to another was easy, and the level of education among the prostitutes was, on average, relatively high. The role of “eastern prostitution” organizers with respect to the prostitutes was, therefore, not strong enough to make it sensible or possible for them to try to increase their profits by intimidating or abusing the prostitutes. The NRILP noted, however, that organized prostitution has spread all over Finland since the fall of communism in the former Soviet Union and the situation is likely to get worse. It was clear that the volume of foreign prostitution in Finland along with the related social problems was substantial.^{xxix}

Right to Family Life

The European Court of Human Rights^{xxx} and its Grand Chamber^{xxxi}, under article 8 of the ECHR, chastised the Finnish government for exceeding the limits of its authority in the case of *K & T v. Finland*.^{xxxii} In this case two children from the same family were taken into public care in 1993. One child was taken directly from the hospital delivery room. This case gave rise to the questions of finding a balance between the protection of the best interests of the child and the protection of parental and family rights.

The authorities justified their strong measures by pointing out that the family whose children had been taken into public care had been supported by the social welfare system for years.

The European Court found violations of article 8 of the convention (respect for private and family life) since, although national authorities had great leeway in taking care of a child, it was not considered proper to separate mother and child immediately after the moment of birth. The act was considered by the court to constitute an extremely harsh measure that would call for extraordinarily compelling reasons. The court found that these did not exist in this case. Both, the issuing of an emergency care order and the measures taken to implement it were considered disproportionate in their effect on the applicants’ potential to enjoy family life with their new-born child as from birth. Moreover, the failure to consider reunification of the family after improvements in the applicants’ situation were established was considered to constitute a separate violation of article 8. The court found that the authorities had shown an exceptionally negative attitude and that instead of preparing a possible reunification of the family, had taken measures to hinder it.^{xxxiii}

The Social Welfare Board made the decisions in Finland concerning the taking of children into public care. It was a local government organ whose members were nominated by political parties. Decisions were made by it based on presentations by the municipal social director or a social worker. The Finnish Helsinki Committee stated that these bodies did not necessarily have the capacity to evaluate the legal premises of cases in a balanced manner. Therefore, the role of the independent courts, as supervisors of such decision-making, was crucial. On the other hand, the *K & T v. Finland* case indicated that the court system may have had some difficulty in taking an independent role in the evaluation of the necessity and manner of measures taken by the social welfare authorities.

In the most recent case, decided in January 2003^{xxxiv}, the European Court of Human Rights held unanimously that there had been a violation of article 8 due to the failure by the authorities to take sufficient steps to reunite the applicant’s family. Similar to the *K & T v. Finland* case, the authorities did not take steps toward family reunification despite the improved family situation.

The Finnish Helsinki Committee noted that in Finland, the social welfare authorities appeared to consider it to be in the best interests of the child not to be reunited with his/her family once taken into public care. However, the consistent interpretation of article 8 of the ECHR taken by the European Court seemed to reject such an overall non-recourse of reunification measures.^{xxxv}

Another critical example of the authorities' practices was found in the case of *Nuutinen v. Finland*^{xxxvi}, where a violation of article 6(1) was found due to the excessive length of court proceedings on the visiting rights of a father to see his daughter.^{xxxvii}

ⁱ Based on the *Annual Report 2002* of the Finnish Helsinki Committee.

ⁱⁱ Statistics Finland, at <http://statfin.stat.fi/statweb>, and, regarding Roma, Alvaro Gil-Robles, Commissioner for Human Rights the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, *Report on June 2000 visit to Finland*, September 19, 2001.

ⁱⁱⁱ Council of Europe, *Report of the Committee of Experts on the Application of the European Charter for Regional and Minority Languages*, September 20, 2001, ECRML (2001)3.

^{iv} ECRI, *Second report on Finland, adopted on 14 December 2001 and made public on 23 July 2002*, CRI (2002) 20, at www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Finland/Finland_CBC_2.asp#TopOfPage

^v *Saamelaiskäräjien lakimiessihteerin katsaus saamelaisia koskevaan lainsäädäntöön ja sopimuksiin* (Review of the legal advisor of the Sami Parliament in Finland on the Finnish legislation and treaties concerning the status of the Sami people), at www.samediggi.fi/suomi/suindex.htm, June 10, 2002.

^{vi} *Ibid.* For a more detailed account of the concerns of the Sami people, see IHF, *Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2002 (Events of 2001)*, at www.ihf-hr.org

^{vii} The Advisory Board on Romani Affairs is a coordinating body between the Roma minority and the authorities in Finland. The board works in conjunction of the Ministry for Social Affairs and Health.

^{viii} "Statement of the Advisory Board on Romani Affairs in preparation of the 2002 Human Rights Report of the Finnish League for Human Rights," December 5, 2002; ECRI, op.cit.

^{ix} *Suomen toinen raportti alueellisia kieliä tai vähemmistökieliä koskevan eurooppalaisen peruskirjan täytäntöönpanosta* (The Second (Draft) Report of Finland on the European Charter for Regional and Minority Languages), November 2002.

^x Advisory Board on Romani Affairs, *Review of the Romani Language and its Use in Finland*, January 11, 2000.

^{xi} "Statement of the Advisory Board on Romani Affairs in preparation of the 2002 Human Rights Report of the Finnish League for Human Rights," December 5, 2002; ECRI, op.cit.

^{xii} *Ibid.*

^{xiii} *Ibid.*

^{xiv} ECRI, op.cit.

^{xv} Hallituksen esitys Eduskunnalle rikosoikeuden yleisiä oppeja koskevan lainsäädännön uudistamiseksi. HE 44/2002 vp. 5 § Koventamisperusteet.

^{xvi} ECRI, op.cit.

^{xvii} *Ibid.*

^{xviii} Jasinskaja-Lahti – Liebkind – Vesala, *Rasismi ja syrjintä Suomessa. Maahanmuuttajien kokemuksia*. (Racism and Discrimination in Finland. Immigrants' Experiences), 2002. The survey was part of a multidisciplinary SYREENI program, a three-year research program on "Exclusion, Inequality and Ethnic Relations in Finland."

^{xix} The final data of the study covered 3,595 immigrants. *Ibid.*

^{xx} Directorate of Immigration, *Asylum Applications and Decisions 2000-2002*, at www.uvi.fi/englanti/ January 20, 2003.

^{xxi} ECRI, op.cit.

^{xxii} *Ibid.* For more detailed account of the amendment, see IHF, op.cit.

^{xxiii} *Ibid.*

^{xxiv} *Monitori*, Sari Sirva, (lawyer of the Refugee Advice Centre), "Ulkomaalaislain kokonaisuudistus – Mikä muuttuu?", No. 2, 2002, at www.mol.fi/monitori/moto202c.html,

^{xxv} Ministry of the Interior, "Järjestöjen kannanotto ulkomaalaislain kokonaisuudistuksesta," (Statement of NGOs on the comprehensive reform of the Aliens Act), press release, September 27, 2001, at www.pakolaisneuvonta.fi/kokonaisuudistus-j%E4rjest%F6t-web.htm

^{xxvi} *Gender Wage Differentials in the Finnish Labour Market*, Publications of the Ombudsman for Equality, February 26, 2002, at www.tasa-arvo.fi/julkaisuja/englishcompact.pdf,

^{xxvii} Statistics Finland, at http://tilastokeskus.fi/tk/he/tasaarvo_en.html.

^{xxviii} Based on *Trafficking in Women, Illegal Migration and Finland*, Publications of the National Research Institute of Legal Policy No. 186, April 25, 2002, at www.om.fi/optula/14072.htm.

^{xxix} Ibid.

^{xxx} On April 27, 2000

^{xxxix} On July 12, 2001

^{xxxii} Application No. 25702/94

^{xxxiii} For more details, see the press release of the European Court of Human Rights, July 12, 2001, at www.echr.coe.int/Eng/Press/2001/July/KandTjud2001epress.htm,

^{xxxiv} *K.A. v. Finland* (Application No. 27751/95, judgment of January 14, 2003)

^{xxxv} For more details, see press release of the European Court of Human Rights, January 14, 2003, at www.echr.coe.int/Eng/Press/2003/jan/K.A.vFinland_14January2003jude.htm,

^{xxxvi} Application No. 32842/96 27.6.2000.

^{xxxvii} For more details, see press release of the European Court of Human Rights, June 27, 2000, at www.echr.coe.int/Eng/Press/2000/Jun/Nuutinen%20jud%20epress.htm,