

Problems encountered by migrants, asylum seekers, and refugees; breaches against the principle of non-discrimination; and trafficking in human beings continued to be central topics in discussions on human rights in Finland in the year 2006.

The Directorate of Immigration, the central immigration authority in Finland, which among other things processes asylum applications, issues residence permits and decides on citizenship applications, continued to resort to serious mistakes in a series of cases, thus giving rise to concerns about its policies and practices. On a positive note, other authorities appeared to become more responsive to asylum and immigration issues, and made an effort to better solve problems encountered by foreigners in Finland.

Problems concerning the right to a fair trial, protection of family life and freedom of expression persisted, as indicated also by several judgments by the European Court of Human Rights (ECtHR) pronounced against Finland during the year.¹

The Finnish Non-discrimination Board made some important decisions about implementation of the European Union non-discrimination directives to fight discrimination based on race or ethnicity. In a similar vein, the parliamentary ombudsman took up cases in which the equality of Swedish as the second official language was violated.

Progress was in sight in the protection of victims of human trafficking as a new scheme providing services and support to victims was established. However, as of the end of the year it was still too early to assess how well the new system actually functioned and some regulations still needed to be cleared.

Migrants, asylum seekers and refugees

The deputy parliamentary ombudsman criticized the Directorate of Immigra-

tion for illegal conduct in several cases for violating national regulations. For example:

◆ The Directorate of Immigration decided to expel a child born in Finland, although the child was entitled to Finnish citizenship but had not yet applied for it. The deputy parliamentary ombudsman considered the mistake to be serious because it considerably weakened the credibility of the Directorate of Immigration in one key substance area of its activities.²

◆ In a case concerning an Iranian woman and her husband, both ethnic Kurds, seeking - but rejected - asylum in Finland, the Supreme Administrative Court decided on appeal that although the applicants did not fulfill the criteria for granting asylum, they were in need of international protection taking into consideration the local conditions for Kurds and the concept of "honor" and its implications. The woman had broken the engagement agreement that her family had made for her and escaped the country together with her cousin whom she married after entering Finland.³

Discrimination

Racial discrimination

The Finnish Non-discrimination Board made several important decisions during the year 2006. It is an administrative body established by new equality legislation implementing the two EU non-discrimination directives⁴ to deal with applications concerning discrimination based on ethnicity. It has powers to prohibit the continuation of discrimination and it can levy administrative fines if discrimination is continued despite a prohibition by the Non-Discrimination Board.

◆ In a decision concerning equality in class placement in a primary school the board prohibited the city of Helsinki to continue discriminatory practices which resulted in placing almost all pupils with immigration background to one class and the

rest of the pupils to another class. The board considered that the placement into a separate class was based primarily on the mother tongue of the pupil. However, according to the municipal provisions concerning placement into a class, it should be based on the linguistic capabilities of the child in the Finnish language, not on the basis of the child's mother tongue. The board further considered that due to the primary nature of the constitution in the implementation of laws, the provisions of the Equality Law should be interpreted in the light of the constitution, which contains a specific prohibition against segregation. Therefore the board decided that the practice in question constituted a prohibited form of discrimination.⁵

- ◆ In a decision concerning the conduct of Espoo city social authorities in a case involving the taking into care of children and their custody and visiting rights of their father who was of foreign origin, the board considered that the city social authorities had acted in a biased and discriminatory manner and prohibited such conduct.⁶

- ◆ In a decision concerning the practice of the insurance company "Henki-Sampo" to demand only from customers suspected of foreign origin additional information concerning their national health insurance, the board considered that this constituted a discriminatory practice and prohibited it as a form of indirect discrimination.⁷

As in previous years, several cases involving non-acceptance of Romani and black persons as restaurant customers were decided by Finnish courts, usually resulting in a punishment of fines. While routine denial of access to restaurants to Roma and black remained a widespread practice, some persons with disabilities also fell victim to discriminatory treatment in restaurants.

- ◆ A blind priest wanted to have a meal at a restaurant but a waitress said she

could not serve him since he had a guide dog accompanying him. The blind customer explained to the waitress that the legal provisions in force specifically provided that a guide dog was to be accepted to accompany the guided person into a restaurant. Despite of his explanation, the restaurant refused to serve him. A district court sentenced the violator to EUR 180 fines for discrimination.⁸

Linguistic equality

According to the Finnish constitution, Finland is a bilingual state, with Finnish and Swedish as the two official languages with equal status. During the year 2006 the deputy parliamentary ombudsman found that the linguistic equality was not fulfilled at the Vaasa Appeal Court, since the consideration of matters of Swedish speakers before the court took twice as long as the cases of Finnish speakers. The deputy parliamentary ombudsman initiated investigations by own motion also at the Helsinki and Turku Appeal Courts concerning the fulfillment of linguistic equality.⁹

Trafficking in human beings

The Finnish government made progress in efforts to combat trafficking in human beings in 2006. A system providing services and support measures for trafficking victims was established in connection with the reception system of asylum seekers. The Integration Act was amended to include persons suspected or identified as victims of human trafficking in the list of persons regarded as similar to refugees in terms of receiving services and support measures. Persons who were in special need of protection when investigations were underway into a crime of trafficking in which they were involved were also eligible to receive similar services.¹⁰

The new support system was coordinated by two state reception centers. Their activities included the reception of clients

and the necessary emergency help, including arranging housing, social and health care services, advisory and legal services as well as support for integration or safe return. Ensuring the clients' safety was also taken in consideration, and there were separate provisions concerning special services required by minors. Information gathering, maintenance of contact channels and part of the other support measures were to be ensured by NGOs.¹¹

A few persons suspected of being trafficking victims already received services and support measures in 2006. However, it was still too early to assess how well the new system functions. While persons suspected of being victims in principle have access to the new services, the difficulty in making a distinction between a victim or suspected victim of trafficking and a victim of other forms of exploitation was difficult - yet crucial in view of the identification and protection of victims. It remained unclear how and when the suspected victims, who would later be found not to be victims of trafficking, would be removed from the scope of the services and support measures.

The financing of the scheme was to be arranged through the state budget by including the funding in the administrative sector of the Ministry of Labor. No additional funds were however included in the 2007 state budget for this purpose. This meant that the service and support sche-

me was yet unsettled and showed that protecting the trafficking victims was not as high on the political agenda as had been indicated.

An amendment to the Aliens Act¹² provided granting of a reflection period as well as temporary and renewable residence permit to suspected or identified victims of trafficking. However, as a rule (with some exceptions) the victims could receive support only on the condition that they cooperated with authorities and broke ties with the suspected traffickers. Therefore the law was criticized for making the threshold too high to report the offences committed against them. This principle was seen as a deviation from the victim-centered approach to trafficking, as called for in the government action plan against trafficking in human beings in 2005.

In June the parliament passed legislation criminalizing the purchase of all sexual services from victims of trafficking. The punishment for abuse of a person subject to sex trade was a fine or imprisonment for up to six months.¹³

By the beginning of September, the police had started an investigation into ten suspected cases of trafficking.¹⁴ The government successfully prosecuted the first case of aggravated human trafficking that involved eight Finnish and Estonian sex traffickers. The decision was appealed to a higher court and therefore had no legal force as of the year's end.

SOURCES FOR FURTHER INFORMATION:

◆ Finnish Helsinki Committee, at www.fhc.fi

Other organizations and state bodies:

◆ The Finnish League for Human Rights, at www.ihmisoikeusliitto.fi

◆ Amnesty International Finland, at www.amnesty.fi

◆ The Threshold Association – Kynnys Ry (on rights of people with disabilities), at www.kynnys.fi

- ▶ PEN Finland, at pen.kaapeli.fi
- ▶ The Finnish Refugee Council, at www.pakolaisapu.fi
- ▶ The UN Association of Finland, at www.ykliitto.fi
- ▶ KEPA-Service Centre for Development Cooperation, at www.kepa.fi
- ▶ The Committee of 100 in Finland, www.sadankomitea.org
- ▶ The FinnChurchAid Foundation, www.kua.fi
- ▶ The Parliamentary Ombudsman of Finland, www.oikeusasiamies.fi
- ▶ The Ombudsman for Minorities (Ministry of Labor), www.mol.fi
- ▶ The Ombudsman for Children, at www.lapsiasia.fi
- ▶ The Ombudsman for Equality, at www.tasa-arvo.fi
- ▶ Office of the Chancellor of Justice, www.okv.fi
- ▶ The National Discrimination Tribunal of Finland (Ministry of Labour), at www.mol.fi
- ▶ Directorate of Immigration, at www.uvi.fi
- ▶ The Finnish Refugee Advice Centre, at www.pakolaisneuvonta.fi
- ▶ Advisory Board on Romani Affairs in Finland (Ministry of Social Affairs and Health), at www.stm.fi
- ▶ The National Council on Disability, at www.vane.to/english.html
- ▶ The Sami Parliament, at www.samediggi.fi

Further reading on human trafficking:

- ▶ *Ihmiskaupan uhrien auttaminen. Työryhmän ehdotus palvelujen ja tukitoimien toteuttamiseksi*, työhallinnon julkaisu 368, 2006, at www.mol.fi/mol/fi/99_pdf/fi/06_tyoministerio/06_julkaisut/07_julkaisu/thj368.pdf

Endnotes

- ¹ See ECtHR judgments in *Fryckman v. Finland* (application no. 36288/97), violation of article 6(1); *Molander v. Finland* (10615/03), violation of article 6(1); *Lehtonen v. Finland* (11704/03), violation of article 6(1) and 13; *Lehtinen v. Finland* (no. 2) (41585/98), violation of article 6(1) and article 13; *Mattila v. Finland* (77138/01), violation of article 6 (1); *Kajas v Finland* (64436/01), violation of article 6 (1); *R. v. Finland* (34141/96), violation of article 8; *C. v. Finland* (8249/02), violation of article 8; *H.K. v. Finland* (36065/97), two violations of article 8; *Goussev and Marenk v. Finland* (35083/97), violation of article 10; *Soini and others v. Finland* (36404/97), violation of article 10.
- ² Decision of the deputy parliamentary ombudsman on 9 February 2006, diary nr. 1977/4//04.
- ³ Decision of the Supreme Administrative Court on 11 August 2006, diary nr. 3803/2/5.
- ⁴ The Racial Equality Directive (2000/43/EC) and the Employment Framework Directive (2000/78/EC).
- ⁵ Decision of the Non-Discrimination Board on 1 March 2006, diary nr. 2732/66/2004. The decision is under appeal before the Helsinki Administrative Court.
- ⁶ Decision of the Non-Discrimination Board on 17 March 2006, diary nr. 1366/66/2005.
- ⁷ Decision of the Non-Discrimination Board on 22 September 2006, diary nr. 1920/66/2005.

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- ⁸ The judgment of the Pori District Court on 9 February 2006, diary nr. R 05/1505.
- ⁹ Decision of the deputy parliamentary ombudsman on 27 April 2006, diary nr. 1538/4//04.
- ¹⁰ Laki maahanmuuttajien kotouttamisesta ja turvapaikanhakijoiden vastaanotosta annetun lain muuttamisesta, 1269/2006, www.finlex.fi.
- ¹¹ Ministry of Labour, "Working Group proposes system to help victims of human trafficking," press release, 14 June 2006, at www.mol.fi.
- ¹² Laki ulkomaalaislain muuttamisesta, 21.7.2006/619, at www.finlex.fi.
- ¹³ Ministry of Justice, "Abuse of a person subject to sex trade to be made punishable," press release, 24 August 2006, at www.om.fi/Etusivu/Ajankohtaista/Tiedotteet/Tiedotearkisto/Tiedotteet2006/1156414148864?lang=en. Laki rikoslain 1 ja 20 luvun muuttamisesta, 25.8.2006/743, at www.finlex.fi.
- ¹⁴ National Bureau of Investigation, at www.poliisi.fi/krp