



OMBUDSMAN FOR CHILDREN IN FINLAND

# Report to the UN Committee on the Rights of the Child



**Supplementary report to Finland's 4th Periodic Report  
January 2011**

Publication by the Office of the Ombudsman for Children 2011:1



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Ombudsman for Children 2011 |

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on the Rights of the Child*  
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**Publisher:**

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**Graphic design:**

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**Photos:**

Pori Centre for Children's Culture  
– Network of Children's Culture in Satakunta  
'Vähäx valottaa' -children  
and youth fotofestival 2008

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iStockphoto, Pixmac

ISSN-L 1798-3991

ISSN 1798-4009 (online)

ISBN 978-952-00-3110-7 (PDF)

Publication in English

www.lapsiasia.fi

Published online 3.2.2011

The individual children in the photos  
are not related to the discussed subject.

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# Foreword by the Ombudsman for Children



The Ombudsman for Children is an independent authority set up on 1 September 2005 to promote the interests and rights of children in Finland. This is the first report issued by the Ombudsman to the UN Committee on the Rights of the Child assessing the implementation of children's rights in Finland.

The Ombudsman returned a comment to the Ministry for Foreign Affairs when Government of Finland's fourth regular report to the Committee was prepared in 2008. The views of the Ombudsman were rather well taken account of in Government report.

This supplementary report is a thematic review of factors that in the view of the Ombudsman for Children were not discussed sufficiently in Finland's fourth periodic report. Also both positive and negative developments occurring since its submission have made it current to issue this supplementary report.

This report further addresses the UN committee conclusions on Finland's third periodic report, submitted on 30 September 2005, insofar as they fall within the domain of the Ombudsman for Children or the Finnish government has not, in the Ombudsman's view, followed enough the Committee's recommendations.

This report is based on observations made by the Ombudsman, communications received from citizens and, in particular, information gained from surveys and research conducted among children. By law, the duty of the Ombudsman for Children is to convey the opinions of children to decision-makers. In 2008, the Ombudsman polled almost 700 schoolchildren around the time that the fourth Periodic Report was being prepared for submission.<sup>1</sup>

Additionally, the Ombudsman has explored how children in Finland's national minorities (Sámi and Roma) feel that they have been able to enjoy their rights.<sup>2</sup> Moreover, the Finnish Children's Parliament<sup>3</sup> advises the Ombudsman on behalf of children in lower comprehensive school. Since autumn 2010, the Ombudsman has had a dedicated advisory group of young people, and the Ombudsman also cooperates regularly with the 'Selviytyjät' (Survivors) group maintained by the Pesäpuu NGO. Its members are young people having experience in substitute care.

Working with other parties involved in promoting the rights of children, e.g. NGOs, is an important part of the Ombudsman's work. Networking with NGOs and with local and central government provides opportunities for continuous monitoring of the wellbeing of children and the implementation of children's rights.

3rd of January 2011 in Jyväskylä

Maria Kaisa Aula

The Ombudsman for Children in Finland

- 1 Tuononen, Päivi. *Asiaa aikuisille. Lapset ja nuoret kertovat omien oikeuksiensa toteutumisesta Suomessa.* [It concerns adults! Children and adolescents describe the implementation of their rights in Finland.] Lapsiasiavaltuutetun toimiston selvityksiä 4:2008. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-8154.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-8154.pdf). A summary in English: [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=97173&name=DLFE-8327.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=97173&name=DLFE-8327.pdf).
- 2 Junkala - Tawah. *Enemmän samanlaisia kuin erilaisia. Romanilasten ja -nuorten hyvinvointi ja heidän oikeuksiensa toteutuminen Suomessa.* [More similar than different. Wellbeing and implementation of the rights of Roma children and adolescents in Finland.] Lapsiasiavaltuutetun toimiston julkaisuja 2:2009. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-9934.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-9934.pdf). Rasmus, Minna. *"Saamelaisuus on kuin lahja". Saamelaislasten hyvinvointi ja heidän oikeuksiensa toteutuminen Suomen saamelaisalueella.* ['Being Sámi is a gift.' Wellbeing and implementation of the rights of Sámi children in the Sámi homeland in Finland.] Lapsiasiavaltuutetun toimiston selvityksiä 1:2008. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-8153.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-8153.pdf)
- 3 Every municipality may appoint a representative of lower comprehensive school age to the Finnish Children's Parliament, which principally operates online. The Finnish Children's Parliament was set up in 2006.

# General notes about the wellbeing of children in Finland



Children in Finland are doing well by international comparison in many respects.<sup>4</sup> The material standard of living is good, and basic education is of a high quality. Finland has for a long time had some of the lowest infant mortality rates in the world. The health of infants and small children is cared for through a comprehensive network of child care clinics. Day care services are universally available. Finland is a safe country to live in.

Where Finland still has scope for improvement, according to international comparisons, is in family relations. There are many single parents, and too often families have little time to spend together. Adolescents begin experimenting with drinking and smoking at an early age. The youth suicide rate in Finland is high. Also, studies show that school satisfaction among children is not as high here as in other European countries.

What makes the picture bleaker is that the divide between the children who are doing well and those who are not is growing, and child poverty has been increasing. No substantial success has been achieved in addressing increasing polarization since the recession of the early 1990s. Governments at that time made a number of cuts in income transfers to families with children. These have been only partly restored during the 2000s.

## What Finnish children need in their lives, according to the Ombudsman for Children, are

- more adult presence and less loneliness,
- more playing and less performing,
- more preventive services providing timely support for parents,
- more opportunities for participation, taking part in decisions and being heard.

However, commitment to children's rights and to the multi-sectoral child policy approach have strengthened in Finland's government, particularly since 2007. Cooperation between the Ombudsman for Children, NGOs and ministries – particularly the Ministry of Education and Culture – has been excellent. Municipalities have also taken multi-sectoral strategic planning for the wellbeing of children on board.

<sup>4</sup> Cf. *Doing Better for Children*, OECD 2009; UNICEF Innocenti Report Card no 7: *Child poverty in perspective: An overview of child well-being in rich countries 2007*.

# I. General measures of implementation

Articles 4, 42 and 44 paragraph 6; Committee recommendations 8, 10, 12, 14 and 16



## I.1. Legislation

In recent years, Finland has enacted several significant pieces of legislation to improve the status of children, and further important legislation is in preparation. In particular, the Child Welfare Act that entered into force in 2008 specified the responsibilities of parents and authorities in ensuring the wellbeing and protection of children. The Act required the opinion of the child to be taken better into account when making decisions concerning him/her. The Ministry of Social Affairs and Health has been actively monitoring how the Child Welfare Act works in practice and submitted amendments and additions to it.

The Government Decree on maternity and child welfare clinics, school and student health care and preventive oral health care for children and young people entered into force by stages in 2009. The frequency and content of health examinations for children and young people and preventive health care are now regulated in more detail than before, and these provisions are binding upon local authorities.

The Youth Act, which entered into force in 2006, is also worth noting. The purpose of this Act is to support the wellbeing of and participation by young people. The Act requires that young people be consulted in all local government decision-making concerning them. On the basis of this Act, the Government adopted its first child and youth policy programme in 2007. Under the Child Welfare Act, every municipal council must adopt a multi-sectoral plan for arranging and developing child well being services every four years.

In 2010, the Youth Act was amended to include a requirement for local authorities to organise outreach youth work to proactively seek young people in need of help. Local authorities are also required to set up a multi-sectoral task force to develop services for young people.

The protection of children as consumers was strengthened by an amendment to the Consumer Protection Act that entered into force in October 2008 whereby inappropriate marketing aimed at underage children or generally available to them is prohibited. A significant amendment to existing audiovisual media legislation is pending in Parliament; the purpose of this is to strengthen national coordination of media education, to clarify supervision in this area and to clarify age limits for various audiovisual programmes and games.

## 1.2. Coordination and National Plan of Action

Committee recommendation 8<sup>5</sup>

Coordination of child, youth and family policy and cooperation between administrative sectors has progressed well in Finland between 2007 and 2011 in both central and local government. In central government, important progress has been made with the Government drawing up a Child and Youth Policy Programme pursuant to the Youth Act and a separate fixed-term policy programme supporting it. The fixed-term policy programme is an instrument for the practical organisation and coordination of the work of various administrative sectors by the Ministry of Education and Culture. The programme is based on the Convention on the Rights of the Child.

Under the Youth Act, the monitoring of Government programme is the duty of the Advisory Council for Youth Affairs. The Ombudsman for Children and the Child Advisory Board which she chairs have been cooperating closely with it.

It is necessary to ensure that cross-sectoral coordination is continued and strengthened at the Government level also beyond 2011. The work begun during the second Government of Matti Vanhanen (2007) should be incorporated in a permanent coordinating unit which could be housed at the Ministry of Education and Culture or the Ministry of Social Affairs and Health. This unit should have a modest secretariat and a multi-sectoral advisory board to monitor the wellbeing of children and adolescents. In the next Government, a single minister should be charged with coordinating children's and family matters (Minister for Children and Families).

At the same time, harmonisation of the Youth Act and the Child Welfare Act should be continued so as to make the National Plan of Action and the child wellbeing programmes of the municipalities complement one another better. The Ombudsman for Children finds it best to enact a new general act on 'the wellbeing of children, young people and families' to support cross-sectoral cooperation and coordination. In the same context, the assessment of the impact of decisions on children should be made a statutory obligation for both municipalities and ministries (see section 3.2, Principle of the best interest of the child).

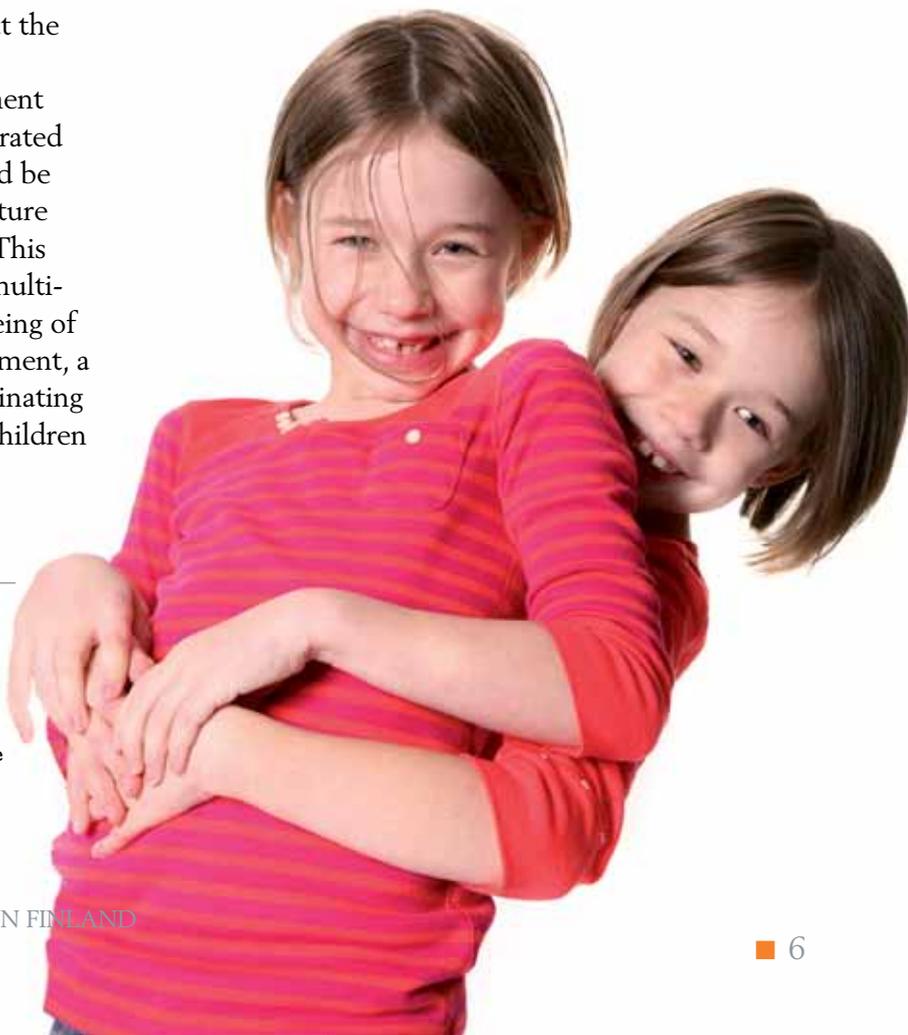
### Recommendations

- a) The Finnish Government should render permanent the national cooperation in child, youth and family policy begun in 2007 and to create a national structure for cross-sectoral coordination beyond 2011.
- b) The Finnish Government should harmonise cross-sectoral programme activities in central government and municipalities better in order to promote the wellbeing of children.

#### 5 RECOMMENDATION 8.

The Committee recommends that the State party:

- a) ensure that the National Plan of Action is clearly oriented towards the rights of the child as enshrined in the Convention;
- b) provide an adequate budget for its implementation;
- c) place all other action plans and programmes under the coordination of the National Plan of Action in order to overcome a fragmented approach to the implementation of child rights;
- d) give the new Ombudsman for Children a mandate to monitor the National Plan of Action and evaluate the progress made.



### 1.3. Independent monitoring Committee recommendation 10<sup>6</sup>

#### Status of the Ombudsman for Children

Finland's Ombudsman for Children took office on 1 September 2005 with the entry into force of the Act on the Ombudsman for Children and the Government Decree on the Ombudsman for Children. The Ombudsman is an independent authority at the connection with the Ministry of Social Affairs and Health.

#### The duties of the Ombudsman for Children are defined in the act as follows:

- 1) to assess the attainment of the best interests and rights of the child, and to monitor the living conditions of children and adolescents,
- 2) to monitor legislation and public decision-making, and to assess their impact on the wellbeing of children,
- 3) to develop public decision-making in matters concerning children through initiatives, advice and instructions, and to promote the attainment of the best interests of the child in society at large,
- 4) to keep in contact with children and adolescents and to convey information obtained from them to decision-makers,
- 5) to develop forms of cooperation between various actors,
- 6) to convey information on children to children, to people working with children, to the authorities and to the rest of the population, and
- 7) to promote in various ways the implementation of the Convention on the Rights of the Child adopted by the General Assembly of the UN (SopS 59–60/1991).

At present, the Office of the Ombudsman for Children employs altogether three senior officers and a secretary besides the Ombudsman herself. This is inadequate particularly in view of the need to inform the public of children's rights and to

maintain contact with children. At present, citizens have to wait a long time to receive a reply to their communications. The Office is very small compared to its opposite numbers in the other Nordic countries or in other European countries of a similar size.

By law, the Ombudsman for Children reports to the Government. In practice, the Ombudsman delivers her report to the Minister of Social Affairs and Health, and it is discussed in cabinet committee. The Ombudsman does not present her annual report to Parliament. This is also the case with the other special-interest ombudsmen (the Ombudsmen for Equality, Minorities and Data Protection).

Only the Parliamentary Ombudsman is nominated by the parliament and reports directly to parliament. The annual report of the Ombudsman for Children is, however, distributed to all Members of Parliament. The Ombudsman also participates by invitation in committee hearings and informal seminars at parliament. In order for the Ombudsman for Children to report to parliament, the Parliament's Rules of Procedure and the Act on the Ombudsman for Children would have to be amended.

Parliament is currently debating a bill whereby a new national Human Rights Institution focusing on the promotion of fundamental and human rights in Finland would be set up in connection with the Office of the Parliamentary Ombudsman. This centre is supposed to co-operate and network with the other special ombudsmen such as the Ombudsman for Children. It would be however natural to develop these functions in the future so that the Ombudsman for Children and all the other special-interest Ombudsmen would be brought in connection to the parliament too. This would also further the aim of reporting on the implementation of children's rights directly to parliament.

6 RECOMMENDATION 10. The Committee recommends that:  
a) the mandate of the Ombudsman for Children be expanded, in line with general comment No. 2 (2002) on the role of independent human rights institutions, to include the ability to receive and investigate complaints from children;  
b) the State party support with sufficient human and financial resources the Office of the Ombudsman for Children in order to enable it effectively to monitor the implementation of the Convention throughout the country;  
c) the annual report of the Ombudsman for Children be presented to, and discussed by, Parliament, together with information about measures the Government intends to take to implement its recommendations.

## Recommendations

- a) The Finnish government should grant added resources to the Office of the Ombudsman for Children so that the Ombudsman could more effectively promote the attainment of children's rights in Finland.
- b) The Finnish government should amend the Act on the Ombudsman for Children and the Rules of Procedure of Parliament so that the Ombudsman would report to Parliament every four years on the implementation of children's rights in Finland.
- c) The Finnish government should explore the potential of bringing the Office of the Ombudsman for Children administratively in connection to the parliament together with other human rights supervision authorities.

## Supervision of human rights and legality

The Ombudsman for Children does not consider it necessary at this time to expand her mandate to include the ability to receive and investigate complaints from children as recommended by the UN Committee (2005). Such a change would require detailed groundwork and additional human resources in particular. Instead of expanding her mandate the Ombudsman for Children recommends that children's rights be mainstreamed in all supervision operations so that children will have better opportunities of contacting supervising authorities. The Ombudsman has conducted surveys on this matter and has entered into cooperation towards this end with the Office of the Parliamentary Ombudsman.

Finland already has several official bodies supervising human rights and legality who deal with individual cases. However, this system is not coherent or child-friendly. Complaints are recently received and investigated by the supreme overseers of legality (the Parliamentary Ombudsman and the Chancellor of Justice). In addition to that the Ombudsman for Equality, the Ombudsman for Minorities, the Data Protection Ombudsman and the six Regional State Administrative Agencies receive and investigate complaints. The National Supervisory Authority for Welfare and Health (Valvira) processes complaints made against social welfare and health care professionals and units,

and complaints of fundamental importance made against the operations of social welfare units and personnel.<sup>7</sup>

The Ombudsman for Children circulated a survey among these authorities to investigate their child-friendliness. The responses indicated that children themselves file complaints extremely rarely. Usually their parents file complaints if needed. The operations of these authorities, however, are not child-friendly enough; for example, any publicity on the possibility of filing a complaint is aimed solely at adults. The overlapping functions make it difficult even for the adults to find the right authority to talk to. The Ombudsman for children has initiated cooperation with authorities supervising human rights and legality in order to support them in improving the child friendliness of their service such as training officials and informing children.

The authorities responsible for monitoring human rights and legality seem primarily to expect local social welfare and patient ombudsmen to advise children and adolescents in legal protection matters. Under the Act on the Status and Rights of Patients, all health care units must have a local patient ombudsman to advise, guide and provide information for patients in matters regarding their rights. Similarly, under the Act on the Status and Rights of Social Welfare Clients, every local authority must have a social welfare ombudsman to advise and guide social welfare clients.

The Ombudsman for Children has also investigated the child-friendliness of local social welfare and patient ombudsmen.<sup>8</sup> Underage children rarely contact these local ombudsmen themselves, and the ombudsmen have made little effort to inform children directly of their services. Also, the ombudsmen are not sufficiently independent. There are insufficient personnel resources allocated to this function to allow for a child-friendlier approach.

7 In addition to these, the Consumer Ombudsman handles e.g. reports of inappropriate marketing aimed at minors and the Finnish Communications Regulatory Authority handles e.g. complaints on the scheduling of programmes harmful for children.

8 Hänninen, Anu. *Lapsinäkökulma ja lapsen oikeudet sosiaalialiasiamiesten raporteissa*. [Children's point of view and children's rights in the reports of social welfare officers.] Lapsiasiavaltuutetun toimiston selvityksiä 2:2008. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-8159.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-8159.pdf). A similar study on patient ombudsmen is in preparation.

The Ombudsman for Children herself receives between 400 and 600 communications from citizens every year, asking for general advice or for help in the situation of an individual child or family. These communications mostly come from adults (i.e. parents) and various authorities.<sup>9</sup> Only a handful of communications each year come directly from children. This number of communications from citizens clearly demonstrates that Finland needs more resources for legal counselling of children and families.

The Ombudsman for Children has also entered into cooperation with the Child and Youth Phone and Net service of the Mannerheim League for Child Welfare for the purpose of gaining information on general worries and legal protection problems experienced by children and young people.

## Recommendations

- a) The Finnish government should improve opportunities for children to be able to actually submit their case to an authority responsible for monitoring human rights or legality.
- b) Children's Rights and child-friendly service should be mainstreamed in the operations human rights authorities that currently investigate individual cases.
- c) Information specifically aimed at children and adolescents concerning their human rights protection should be increased, in contexts commonly used by them, such as at school and on the Internet.
- d) The operating potential of social welfare and patient ombudsmen should be strengthened so that they are better placed to advise underage customers of their rights and can provide information of the development of social welfare and health care services on the basis of contacts by the children.

<sup>9</sup> The most usual subjects of these communications are the quality of child welfare services, custody disputes, media and school related issues.

<sup>10</sup> RECOMMENDATION 12. The Committee recommends that the State party undertake a study to assess and analyse the resources provided for children and continue to take, where necessary, effective measures to ensure equal access to and availability of services for all children, irrespective of the municipality in which they live.

## 1.4. Resources for children

Committee recommendation 12<sup>10</sup>

With legislative amendments in recent years and with added cooperation between municipalities, the Government has sought to reduce regional differences in the availability of services for children, adolescents and families. National standards related to services have been boosted. Municipalities have been required to enter into cooperation. However, there are still services where regulation is vague, for example the legislation on student welfare in schools.

The capacity of the Regional State Administrative Agencies to intervene in unlawful practices of municipalities improved with the revision of the Child Welfare Act and the adoption of the Government Decree on maternity and child welfare clinics, school and student health care and preventive oral health care for children and young people. Both impose unequivocal deadlines and provisions on local authorities in more detail than before. For instance, an investigation into whether a child requires child welfare services must be completed within three months. If a municipality is unable to comply with the provision, the relevant Regional State Administrative Agency may impose a conditional fine. This sanction has been used occasionally, but there would be need for far more. The fact that the Regional State Administrative Agencies are understaffed is also a serious limiting factor. On the whole, the Ombudsman for Children considers it a positive development that central government has tightened its supervision of municipalities.

## Recommendations

- a) The Finnish government should continue to reduce regional differences in services for children and families by guaranteeing regional state administrative agencies sufficient personnel resources so that they are able to supervise the activities of municipalities and
- b) by actively employing sanctions (e.g. conditional fines) against municipalities that neglect their statutory duties.

## 1.5. Data collection

Committee recommendation 14 <sup>11</sup>

Monitoring of the wellbeing of children has made significant progress in central government during 2010. A working group appointed by the Ministry of Education and Culture drew up a comprehensive proposal for creating a knowledge base policy for the wellbeing of children in Finland. The Ombudsman for Children was the chairman of the working group. Information-based child, youth and family policy was set as the goal. The working group charted shortcomings in the knowledge base regarding the wellbeing of children and drew up a proposal for national indicators of the wellbeing of children. The normative basis for this was the Convention on the Rights of the Child.

Under these proposals, various ministries, statistics authorities, local authorities and other actors would set up a joint body to assess and develop the knowledge base on the wellbeing of children. The Ministry of Education and Culture would launch production of about 40 indicators of the wellbeing of children and introduce regular reporting to decision-makers. The annual report of the Ombudsman for Children would report on the state of the wellbeing of children on the basis of these indicators. Information production would be linked to the planning and management of children's wellbeing services in municipalities.

At present, the school health survey provides extensive data on subjective well-being of the schoolchildren in upper comprehensive school and students in upper secondary education. However there is a lack of data on the children from lower comprehensive school (under 12 years of age) or younger. To improve this, the working group proposed urgent implementation of the children's health monitoring project (LATE) and the extending of the school health survey to lower comprehensive schools. New information production on the quality of parenthood is also required. Good potential

for this is provided by the 'extensive health examinations' specified in the Government Decree referred to in section 1.4. Resources for children, involving entire families at regular intervals.

The other room for improvement is that the child victim study, which gauges the incidence of violence towards children, should be made permanent and regular by the Government. Children should be polled for their experiences of violence at an interval of four or five years. The previous child victim study was conducted in 2008, and the one before that in 1988.

There is also lack of information nationwide on the reasons for which municipalities have placed children into care outside their homes. At present, the causes leading to children being taken into care are recorded only locally.

There is also a need for improving data collection on the implementation of the rights of vulnerable and minority children and their equal treatment. These groups include immigrant, refugee and asylum seeking children, children who are members of linguistic and ethnic minorities, and disabled children. These groups are small, so new statistical data collection methods would need to be introduced by the Statistics Finland and the National Institute for Health and Welfare. This requires data protection issues to be resolved, among other things.

### Recommendations

- a) The Finnish government should proceed according to agreed policy outlines in improving the monitoring of children's wellbeing.
- b) The Finnish government should improve data collection methods in monitoring of the wellbeing of children under the age of 12 and minority children and government should regularly conduct a child victim study polling children on their experiences of violence.

<sup>11</sup> RECOMMENDATION 14. The Committee recommends that the State party continue its efforts to develop a system for the comprehensive collection of data on children, in particular children belonging to the most vulnerable groups, in order to allow detailed analysis of their living conditions and the implementation of their rights.

## 1.6. Making the rights of the child widely known

Committee recommendation 16<sup>12</sup>

The Government platform of the second Government of Prime Minister Matti Vanhanen (2007) included a Policy Programme for the Well-Being of Children, Youth and Families. The Policy Programme -office coordinated the publicity and opinion leader campaign to celebrate the 20th anniversary of the Convention in 2009 and guided the drafting of the national communication strategy for children's rights.

The anniversary year of children's rights was celebrated in Finland, systematically and through broad-based cooperation, in 2009. Several ministries, the Ombudsman for Children, many NGOs and the Evangelical-Lutheran Church of Finland participated in the publicity and opinion leader campaign coordinated through the Policy Programme. The purpose of the campaign was to increase awareness of the rights of the child and to give voice to children and improve their participation and influence. The patron of the campaign was President of the Republic Tarja Halonen.

The campaign had its own logo and website ([www.lapsenoikeudet.fi](http://www.lapsenoikeudet.fi) in Finnish, [www.barnkonventionen.fi](http://www.barnkonventionen.fi) in Swedish), providing a forum for information exchange generating a wealth of media communications and material. Children's Rights Day was celebrated with a national festival and local events on 20 November 2009. The media gave broad and diverse coverage of children's rights and the events of the anniversary year and Children's Rights Day. Children's own views were also visible in the media. Changes in awareness of the Convention on the Rights of the Child were gauged with a population survey. The campaign was found to have had an effect: In October 2008, 54% of the population were aware of UN convention, but in January 2010 the figure was 72%.

A publication of the Ombudsman for Children, *Asiaa aikuisille* (It concerns adults, 2008), was distributed to decision-makers in central and local government and to all schools in Finland. This publication reported on how children themselves feel that they enjoy their rights. In the anniversary year, the Ombudsman also published a simplified-language brochure on the Convention on the Rights of the Child in Roma, in Russian and in sign language (video). Earlier similar brochures in Finnish, Swedish, English and three different Sámi languages had already been well received. The Convention was further promoted on school tours organised by the Office of the Ombudsman, a website aimed at lower comprehensive school pupils ([www.lastensivut.fi](http://www.lastensivut.fi)) and visits involving the website's cat mascot.

In spring 2010, the national children's rights communication strategy specifying structures in central government administration to continue publicity and cooperation was submitted to the Minister of Culture. It was proposed that the Ministry of Education and Culture should take responsibility for coordination. The other ministries should also have an obligation to communicate. Involving NGOs, the Ombudsman for Children and the Evangelical-Lutheran Church of Finland in communication cooperation was also underlined.

<sup>12</sup> RECOMMENDATION 16. The Committee encourages the State party to further disseminate the Convention, including through school curricula, with special attention to its dissemination among vulnerable groups such as immigrants and indigenous, ethnic or linguistic minorities, and to continue its efforts to provide adequate and systematic training and/or sensitization on children's rights of professional groups working with and for children.



Moreover, the strategy proposes that education and training regarding the Convention on the Rights of the Child be included in school curricula and in the vocational and further education of all professionals working with children. Children's Rights Day, 20 November, was proposed as a national flag day. If and when implemented, the strategy will represent a clear improvement over the past situation, where the central government was not doing enough to promote awareness of the Convention. In summer 2010, the National Board of Education started to implement the strategy by amending the national core curriculum for basic education to include more specific references to the convention.

In spring 2010, UNICEF published a Nordic study on the opinions of children on their right to participate in decision-making. The study also explored the level of awareness among upper comprehensive school pupils (aged 12 to 16) of children's rights and human rights. Finnish children were the most aware of the Convention, and their level of awareness had increased since the previous study three years earlier.

## Recommendations

- a) The Finnish government should continue the active implementation of the national children's rights communication strategy under the leadership of the Ministry of Education and Culture.
- b) The Finnish government should ensure that children's rights are included in the basic training of all professionals working with children.
- c) The Finnish government should augment human rights education in basic education by supporting further education for teachers and by ensuring availability of the necessary teaching materials.



## 2. Definition of the child

### Article I



Under Finnish legislation, all persons under the age of 18 are defined as children. However, there remain age limits that contradict this definition. This leads to persons under the age of 18 being treated unequally.

According to the Child Allowances Act, a child is entitled to a child allowance until his/her 17th birthday. This entitlement should be extended to the 18th birthday.

Disability benefits for disabled or chronically ill persons are determined differently depending on whether they are under or over 16 years of age (Act on Disability Benefits). A child under the age of 16 is entitled to disability benefit if the treatment, care and rehabilitation required by his/her illness, disability or injury causes unusually great stress and commitment for a period of at least six months

compared to a healthy child of the same age. This benefit ceases when the child turns 16, after which he/she is covered by the same provisions as disabled and chronically ill adults. The size of the benefit does not change, but the eligibility requirements are stricter after the age of 16. All disabled persons under the age of 18 should be treated the same way.

### Recommendation

The Finnish government should amend the Child Allowances Act so that all children under the age of 18 are entitled to a child allowance for their maintenance, and amend the Act on Disability Benefits so that the disability benefit for under 16-year-olds is converted into a child disability benefit to which all disabled and chronically ill children under the age of 18 are entitled.

# 3. General principles

Articles 2, 3, 6 and 12; Committee recommendations 18, 21, 23 and 43



## 3.1. Non-discrimination

Article 2; Committee recommendation 18 <sup>13</sup>

### Children's and adolescents' experiences of discrimination

The greatest direct discrimination problems are experienced by children who are members of various linguistic and ethnic minorities (Roma, Sámi, sign language and immigrant children) or are disabled. Multiple discrimination may also involve Finland's second national language (e.g. in the case of a Swedish-speaking child who uses sign language) and gender <sup>14</sup>. The Ombudsman for Children recommends urgent handling of the revision of Non-Discrimination Act. The revision would expand the scope of the Act to cover e.g. age discrimination; at present the Act covers only ethnic discrimination.

The Ombudsman for Children was involved in a research project to chart experiences of

discrimination by children, conducted by the University of Eastern Finland and the Ministry of the Interior in 2010. The findings are to be published in early 2011. They show that children who are disabled or who have a different skin colour are the most likely to be discriminated against. Discrimination is mostly committed at school by children and adolescents of the same age with whom they are acquainted. Unfamiliar adults may also feel repelled by or take a prejudiced attitude, for instance to Roma children and adolescents or immigrant children. Particularly worrying is that many children and adolescents feel that discrimination is inevitable. It has been difficult for them or their parents to bring about a change in the situation. It would therefore be crucial to influence the attitudes of all adults and educators towards non-tolerance of discrimination.

It has been discovered in other contexts that teachers and hobby instructors of disabled children and adolescents may also have discriminatory attitudes. This applies particularly in cases involving the participation of a minority child in general teaching or leisure pursuits with other children.

Sámi children encounter direct ethnic discrimination less frequently. For them, discrimination mostly comprises indifference to their rights, their language and their culture. Sámi children feel that they

<sup>13</sup> RECOMMENDATION 18. In Accordance with article 2 of the Convention, the Committee recommends that the State party continue and strengthen its efforts to prevent and eliminate all forms of discrimination against children, including Roma and foreign children, and pay special attention to the education of young people with respect to discriminatory attitudes.

<sup>14</sup> In this survey the forms of discrimination were name-calling, exclusion, mistreatment, prejudice, violence and threats.

themselves and children in Finland in general learn too little at school about Sámi culture, their history as an indigenous people or about the Sámi people today. The media tends to present the Sámi culture through stereotypes and simplifications.

## Implementation of the rights of Roma children

Committee recommendation 43<sup>15</sup>

According to interviews with Roma children and adolescents,<sup>16</sup> Roma children are satisfied with their family life and social relationships. Many have a strong positive Roma identity. The majority population however holds stereotypical attitudes towards the Roma, which manifests itself in the lives of their children as school bullying and name-calling. Roma children are seen as being 'too different', because practically nothing is taught about their culture at school. Ignorance breeds prejudice.

*“ I think it's just that we're people like anyone else. We're just a little different. We dress a little different from you, and we hear about it at school, they call us Gypsies. When I got to third grade, they began to bully me. And I decided that if they go on doing it, I may blow up. But the headmaster and teachers talked about it and said it had to stop, and it did stop. --- Now I think it's much nicer to go to school.”*

– Boy, age 10 –

*“ I don't know about the teachers, there are [more than one] Roma children at our school, they [the teachers] have to know something about it, but sometimes they're just like what on earth?”*

– Girl, age 14 –

Roma children and adolescents participate less in basic education than children of the majority population, they have more absences, and they more frequently drop out. According to an investigation conducted by the Office of the Ombudsman for Children, there is scope for improvement in

15 RECOMMENDATION 43. The Committee recommends that the State party take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented for all children throughout the country, including children belonging to the most vulnerable groups such as Roma children.

16 Junkala - Tawah: *Enemmän samanlaisia kuin erilaisia. Romanilasten ja -nuorten hyvinvointi ja heidän oikeuksiensa toteutuminen Suomessa.* [More similar than different. Wellbeing and implementation of the rights of Roma children and adolescents in Finland.] Lapsiasiavaltuutetun toimiston julkaisuja 2009:2.

cooperation between Roma parents and schools. When Roma pupils have problems, there is a much higher threshold for contacting their parents than in the case of other pupils. Hiring Roma personnel, for instance as special needs assistants, has proved to be an excellent way of improving communication between parents and school and of increasing awareness of Roma culture at school.

A National Policy on Roma was completed in the government of Finland in 2009, featuring concrete measures for improving the status of the Roma population in Finland. This was an important positive step. The findings of the research conducted by the Ombudsman for Children were taken into account in drafting the National Policy, but even more attention could have been paid to Roma children's participation and their leisure and cultural activities. The Ombudsman has enjoyed excellent cooperation with the Advisory Board on Romani Affairs.

## Recommendations

- The Finnish government should put the National Policy on Roma into practice with special reference to children's participation and the cultural and leisure activities of Roma children.
- The Finnish government should add information on the Roma and Sámi minorities in teacher training and the school curriculum.
- The Finnish government should seek to have more Roma personnel employed at schools, for instance as special needs assistants.
- The Finnish government should improve the capacity of teachers and pupils to accept diversity at school, specifically the participation of disabled children and adolescents in general school and leisure activities.



## Children with parents in prison

The children of people serving a prison sentence constitute a group whose rights implementation would merit a comprehensive review. At the moment, it is not even known how many such children there are in Finland. The best estimate is that there are between 8,000 and 10,000 children in Finland with one or both parents in prison.

Under section 10 of the Child Welfare Act, when an adult is serving a prison sentence, any underage children in his/her care and upbringing must be ensured care and support as necessary. This is not however properly implemented yet when a child is outside the prison.

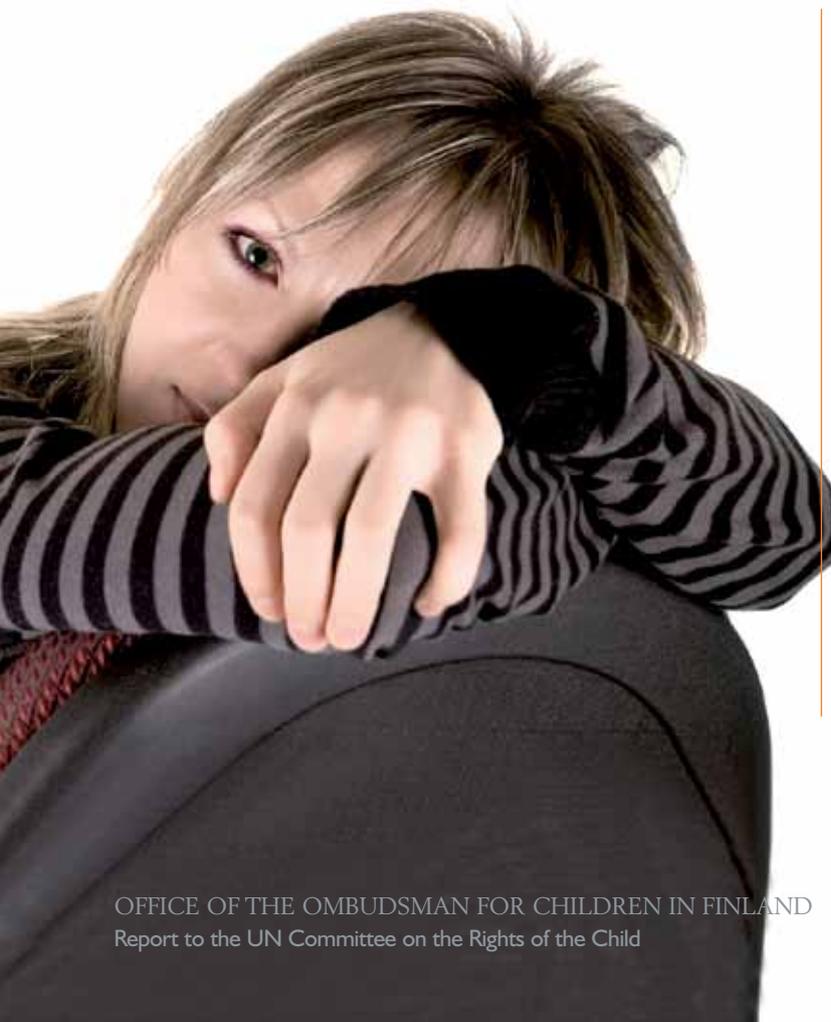
On the other hand the Act allows for a child under two years of age to be placed in a family ward in the care of a parent serving a prison sentence or in custody. Thereafter, the placement may be continued until the child is three years of age if the best interests of the child absolutely so require. The legislation and practical procedures have recently been revised positively to enable close cooperation between the criminal sanctions authorities and the child welfare authorities.

According to the Act on Imprisonment (767/2005), preserving contact with family members must be taken into account in the placement of prisoners. In practice, this does not always happen. Children often have very limited opportunity for keeping in contact with a parent in prison. Phone calls are limited to a few minutes in the daytime, and it may be difficult to reach family members at such a time (children, for example, may be at school). Prison facilities are often not appropriate for meetings between parents and children. Prison officials may behave rudely towards children. Children's rights are not taken into account in the operations of prisons.

It should be ensured through cooperation between the criminal sanctions authorities and services outside prison, particularly the child welfare authorities, that the imprisonment of a parent would have as little adverse impact on his/her child as possible. It has been found in practice that such cooperation doesn't work well enough when the child of an imprisoned parent is in the care of his/her other parent or in substitute care arranged by child welfare services. Children also require information in a form suitable for their age on their parents' imprisonment.

## Recommendations

- a) The Finnish government should mainstream children's rights in the criminal sanctions system and in prison management so that there is capacity to assess the impact of their decisions on children.
- b) The Finnish government should ensure that prison personnel are trained in how to deal with children, that meeting facilities and practices are child-friendly and that information suitable for the child's age and developmental level is provided on the parent's imprisonment; the prisoner's prison sentence plan must take into account his/her parenthood and how to manage it during the sentence.
- c) The Finnish government should ensure that information and instructions on how to encounter and help the child of a family where a parent is imprisoned are available to municipal child welfare services.



## 3.2. Principle of the best interests of the child

Article 3; Committee recommendation 21<sup>17</sup>

### Assessment of the impact of decisions on children

Fulfilling the principle of the best interests of the child in general central and local government decision-making requires assessment of the impact of decisions on children. This child impact assessment involves surveying the opinions of children and adolescents.

The Ministry of Justice issued instructions on assessing the impact of proposed legislation at the central government level in 2007. These instructions include child impact assessment as part of the human impact assessment. However, studies have shown that child impact assessments are not conducted to a sufficient extent in preparing legislation.

One aim of the Government's Policy Programme for the Well-being of Children, Youth and Families (2007–2011) was to promote child impact assessment. Some ministries have thus conducted minor pilot projects, and information has been collected through international comparisons.

Municipalities make many decisions with a direct impact on the lives of children and adolescents in the area of social welfare and health care services, the environment, community planning, and sports and recreation services. Tools for child impact assessment have been developed in recent years, but not sufficiently adopted. There have also been some pilot projects at the local government level in recent years, but for child impact assessment to gain more widespread use, it would have to be made mandatory by law.

Towards the end of 2009, the General Synod of the Evangelical-Lutheran Church of Finland decided that church legislation and parish instructions should include child impact assessment for decisions. The mainstreaming of children's rights in parish activities is being developed through pilot projects.

### Recommendation

The Finnish government should enact child impact assessment as a statutory requirement in decision-making in central and local government in order to improve the implementation of the child's best interests' principle.

<sup>17</sup> RECOMMENDATION 21. The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood, appropriately integrated and implemented in all legal provisions as well as in judicial and administrative decisions, and in projects, programmes and services that have direct and indirect impact on children.



### 3.3. Right to life, survival and development

#### Article 6

The largest single cause for foetal damage is substance abuse by pregnant mothers. The right and obligation of such mothers to receive substance abuse welfare services has been debated in public. The greatest problem in this respect is the fact that the welfare services are inadequately resourced and unequally distributed in different parts of the country. It is difficult for a substance abuser mother to get help for her problem in time. Substance abuse is not sufficiently identified in maternity clinics.

In 2009, a working group set up by the Ministry of Social Affairs and Health submitted proposals for ensuring care for pregnant women with problems related to substance abuse.<sup>18</sup> The Ombudsman for Children considers these proposals to be good, but not all of them have been implemented.

The working group emphasised the importance of reinforcing general alcohol policy in order to reduce alcohol consumption. The competence of maternity clinic personnel in identifying substance abuse and addressing it should be enhanced. It would be particularly important to ensure that pregnant mothers are by law entitled to immediate access to treatment. The working group further proposed that a pregnant woman could, as a last resort, be committed to involuntary treatment in order to protect the unborn child, if there is a danger of compromising the development of the foetus.

Support and aid for pregnant women with substance abuse problems were enhanced by an amendment to the Child Welfare Act, whereby authorities with a notification obligation concerning a child in need of child welfare services must, confidentiality provisions notwithstanding, submit an anticipatory child welfare report if there is just cause to suspect that a child to be born will need child welfare support measures immediately after birth.

Particularly good results in the treatment of the substance abuse problems of pregnant women have been achieved in what is known as the *Pidä kiinni* (Hold tight) treatment system, which is based on strengthening the attachment between mother and baby. This NGO based service however lacks constant funding. The government has not made its funding permanent despite promises to do so. This is seriously threatening access to treatment by pregnant women with substance abuse problems.

#### Recommendations

- a) The Finnish government should provide by law the subjective right to treatment for pregnant women with substance abuse problems.
- b) The Finnish government should provide by law that, as a last resort measure, pregnant women with substance abuse problems may be committed to involuntary treatment if there is a danger of compromising the health of the foetus.

<sup>18</sup> *Raskaana olevien päihdeongelmaisten naisten hoidon varmistaminen.*  
[Ensuring treatment for pregnant women with substance abuse problems.]  
Sosiaali- ja terveysministeriön selvityksiä 2009:4.



### 3.4. Views of the child

#### Article 12

#### General remarks about the participation of children in Finland

In autumn 2010, the Council of Europe conducted a pilot assessment of the state of participation by children and adolescents in Finland. This was based on general comment no. 12 (2009) from the UN Committee on the Rights of the Child, which has been translated into Finnish. The Ombudsman for Children participated closely in the assessment.

The assessment indicates that Finnish legislation provides quite well for children to participate, influence and be heard as appropriate for their age and developmental level. There is a general provision to this effect in the Constitution. The Child Welfare Act significantly improved the requirements for hearing the opinions of the child, but its practical implementation is hindered by understaffing in social welfare services. Of legislation specifically concerning children, only the Child Day Care Act lacks a provision concerning the right of the child to participate.

Reasonable progress has been made concerning children's participation in the 2000s. The second Government of Prime Minister Matti Vanhanen determined that by the end of 2011 every municipality should have a system in place for participation by children and adolescents. This has accelerated the founding of youth councils and also, to some extent, children's parliaments and student bodies at lower and upper comprehensive schools. Student bodies, however, are still a rarity at lower comprehensive schools. About 59% of Finland's municipalities had a youth council in 2008 survey and altogether 87% of population under 18 lived in these municipalities. Some more progressive municipalities have already prepared or are preparing extensive programmes for participation by children and adolescents (Vantaa, Jyväskylä, Sastamala).

The most significant obstacles to the participation and hearing of children in Finland are that adults have insufficient time and inadequate skills for



interacting with children of various ages. Also, adults do not always realise how useful children's experiences can be in developing services. Improvement of (adult) procedures and practices to foster participation by children and adolescents would thus be needed in all services in Finland. Children acquire plenty of experience when using local services, and their feedback should be sought for the purpose of improving school, health care, child welfare, sports, leisure, library and playground services. The most important thing would be to improve basic and further training for adult professionals to include knowledge and skills regarding interaction with children and children's participation.

The Ombudsman for Children polled children for information on how they could influence decisions in their families, in leisure activities and at school and summarised this in a publication titled *Asiaa aikuisille* (It concerns adults, 2008). Children were reasonably satisfied with how they could influence matters in their own families. The Council of Europe study referred to above came to the same conclusion. The area where children most called for more influence was in everyday matters at school. Children would like to influence school meals, playground equipment, decoration and the enjoyability of school interiors. They would also like to participate in the setting of school rules and to organise school events to foster a community spirit. They also have requests regarding the content of teaching in skills and arts subjects.

A survey of children conducted by the Nordic UNICEF organisations in 2010<sup>19</sup> came to much the same conclusion: Finnish children would like more of a say in the day-to-day running of their school. According to the UNICEF survey, participation in student body activities is less common in Finland than in the other Nordic countries, yet lowering the general voting age found more support in Finland than elsewhere. Young people feel that the best way for them to influence things is online.

The Council of Europe study also showed that Finnish authorities produce very little information specifically designed for and aimed at children concerning public services and the activities of the authorities. The availability of age-appropriate information is an important requirement for children's participation and influence.

The Ombudsman for Children relates positively to the goal of lowering the voting age in municipal election from 18 to 16 years. The Lutheran Church has lowered the voting age of local church council elections to 16 years recently.

## Recommendations

- a) The Finnish government should demand municipalities to incorporate targets for participation by children and adolescents in their statutory children's wellbeing plans.
- b) The Finnish government should ensure more training of professionals working in local authority services to improve their skills in interacting with children of different ages.
- c) The Finnish government should by law improve the possibilities of children to participate in and influence everyday activities at school and encourage student body activities particularly at lower comprehensive schools.
- d) The Finnish government should develop children's possibilities to give feedback and evaluate local child welfare and health care services.
- e) The Finnish government should include the child's right to participate in the new Early Childhood Education Act now under preparation.
- f) The Finnish government should ensure that authorities provide child-friendly information about their activities and about services for children.

## Hearing children in administrative and legal procedures concerning them

### Committee recommendation 23<sup>20</sup>

Hearing children and taking their opinions into account have been enhanced particularly by the new Child Welfare Act (2008). The opinion of a child or adolescent who is a client of child welfare services shall always be established in processing a matter concerning him/her. Moreover, a child aged 12 or above is entitled to be heard directly in administrative matters concerning him/her, for instance in a court of law.

This 12-year age limit has, however, prompted the question of whether a child may be exposed at an unduly early age to legal processes that may involve information harmful to him/her. The procedure of hearing children in matters at administrative courts was further specified with an amendment to the Child Welfare Act. A child may be heard in person if a child so requests or gives his/her consent to the hearing. However, a child may not be disclosed information that could seriously compromise his/her health or development. A child under 12 years of age may be heard in person only if it is deemed necessary in order to settle the matter and if such a hearing is not deemed to cause significant harm to the child.

Participation is also aided by the possibility of assigning a guardian to speak for the child instead of his/her custodian in a child welfare matter. However, guardian service coordination and guardian training is managed by NGOs whose continuation of funding is uncertain. The government should take responsibility for the coordination, development, supervision and funding of child welfare guardian activities.

However, shortcomings still persist in the participation of children in legal processes involving divorce, i.e. child custody. The Child Custody and Right of Access Act specifically states that a child is not a party to the divorce process of his/

<sup>19</sup> [http://www.unicef.fi/files/unicef/pdf/joint\\_report\\_UNICEF\\_-\\_Nordic\\_Study\\_on\\_Child\\_Rights\\_to\\_Participate\\_2010.pdf](http://www.unicef.fi/files/unicef/pdf/joint_report_UNICEF_-_Nordic_Study_on_Child_Rights_to_Participate_2010.pdf)

<sup>20</sup> RECOMMENDATION 23. The Committee recommends that the State party take legislative and other measures to ensure that article 12 of the Convention is fully implemented, in particular that the child has the right to express his/her views directly to the judge when decisions in judicial and/or administrative proceedings affecting the child have to be taken.

her parents. It is generally considered that this precludes assigning a guardian to a child in such a case. However, custody disputes, especially if prolonged or repeated, may have a damaging effect on the child, and the child's best interests are easily overlooked. The Ombudsman for Children proposes that the participation and hearing of children in custody disputes be improved so that, at least in the more difficult cases, it would be possible to assign a guardian to speak for the child in court.

Even under the Child Custody and Right of Access act, in a child custody case a child's wishes and opinions must be investigated, as appropriate for his/her age and developmental level. The child may be heard in court in person if there are compelling reasons for doing so to resolve the case, if the child consents to being heard in person, and if such a hearing is not deemed to cause harm to the child.

However, hearing a child in child custody cases is in practice usually handled through what is known as a 'report on circumstances' submitted to the court by the municipal social welfare board, without giving the child the opportunity to address the court directly. While it is the social welfare authorities that are responsible for investigating the best interests and opinion of the child, they are only involved in part of the process.

A guardian, by contrast, would be involved from the start in investigating the child's opinion and advising the child of his/her status and rights. The guardian would also have an important role in explaining the post-process situation to the child. Parents are usually unable to do this in an unbiased way, especially in more difficult disputes.

## Recommendation

The Finnish government should take responsibility for the coordination, training and registration of guardians for children in child welfare and other court matters, and amend legislation to allow a guardian to be appointed for a child also in court cases involving child custody and right of access.



## 4. Civil rights and freedoms

Articles 7, 8, 13–17, 28(2), 37(a) and 39; Committee recommendation 25



### 4.1. Right to know one's parents

Article 7

Section 2 of the Paternity Act provides for a 'presumption of paternity' whereby the husband is the father of a child born during marriage. If this is not the case, the presumed paternity can be annulled by an acknowledgement of paternity accepted by the mother and the husband. An action to annul paternity may be brought by the husband, mother or child, but not by the biological father.

It is therefore entirely possible that the child will never know the identity of his/her biological father.

It would better serve the child's right to know his/her parents if the Paternity Act were to be amended, allowing a municipal child welfare officer to bring an action to annul the paternity of the husband if there are compelling reasons to do so. Nevertheless, the right of the mother to discontinue a paternity investigation for compelling reasons, for instance, if the pregnancy is the result of incest or rape, must be retained.

### Recommendation

The Finnish government should amend the Paternity Act to allow a municipal child welfare officer to bring an action to annul the paternity of the husband if there are compelling reasons to do so.

## 4.2. Protection from inappropriate information

Article 17; Committee recommendation 25<sup>21</sup>

Parents and other persons responsible for the upbringing of a child are primarily responsible for protecting the child from media content that may be harmful in view of his/her age and developmental level. However, parents cannot alone protect the child, for instance from inappropriate information on TV or the Internet. Parents need support such as media education for parents, children and adolescents; and comprehensive standards and ground rules for commercial and other players in the media. Media education, informing parents and legislation are the responsibility of the government.

So far, the government has not yet assumed sufficient coordinating responsibility for media education and publicity; these efforts have been unduly dependent on isolated projects and NGO activities. In 2007, the Ombudsman for Children and Kerhokeskus – Koulutyön tuki ry (an NGO supporting school work) published a proposal to bring together various authorities in order to coordinate better the responsibility for media education and related research.

There has been no centralised agency for media supervision but this is handled by the Finnish Board of Film Classification, the Finnish Communications Regulatory Authority and partly by the Consumer Agency. The appropriate authority for filing a complaint or notification concerning media content or advertising inappropriate for minors is often not clear to parents. Age limits on audiovisual programmes and computer games are not consistent across the board, and not enough information on them is provided for parents or for children themselves.

The situation here is nevertheless improving. Parliament is currently debating an extensive reform of the audiovisual programme legislation. A Media Education and Audiovisual Programme Centre is being set up to combine the tasks of previous authorities in supervising audiovisual programmes, but with additional responsibility for coordinating media education. The age limit system is to be retained, but programme classification would be managed by trained audiovisual classification specialists employed by commercial media companies. Also, the age limit system would be streamlined across different technologies and extended to cover more media content than before. This would include video-on-demand services over the Internet. The Ombudsman for Children considers it vital that the government requires the introduction of strong authentication online by commercial operators so that the age of a purchaser or subscriber can be reliably established in advance.

### Recommendations

- a) The Finnish government should guarantee sufficient resources for the new Media Education and Audiovisual Programme Centre for coordinating media education and for providing training related to the reform of the national age limit system.
- b) The Finnish government should require online audiovisual content providers to introduce technology for verifying the age of a purchaser or subscriber.



21 RECOMMENDATION 25. The Committee recommends that the State party strengthen its measures to effectively protect children from being exposed to violence, racism and pornography through mobile technology, video movies and games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, media advertisements and the Internet as means of raising awareness among both children and parents about information and material injurious to the well-being of children. The State party is encouraged to develop agreements and projects with journalists and the media with a view to protecting children from being exposed to harmful information in the media and improving the quality of information addressed to them.

## 5. Family environment and alternative care

Articles 5, 9–11, 18, paras. 1 and 2; 19–21, 25, 27, para. 4 and 39; Committee recommendations 27, 29, 30, 32(b)



### 5.1. Protection of family life

Articles 5 and 18

In a survey conducted by the Ombudsman for Children among children in 2008 (Asiaa aikuisille, It concerns adults), more than one third of the recipients felt that things were completely or almost completely all right in their families. They valued the atmosphere in their homes, positive relationships, food and living circumstances. Other studies have also shown that relationships between children and parents in Finland are mainly good and that children feel they can influence their family life.

“ *I get food, I'm taken care of, I get to go to hobbies, and I am safe.*”

“ *My parents haven't divorced, there's food on the table, and we have a nice big house.*”

However, in the survey children also took up room for improvement in the family relationships. The two most often highlighted problems were families not spending enough time together and

quarreling or tense relationships among parents, children or siblings at home. Loneliness experienced by schoolchildren and a sense of insecurity caused by an absence of an adult presence has also been highlighted in the work of the Child and Youth Phone Line of the Mannerheim League for Child Welfare. Communications from citizens to the ombudsman also indicate that the conciliation of work and family life poses difficulties for the parents of children of school age.

The situation is particularly difficult for single parents working in shifts whose children are of school age, since their children have to spend extended periods of time at home alone. Under the Child Day Care Act, children who have not reached compulsory education age are eligible for day care. Day care can be provided for older children if special circumstances so require and no other provision for care can be made. This provision, however, is subject to interpretation, and in practice there are very seldom day care services available for children of school age. There is legislation on provision of morning and afternoon activities for schoolchildren in 1st and 2nd grades (before and after school hours) but it is not a statutory requirement for municipalities. Some municipalities provide a

comprehensive range of both morning and afternoon care, while some municipalities have none at all or only have it available for some of the schoolchildren.

A recent Family Barometer (a survey) published by the Family Federation lists wishes presented by parents to improve the conciliation of work and family life. These included improving the possibilities for part-time work and increasing the child home care allowance for children under the age of three. In addition to that, The Ombudsman for Children is in favour of extending insurance-based parental leave to enable a parent to care for a child at home for the first year of the child's life (at the moment 10 months). Fathers should also be encouraged to participate more in the care of small children.

## Recommendations

- a) The Finnish government should amend the legislation so as to improve the possibilities for parents to work part-time and to provide for at least one year period of insurance based parental leave .
- b) The Finnish government should enact the providing of morning and afternoon care for schoolchildren under nine years of age as a statutory obligation for local government.

## 5.2. Children's day care

### Article 18

Children's access to day care in Finland is well protected. Under the Child Day Care Act, all children under school age are entitled to day care if needed and also older children if special circumstances dictate. The parents of children under 3 years are entitled to a child home care allowance as an alternative to public day care. This option is used by many families.

However, there is a need for a general reform of the legislation on day care, early childhood education, and morning and afternoon activities for children in the first years of school. The Ombudsman for Children submitted an initiative for urgent handling of this matter in 2009. Neither the previous nor the present government has managed to enact such a general reform.

Day care services should be developed by making the availability of part-time care more flexible. At present, the day care fee system encourages all-day day care. There should be more early education services such as clubs and playtime activities for children over the age of three being cared for at home. The legislation should also take into account the needs for care of children in the first years of school, i.e. aged seven to eight (cf. section 5.1 Protection of family life).

There have been several problems with the quality of day care. The Child Day Care Act does not specify an upper limit for the size of a day care centre, providing only for the ratio between the number of children and number of personnel in a day care group. Therefore, groups are often too large, and premises often too cramped. Because of budget cuts made by municipalities, personnel substitutes are not always hired in the case of sick leave, and personnel turnover may be high. This causes feelings of insecurity and restlessness in children. The Ombudsman for Children has also noted that the needs of children needing special assistance are catered to unequally in different municipalities.

The right of children and parents to participate in assessing the quality of early childhood education should be incorporated in the new legislation (cf. section 3.4 Views of the child).

## Recommendations

- a) The Finnish government should draft a new general Act on early childhood care and education, bringing together all the provisions concerning the early years of childhood, strengthening the children's rights perspective.
- b) The Finnish government should better ensure the quality of day care so that the group sizes are limited and the continuity of care relationships are better secured.
- c) The Finnish government should change the fee basis for day care so as to better encourage for part-time care and provide part-time early childhood education possibilities also for children over three years that are taken care of at home.

### 5.3. Non-separation from parents

Articles 9, 20 and 25

#### Implementation of the rights of the child in the case of divorce

Committee recommendation 27<sup>22</sup>

The Ombudsman for Children considers that services for families with children in case of the parents separating are disparately and unevenly organised in Finland. All parents contemplating divorce would benefit from being provided with more information and advice on how divorce affects a child, and with support for continued parenthood. A conciliatory approach must be underlined in all services. The perspective of the child's best interests in divorce services must be reinforced so as to allow the child's views and opinions on the divorce to be better communicated to the parents. Enhancing preventive services and family mediation would also help prevent custody disputes from arising and escalating.

In November 2010, the Ombudsman for Children together with two nationwide NGOs appealed to the Ministry of Justice and the Ministry of Social Affairs and Health to launch an investigation into the divorce services available to families with children and to establish national guidelines and quality standards for developing divorce services.<sup>23</sup> There are currently great differences between municipalities in the provision of divorce services; NGOs and parishes also offer such services.

The Ombudsman for Children commends the Ministry of Justice project to be launched at four district courts at the beginning of 2011, involving an experiment with an expert-assisted mediation model in court cases involving child custody and right of access. The experts used will be required to have expertise in family psychology, intimate relationships and developmental psychology. However, ensuring that the best interests of the child are served would require a comprehensive examination already at an early stage, when the parents are only just contemplating divorce. Therefore, further development measures are also required from the Ministry of Social Affairs and Health.

Divorce services should be developed as part of the basic services offered to all families with children. Family mediation is a statutory service, but not enough parents are referred to it. In case of divorce, parents generally first turn to the municipal child welfare officer, who should have the competence to refer the parents to mediation. It is particularly important to consult the child already at this early stage. Giving voice to the child will help parents become better aware of how their divorce will affect the child.

This overall development of divorce services nationally would also help to decrease the number of complicated and longstanding divorce disputes that harm children's balanced development.

#### Recommendations

- a) The Finnish government should enhance preventive services and family mediation services and other services with conciliatory approach for all parents contemplating divorce.
- b) The Finnish government should develop the services for divorcing parents so that the perspective of the child's best interests is reinforced and so that the child's views and opinions on the divorce are better communicated to the parents.

22 RECOMMENDATION 27. The Committee recommends that disputes over the custody of children be resolved within an appropriate time and that support services by trained professionals be included in the activities in support of divorced families.

23 Lapsiasiavaltuutettu, Väestöliitto ja Lastensuojelun Keskusliitto: *Lapsen paras etusijalle eropalveluissa*. [What is best for the child in divorce services.] Lapsiasiavaltuutetun toimiston julkaisu ja 2010:4. [www.lapsiasia.fi/c/document\\_library/get\\_file?p\\_l\\_id=52437&folderId=101063&name=DLFE-12936.pdf](http://www.lapsiasia.fi/c/document_library/get_file?p_l_id=52437&folderId=101063&name=DLFE-12936.pdf)

## Family support and child welfare services

Committee recommendation 29<sup>24</sup>

The Child Welfare Act that entered into force in 2008 imposed more detailed obligations on local authorities concerning the organising of child welfare services (including preventive child welfare services). The Child Welfare Act was also designed to bring out needs for support more quickly and more comprehensively. In some municipalities such as Vantaa and Imatra, good results have been attained through the reinforcing of preventive services, and the number of cases where children are taken into care has actually dropped.

However, the Ombudsman for Children is particularly concerned with the great variations in the quality of children's welfare services: Children are unequally treated depending on the community they live in. The number of clients of open care services has also continued to grow: in 2009, there were 62,886 clients under the age of 18, of whom 45% were new clients. The percentage of children aged 16–17 who are clients of open care services and who have been placed in care outside their homes has increased remarkably.

Nationwide studies, communications received by the Ombudsman for Children and information from local authorities indicate that in some municipalities the child welfare social workers have far too many clients to handle; also, the training and competence of employees varies. Children and adolescents themselves consider the flexible availability of the social worker as a key criterion of the quality in child welfare services. Quality for the children also includes that the social worker has the time and competence to engage in interaction with the child.

According to an investigation conducted by the Central Union for Child Welfare and the Union of Professional Social Workers in 2008,<sup>25</sup> professionals in child welfare services consider that parents are not

supported enough in other basic social welfare and health care services (e.g. maternity and child care clinics, day care, family counselling centre) and that schools do not have enough resources for student welfare services (e.g. school psychologists and school social workers). Because child welfare services are understaffed and have such large numbers of clients, there is little scope for engaging in planned social work using tried and tested methods. Instead, the work tends to focus on the management of acute crises.

It is worth noting that 45 % of the children, who were clients of open child welfare care in 2006, were living in a family that had received or was receiving income support.<sup>26</sup> Financial support should be offered more flexibly to families to prevent them plunging into a crisis and to avoid having children taken into care.



24 RECOMMENDATION 29. The Committee recommends that the State party address the root causes of the increase in the number of children placed in alternative care, including through adequate support to parents. The State party should also ensure that children, if they are raised in institutions, live in small groups and are individually cared for.

25 Ristimäki - Sariola - Seppälä - Varsa. *Lastensuojelun toteutuminen*. [Implementation of the Child Welfare Act.] Lastensuojelun keskusliitto ja sosiaalialan korkeakoulutettujen ammattijärjestö Talentia ry. Elokuu 2008.

26 Heino, Tarja. *Keitä ovat uudet lastensuojelun asiakkaat? Tutkimus lapsista ja perheistä tilastotietojen takana*. [Who are the new clients of child welfare services? Study of the children and the families behind the statistics.] Stakes, Työpapereita 30/2007.

The Regional State Administrative Agencies play an important role in supervising the quality and legality of municipal basic services. As recommended in section 1.4. Resources for children, sufficient personnel resources must be ensured for the Regional State Administrative Agencies so that they can make active use of the enforcement means granted to them by law. The current drawing up of a national child welfare supervision programme for the Regional State Administrative Agencies by the National Supervisory Authority for Welfare and Health (Valvira) is a positive development. In this process the Ombudsman for Children has emphasised the importance of eliciting the opinions of children in substitute care and of charting the factors affecting the quality of child welfare services from the children's point of view.

Another positive development is that the Association of Finnish Local and Regional Authorities and the Ministry of Social Affairs and Health have recently drawn up a joint proposal for quality criteria in child welfare services. This contains e.g. a suggestion for how many child welfare clients should be at most assigned to one social worker.

See also section 1.4. Resources for children.

## Recommendations

- a) The Finnish government should enhance services for timely support for parents in family problems such as substance abuse and mental health problems, exhaustion and marital disputes.
- b) The Finnish government should enact by law binding upon local authorities the maximum number of children per social worker in child welfare services.
- c) The Finnish government should ensure that interaction skills with children and adolescents are highlighted in the training of social workers.

## Children placed in alternative care

### Committee recommendation 30<sup>27</sup>

In 2009, the number of children placed in alternative care decreased compared to previous years, being 16,643 (1.3% of all children under the age of 18). Of these, 10,984 were taken into care or taken into care on an emergency placement, 17% of them involuntarily.

The Ombudsman for Children considers that the focus of alternative care should be moved from institutional placements to family care. Recruitment of foster families and support and training for them are not well coordinated. In 2009, the Ministry of Social Affairs and Health appointed a working group to investigate needs for reforming family care legislation and to submit proposals for improving the status of foster families. Foster family recruitment was enhanced in the two previous years through a nationwide campaign.

Substitute care in child welfare services requires special expertise, which small municipalities in particular do not often have. Intermunicipal cooperation in child welfare services should be increased by creating regional substitute care units tasked with developing substitute care, training foster families and creating support structures to enable the shifting of focus in substitute care from institutional care to family care.

According to a survey conducted by the Ombudsman for Children (see section 1.3. Independent investigation), supervisors of legality only occasionally meet the children when inspecting institutions. The supervisors seem to underline that the children should have possibility to their personal social workers privately. This, however, is not enough to ensure the children's legal and human rights protection.

Children taken into care and placed in substitute care have an equal right to basic education but this is not equally attained. In too many cases children in institutional substitute care are tutored, which prevents them from being integrated into mainstream education. There is also variation

<sup>27</sup> RECOMMENDATION 30. The Committee also recommends that the State party sufficiently take into account children's views in any decision regarding their placement in alternative care. Furthermore, it recommends that the parent-child relationship not be negatively affected by placement in alternative care.

among municipalities, which causes inequality. A broader investigation and more specific control are needed. System of funding municipalities must be clarified to avoid its possible negative effects on children's teaching arrangements.

There have also been irregularities between child welfare and mental health services. Children taken into care do not always receive the mental health services they require. On the other hand, mental health problems not addressed may lead to a child being placed in substitute care.

Very often, the initiating of child welfare measures and taking children into care are prompted by excessive alcohol use by the parents. In order to reduce the number of children taken into care, the capacity of professionals in basic social welfare and health care services to identify adverse impacts of the parents' substance abuse on children should be improved, and children should be given more information about services available, and their confidence in these services should be enhanced (see section 4.3. Protection against violence). Family rehabilitation should be increased, particularly for families with substance abuse problems.

## Family reunification

In 2010, the Ombudsman for Children released a statement addressing the right of children in substitute care to enjoy permanent relationships and how this right relates to the requirement for promoting family reunification.<sup>28</sup> According to the Child Welfare Act, family reunification must be assessed in connection with client plan negotiations, at least once a year. Taking a child into care is always basically for a fixed period, although this may on the other hand hinder the child's right to enjoy permanent and stable relationships. One new alternative presented for ensuring permanent relationships is the 'open adoption' model, where a continuous relationship between the child and his/her foster parents would be guaranteed while retaining some of the rights of the biological parents.

Shortcomings have emerged in the rehabilitation intended for parents and guardians of children taken into care and placed in substitute care. This has made family reunification more complicated. For instance, parents' income and health problems

tend to get worse after their child is taken into care.<sup>29</sup> Study results show that there is a need to develop new approaches for supporting parents in both open care child welfare services and substitute care.

Under the new Child Welfare Act, the possibility of placing a child in the care of a parent living elsewhere or with someone else in a network of related or otherwise close people, or the possibility of such a person participating in support for the child, must be investigated before taking the child into care. The Ombudsman for Children wishes to emphasise the importance of charting a child's network of relatives and friends, because this is also conducive to family reunification.

## Recommendations

- a) The Finnish government should improve substitute care supervision so that children's opinions on the quality of substitute care and how their rights are implemented are better taken into consideration when developing services.
- b) The Finnish government should enable 'open adoption' through legislation.
- c) The Finnish government should ensure that children taken into care and placed into substitute care have equal access to basic education compared to other children.
- d) The Finnish government should investigate the use of tutoring in basic education.
- e) The Finnish government should create special regional substitute care units to increase the availability of foster care and to ensure the quality of substitute care.

28 Aila Puustinen-Korhonen - Tarja Pösö. *Toteutuuko lapsen oikeus pysyviin kasvuolosuhteisiin? Puheenvuoro lastensuojelun vaikuttavuudesta.* [Are children guaranteed the right to permanence in the circumstances in which they grow up? A statement on the effectiveness of child welfare measures.] Lapsiasiavaltuutetun toimiston julkaisuja 2010:3.

29 Saarikallio-Torp - Heino - Hiilamo - Hytti - Rajavaara: *Lapset huostassa, vanhemmat ahdingossa. Havaintoja huostaanotettujen ja sijoitettujen lasten vanhempien toimeentulosta ja työmarkkina-asemasta.* [Children taken into care, parents despair. Observations on the income and labour market status of the parents of children taken into care and placed into alternative care.] Ulla Hämäläinen - Olli Kangas (eds.). *Perhepiirissä.* [In the family.] Kansaneläkelaitos 2010.

## 5.4. Protection from violence

### Article 19

#### Children's general experiences of violence according to the child victim study

According to the child victim study published in 2008, children experience more violence in their everyday lives than adults. The majority of this violence occurs in peer groups, i.e. is perpetrated by someone of approximately the same age. This violence is mostly in the nature of mild psychological abuse. Boys experience relatively more violence outside the home and among friends, while girls experience relatively more violence at home. About 8% of all 9th-grade pupils had experienced mild violence during the past year.

The study also showed that small percentage of children tended to accumulate experiences of violence. It was found that experiences of violence often correlated with other disadvantages such as substance abuse by the child or his/her parents and a lack of parental supervision. It is also noteworthy that children's experiences of harassment, bullying and threats over the Internet and via mobile phone have increased.

It is important for children to be given safety skills education in schools, and even starting at day care centres, so that they become aware of their right to be protected from violence and are better able to protect themselves. Safety skills education would also inform children whom to contact when becoming, or being threatened with becoming, a victim of violence. Violence prevention must focus more closely on reducing violence among children and adolescents and on promoting an anti-violence culture generally.

#### National Action Programme to reduce corporal punishment

Corporal punishment, i.e. violence towards children by parents for disciplinary reasons, has been prohibited by law in Finland since 1984. Studies show that the percentage of people who take a negative attitude of corporal punishment in Finland has been steadily increasing ever since.

Nevertheless, a poll conducted by the Central Union for Child Welfare in 2007 showed that 26% of Finns still approve of corporal punishment of children in exceptional cases. According to the child victim study published in 2008, about 35% of all 9th-grade pupils had had their hair pulled at some time in their lives. Some 10% had been shoved, pushed, shaken, slapped or whipped at some time in their lives. However, the percentage of children experiencing corporal punishment had halved since 1988.

The working group appointed by the Ministry of Social Affairs and Health to draft a National Action Programme to Reduce Corporal Punishment submitted its report to the Minister of Health and Social Services in October 2010.<sup>30</sup> The Ombudsman for Children was the chairman of the working group. The aim was to continue and accelerate the already favourable trend. Parents of small children, parents of children requiring special support, and immigrant families in whose home countries corporal punishment may have been allowed were identified as key target groups.

The working group recommended that families with children should be offered support and assistance as early as possible to prevent parental exhaustion and potential mental health problems. Home services have been found to be a good form of assistance in preventing domestic crises; however, few municipalities can offer such services to families other than those who are already clients of the child welfare services.

#### Children's views on reducing corporal punishment

The Office of the Ombudsman for Children conducted a survey for the working group drafting the National Action Programme to Reduce Corporal Punishment, asking children over the age of seven (n=375) as to why parents use violence and what should be done to prevent it.<sup>31</sup> Most responses pointed to corporal punishment as a parent's failure in bringing up children. Many responses also highlighted the contribution of exhaustion, mental

30 *Älä lyö lasta! Kansallinen lapsiin kohdistuvan kuritusväkivallan vähentämisen toimintaohjelma 2010–2015.* [Don't hit your child! National Action Programme to Reduce Corporal Punishment 2010–2015.] Sosiaali- ja terveysministeriön julkaisuja 2010:7. [www.stm.fi/c/document\\_library/get\\_file?folderId=1087414&name=DLFE-12720.pdf](http://www.stm.fi/c/document_library/get_file?folderId=1087414&name=DLFE-12720.pdf).

31 The questionnaire used in interviewing children can be read in English at [www.lapsiasia.fi](http://www.lapsiasia.fi)

health problems or substance abuse to the use of corporal punishment. Helping parents with their problems was the most commonly cited remedy.

The survey also asked what reasons might prevent children from receiving help. The responses indicated that children fear the consequences of telling an outsider about what has happened. They feared both the reactions of their parents (increased violence) and being taken away from home. Children also did not have sufficient confidence in or knowledge of the services available. Children also need more information on the fact that corporal punishment is prohibited by law. They would like to receive more information at school and online.

“ Kids can be really difficult and disobedient sometimes, and a tired parent can just snap. After all, violence is the quickest and easiest way to make a kid quiet and obedient. Parent exhaustion.”

“ Alcohol use should be monitored more, it's a common problem in Finland. Work load could also be a reason. Work stress is terrible, my mum does nothing but work. And she takes her stress out on me.”

“ There's a lot of talk about violence, but no one tells kids what they need to do if they are hit or how things will go if this happens. Being taken away from home and being put with strange people is frightening for kids, so they don't dare tell anyone.”

### Ill effects of parents' substance abuse on children must be reduced

Substance abuse by parents contributes to domestic violence, and accordingly there should be better awareness in the basic social welfare and health care services of how to identify parents' substance abuse problems and how to offer help for them. Excessive intoxicant use in the childhood home has been studied through population surveys under the title *Lasinen lapsuus* (Glass childhood) in 1994, 2004 and 2009.<sup>32</sup> These surveys were aimed at adults. In 2004, 19% of the respondents said that they had witnessed excessive alcohol use in their childhood home; in 2009, the figure was 23%.

The Child Welfare Act specifies that in services for adult substance abusers the need for support of any underage children in the family must also be investigated. This is not usually done; the services tend to focus on the individual actually needing the service. This practice must change. Parenthood must be addressed – for both women and men – in substance abuse services, and rehabilitation measures must take the entire family into account.

### Recommendations

- a) The Finnish government should increase safety skills education and human rights education for children at day care centres and at school.
- b) The Finnish government should ensure that parents receive early assistance and support for child upbringing and care, particularly in the form of home services for families with children.
- c) The Finnish government should aim further to reduce substance abuse by parents and its ill effects on children by reinforcing the capacity of professionals in basic social welfare and health care services, at school and in social work to identify and intervene in substance abuse in families with children.
- d) The Finnish government should increase the availability of family rehabilitation in substance abuse services and ensure in practice that the family situation of all women and men treated in substance abuse services is always investigated and that any children involved are also given support.

### Status of a child victim in a criminal justice process

Committee recommendation 32(b)<sup>33</sup>

Children who fall victim to violence or other crimes often do not know where to turn to report what they have experienced. Phone and Internet helplines are still maintained by NGOs through volunteer work, funded mostly by annual discretionary funding from the Slot Machine Association.

<sup>32</sup> The *Lasinen lapsuus* programme is organised by the A-Clinic Foundation.

<sup>33</sup> RECOMMENDATION 32. In light of Article 19 of the Convention, the Committee recommends that the State party:  
b) increase its support to and collaboration with the toll-free national helpline 'Child and Youth Phone';

This has been indicated in discussions between the Ombudsman for Children and the Child and Youth Phone and Net Service of the Mannerheim League for Child Protection.

In August 2010, they convened a meeting of phone and Internet helplines maintained by other NGOs and representatives of the Emergency Response Centre Administration, the police and the Parliamentary Ombudsman. In particular, the capacity of emergency response centres (112 services) to take calls from children and adolescents should be improved. The younger the child, the more important it is for adults around him/her – parents, other relatives and friends, professionals and officials – to notice crimes committed against the child.

Not only is there a high threshold for reporting crimes against children; problems have also been found in the status of the child in the resulting criminal justice process and in the psychosocial support given to the child. A study published in 2010<sup>34</sup> revealed several problem points concerning cooperation among authorities in investigating violence against a child. The child-friendliness of a criminal investigation procedure varies greatly from one part of the country to another. The need for a child to have an appointed guardian in a process involving a crime committed by a parent or custodian against the child has not been sufficiently acknowledged by the police or the courts.

Child welfare services do not notify the police as a matter of course of all acts of violence against children. Even the authorities may consider corporal punishment not a matter of criminal liability, only a matter for child welfare services intervention.

Also, the provisions concerning confidentiality and secrecy that apply to the authorities are still disparate and inconsistent, which causes problems in interpretation and the conveying of information. The greatest problem even today, however, is that the criminal justice process lasts a very long time, even though matters involving children are required to be processed with urgency. The longest delays are due to expert statements from forensic psychiatrists.

In 2009, a working group appointed by the Ministry of Social Affairs and Health submitted development proposals for the investigation of the sexual abuse

of children.<sup>35</sup> In order to speed up the processing of expert statements in cases of suspected sexual abuse, the funding responsibility for forensic psychiatry examinations was transferred from municipalities to central government in 2009. However, expert statements when investigating suspected physical assault on a child is not the responsibility of central government; these are still being paid for by municipalities. It would be essential for the best interests and rights of the child that funding responsibility for the investigation of crimes of physical assault also be transferred to central government, as with sexual abuse.

The working group also proposed experimenting with the ‘children’s house’ (Barnahus) model. The purpose of this model is to bring together professionals from different disciplines, based on the needs of children. A pilot project for this model has been launched at the National Institute for Welfare and Health.

Regarding the collection of data on violence experienced by children: see section 1.5. Data collection.

## Recommendations

- a) The Finnish government should ensure permanent and sufficient funding for phone and Internet helplines for children and adolescents.
- b) The Finnish government should enhance opportunities for underage children to report offences against themselves by making emergency response centres more child-friendly.
- c) The Finnish government should ensure the introduction of the cross-discipline ‘children’s house’ model in Finland in the investigation of violence and sexual abuse against children.
- d) The Finnish government should transfer from municipalities to the central government the funding responsibility for medical and forensic psychiatry examinations involved in investigating crimes of physical assault on children.

34 Humpi - Ellonen. *Lapsiin kohdistuva väkivalta ja hyväksikäyttö. Tapausten tunnistaminen, rikosprosessi ja viranomaisten yhteistyö.* [Violence against and abuse of children. Identifying cases, criminal investigation process and inter-authority cooperation.] Poliisiammattikorkeakoulun tutkimuksia 40/2010.

35 *Lasten seksuaalisen hyväksikäytön selvittäminen.* [Investigating sexual abuse of children.] Sosiaali- ja terveysministeriön selvityksiä 2009:30.

## 6. Disability, basic health and welfare

Articles 6, 18 para. 3, 23, 24, 26 and 27; Committee recommendation 35, 37 and 41



### 6.1. Disabled and chronically ill children

Articles 23 and 24

During 2010, the Ombudsman for Children has investigated the implementation of the rights of disabled children in Finland. The education system is fairly good in taking into account children with special needs, and inclusive treatment for disabled children at school is now enshrined in law. However, access by disabled children and children with special needs to education at their local school must be enhanced by improving the special education skills of all teachers.

When a child is born disabled or is disabled later in life, the everyday life of the family changes, as the child then requires a great deal of attention and care. Nevertheless, nearly all families wish to care for their children at home. According to a study conducted

by the Ombudsman for Children, the families of disabled children have in practice to coordinate a wide range of family services themselves. This places a severe strain on the parents. Clear-cut operating models are needed for service planning and for working with families; one approach is to recruit 'key employees' as service counsellors for these children and their families. Children's participation in their care should also be improved.

The government has recently introduced a new disability policy programme, VAMPO 2010–2014. That has somewhat taken into attention also children's rights but the situation of families with small children has not sufficiently been covered. Government has however promised the separate investigation on early childhood education for children with special needs – this should be launched immediately.

The parents of particularly high-maintenance children have expressed that when they are

exhausted they find themselves subjected to child welfare measures, even though what they would really need are preventive assistance and support for the upbringing and care of the children. In cases where a developmentally disabled or particularly high-maintenance child has to be placed in alternative care, it is not always clear whether the grounds for this are the disability or the need for child welfare. The grounds stated for the placement affect the status of the child, because the Child Welfare Act only defines the legal status of children taken into care on child welfare grounds. Particularly in the case of small children with developmental disabilities taken into care on child welfare grounds, it may be difficult to find a suitable placement, and in some cases such children have even been placed in institutions intended for adults. In small municipalities in particular it may be difficult to find suitable accommodation for such children. This is yet another reason for local authorities to engage in regional cooperation.

## Recommendations

- a) The Finnish government should improve the capacity of all teachers to teach disabled children and children with special needs.
- b) The Finnish government should mainstream children's rights in its disabled people's policies.
- c) The Finnish government should ensure that disabled children of all ages and their families are offered service-planning help and more support at home.
- d) The Finnish government should ensure that developmentally disabled children have access to services according to their needs in cases where they are placed in alternative care.

## 6.2. Mental health and substance abuse of young people

Article 24; Committee recommendations 35<sup>36</sup> and 37<sup>37</sup>

According to the school health surveys conducted among 8th and 9th grade pupils in comprehensive school between 2004 and 2010, about 13% of each age group have reported suffering from severe or medium depression. The incidence of reported depression is higher among girls than among boys.

The suicide rate among Finnish underage young people has decreased since the early 1990s. On the other hand, the number of both boys' and girls' suicides has increased between 2005 and 2008. In 2008, suicide was the cause of death for 24 (0,04‰) underage boys (16 in 2005) and 17 (0,03 ‰) girls (15 in 2005). The suicide rate among girls in particular is high by international standards. Two school shootings have also taken place in Finland in recent years; these were cases of what is known as 'extended suicide'.

The Government Decree on maternity and child welfare clinics, school and student health care and preventive oral health care for children and young people which entered into force in 2009 contains more detailed and more binding provisions than before, for instance on how and to what extent medical examinations should be conducted. Under the Decree, all pupils in comprehensive school must be given a medical examination in every year. In the 1st, 5th and 8th grades, this examination must be an extensive one, involving an interview with the entire family. One purpose of this reform was to make school health care services better able to identify mental health problems and substance abuse among schoolchildren.

The new Decree is improving the situation health services in municipalities, but the number of other student welfare personnel (school psychologists

36 RECOMMENDATION 35. The Committee, in light of its general comment No. 4 (2003) on adolescent health, recommends that the State party strengthen measures to address the issue of child and adolescent health, especially alcohol consumption among children, and work further on its health programmes, which should target, inter alia, promotion of a healthy lifestyle among adolescents.

37 RECOMMENDATION 37. The Committee recommends that the State party intensify its measures to prevent suicide among adolescents and strengthen its mental health-care services.

and school social workers) in many places is still inadequate for the needs of pupils. Therefore, a new act on student welfare is still needed to stipulate the student welfare services local authorities must provide in schools.

Access to children's and youth psychiatry examinations and treatment is particularly problematic in many places in Finland, both for outpatient and inpatient care. There is also a shortage of specialists in various places around the country. The new Health Care Act was recently adopted by parliament. It includes a requirement for guaranteeing access to care in mental health services for children and adolescents. The assessment of the need for care should begin within three weeks of receiving the referral, according to the bill. The treatment itself should be provided within no more than three months of the need for care being established for patients under 23 years of age, depending on the urgency.

Alcohol use still often begins at an early age in Finland: more than half of 8th-grade pupils in comprehensive school (aged 14–15) have been excessively drunk at some point in their lives. However, the number of those in this age group who become intoxicated on a weekly basis decreased slightly between 2005 and 2009.

Banning the image marketing of alcohol has been discussed and investigated by several working groups at the Ministry of Social Affairs and Health, but so far with no concrete results. The Ombudsman for Children and several NGOs have presented petitions to ban the image marketing of alcohol. Studies have shown that image marketing tends to increase positive views of alcohol use among children and adolescents. Even though placement of alcohol advertising on television is already restricted, children and adolescents are nevertheless exposed to it through outdoor advertising, for instance.

No significant changes occurred in the incidence of smoking among young people between 2005 and 2009. The Tobacco Act was amended in 2010 to make it substantially stricter with regard to underage children: private persons are no longer allowed to sell, mediate or offer tobacco products to underage children. The sanction for a tobacco sales offence was increased, and any other transfer of tobacco products to an underage child was criminalised.

## Recommendations

- a) The Finnish government should strengthen mental health services for children and adolescents and guarantee access to the examinations and treatment needed.
- b) The Finnish government should intensify suicide prevention among boys and girls.
- c) The Finnish government should monitor and supervise implementation by local authorities of the Government Decree on maternity and child welfare clinics, school and student health care and preventive oral health care for children and young people.
- d) The Finnish government should enact a student welfare act providing for sufficient psychosocial services for all pupils in basic education and students in upper secondary education.
- e) The Finnish government should ban the image marketing of alcohol.

### 6.3. Standard of living

Article 27; Committee recommendation 41<sup>38</sup>

The number of children living in poor families nearly tripled between 1995 and 2008: today, 12% of Finland's children live in poor families. Child poverty is most common in families with only a single parent. One out of four single-parent families were low-income families in 2008,<sup>39</sup> compared with one in ten in 1995. Out of all families with children, 20% are single-parent families. Apart from single-parent families, child poverty is most common in families with many children and in families whose children are under three years of age. Many immigrant families are low-income families.

## Recommendation

The Finnish government should increase income transfers to single-parent families, families with many children and families whose children are under three years of age, to reduce child poverty.

<sup>38</sup> RECOMMENDATION 41. The Committee recommends that the State party effectively implement its National Action Plan against Poverty and Social Exclusion and strengthen its support for families living in economic hardship in order to ensure that poverty is reduced and children are protected against the negative impact of economic hardship on their development by providing financial and non-financial assistance.

<sup>39</sup> Income less than 60% of the average income.

## 7. Education, leisure and cultural activities

Articles 28, 29 and 31



### Education

Finnish basic education is equally provided and excellent in its learning outcomes in international comparison.<sup>40</sup> In autumn 2010, amendments concerning special education entered into force to promote inclusion in mainstream education, i.e. the principle that all children should be able to attend their local school. In summer 2010, the National Board of Education amended the National Core Curriculum for Basic Education to include teaching on various human rights agreements, such as the UN Convention on the Rights of the Child. This represents an important step in increasing public awareness of the rights of the child and human rights education.

<sup>40</sup> Programme for International Student Assessment (PISA), results from 2009.

The Ombudsman for Children commends the Ministry of Education and Culture for setting the goal of extending the 'KiVa-koulu' programme, intended to help reduce bullying at school, to all schools. Efforts have been made to reduce class sizes using separate appropriations issued by the central government to municipalities, and this should be continued. However, in some municipalities classes are still too large in view of the wellbeing of the children. Teacher layoffs in some municipalities contribute to children being treated unequally.

The new National Core Curriculum for Basic Education and distribution of lesson hours has been prepared but the reform is still pending. The Ombudsman for Children has been in favour of reducing focus on information content and emphasising the function of school in bringing up children. There is scope for relaxing the content

requirements in various subjects at school and giving room instead for arts subjects, for reinforcement of children's social skills and sense of community, and children's participation in the running of everyday activities at their school. Children themselves say that school is too busy. One factor in this is that Finnish school days are rather short by international comparison. It would be a good idea to extend the school day moderately in lower comprehensive school.

Because of the shortness of school days, the Ombudsman for Children considers it important for the Ministry of Education and Culture to require local authorities to provide morning and afternoon activities at least for pupils in grades 1 and 2. This would prevent small children from being lonely in the afternoons (see section 5.1. Protection of family life). On the whole, schools should be developed into activity centres, with clubs and other leisure activities available in the afternoons. This would also give children more equal access to leisure pursuits.

The Ombudsman for Children has surveyed children's opinions on what things are good about comprehensive school and what could be improved (Asiaa aikuisille, It concerns adults, 2008). Good teachers and nice friends are much praised by children. The most scope for improvement is found in school meals, the school premises and activities in the playground. Children have a lot of requests

regarding the physical environment at school and would like to be able to exert more influence than at present.

*“ We have our own cook at school, and she makes really good food.”*

*“ We have a small school, so I get more teaching, and we have a nice new playground that's a good place to play in.”*

*“ ...the food should be more different, and there should be more of it. No more than five meatballs each. Who can live on that?”*

Finnish schoolchildren have not ranked well in international comparisons concerning school satisfaction.<sup>41</sup> The Ombudsman for Children considers that in order to correct this situation children should be involved more in the planning of everyday activities at their school (meals, facilities, playgrounds and school events, rules). The Basic Education Act should be amended to include a provision requiring schools to organise student body activities. The Ombudsman for Children considers it important that reinforcing the partnership between parents and school is also continued in upper comprehensive school.

## Recommendations

- a) The Finnish government should continue efforts to keep class sizes at a manageable level in basic education and to increase modestly the recommended total of lesson hours for pupils in lower comprehensive school.
- b) The Finnish government should amend the Basic Education Act to make organising student body activities compulsory at all comprehensive schools.
- c) The Finnish government should prohibit by law layoffs of teachers as being against the best interests of children.
- d) The Finnish government should support school satisfaction by improving playground facilities and the attractiveness of school premises and by taking the opinions of children into account concerning school meals.

<sup>41</sup> World Health Organization: *Health Behaviour in School-aged Children (HBSC) study.*



## Leisure time: children's right to rest, play, recreation and getting acquainted with arts and culture

The Ombudsman for Children has surveyed children's opinions concerning recreation and leisure opportunities (Asiaa aikuisille, It concerns adults, 2008). Most children are satisfied with their leisure opportunities, but they would like to be able to influence sports and youth services in particular, as well as their immediate living environment (parks, forests and non-vehicular traffic paths). Children living in small communities would like to have a wider range of leisure activities and better public transport connections. Certain leisure pursuits are rather expensive, which may cause problems in low-income families. The Ombudsman for Children considers that central and local government should ensure through financial support that every child and adolescent could undertake at least one hobby. Introducing leisure activities at school in the form of clubs and afternoon activities would also contribute to this.

In the aforementioned survey, a small number of children criticised the fact that their leisure activities are too performance-oriented and demanding and that they do not have enough free time of their own. The Ombudsman for Children has publicly reminded parents that children should be guaranteed enough free, unprogrammed time of their own. Children would also like to have more non-competitive sports activities and 'activity clubs' not focusing on the rehearsing of one particular skill. It would also be important to ensure that a sufficient number of adults volunteer to lead these clubs. Children's rights to rest, play and recreation can be supported at school with a varied range of playground equipment and designs taking children's opinions into account. There is much scope for improvement in Finnish schools in this respect.

Finland traditionally has a high-quality music school system, which in the 2000s has expanded into a programme of basic education in the arts, including visual arts, dance and handicrafts. The problem is that arts education tends to focus on a small percentage of schoolchildren whose parents actively pursue it. Children's cultural services are still concentrated in large cities, even though the Ministry of Education and Culture has

sought to correct this through the Taikalamppu (Magic lamp) network in the 2000s<sup>42</sup>. There is a particular shortage of culture services aimed at adolescents, i.e. upper comprehensive school pupils. The Ombudsman for Children considers it important to improve equality among children in this respect, making children's culture services more comprehensively available nationwide. Also, basic education in the arts should be better integrated into day care centres and schools, for instance in the form of clubs.

## Recommendations

- a) The Finnish government should ensure enough children's leisure activities that are not too performance-oriented and provide for non-competitive sports and arts hobbies.
- b) The Finnish government should ensure that every child has the opportunity to engage in at least one hobby, which requires the offering of affordable and free hobbies, for instance in afternoon activities at school.
- c) The Finnish government should improve equality among children by improving the nationwide availability of children's and adolescents' culture services.

<sup>42</sup> A large part of the photos in this publication are taken by children that participated in Pori Centre for Children's Culture – Network of Children's Culture in Satakunta 'Vähäx valottaa' -children and youth fotofestival in 2008.

## 8. Special protection measures

Articles 22, 30, 32–36, 37(b)–(d), 38, 39 and 40; Committee recommendations 50 and 51



### 8.1. Unaccompanied minor asylum seekers

Article 22; Committee recommendations 50 and 51<sup>43</sup>

According to a report published by the Office of the Ombudsman for Minorities in 2010,<sup>44</sup> the best interests of the child are not sufficiently considered in the legislation concerning the asylum process, or in practice. Unaccompanied minors entering the country as asylum seekers are particularly vulnerable.

<sup>43</sup> RECOMMENDATION 50. The Committee recommends that the State party ensure that the so-called 'accelerated procedure' respects the due process and legal safeguards for asylum seekers.

RECOMMENDATION 51. The Committee also recommends that the State party deal with applications for the purpose of family reunification in a positive, humane and expeditious manner, in conformity with article 10 of the Convention.

<sup>44</sup> Parsons, Annika. *The best interests of the child in asylum and refugee procedures in Finland*. Publications of the Ombudsman for Minorities 6/2010. Available at: [http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/vv%20lapsen%20etu%20selvitys\\_englanti/\\$file/vv%20lapsen%20etu%20selvitys\\_englanti.pdf](http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/vv%20lapsen%20etu%20selvitys_englanti/$file/vv%20lapsen%20etu%20selvitys_englanti.pdf).

The report indicates that it is often questioned whether such a child is actually a minor and whether he/she has sufficient grounds for applying for asylum. This is apparent particularly in the increase of medical age assessments. The Aliens Act was amended in 2010 to provide for a forensic medical examination to determine the age of an asylum seeker. Although providing for this procedure in more detail in fact improved the legal protection of asylum seekers, age assessment is still only performed on the basis of a forensic medical examination. A comprehensive examination taking into account not only physical but also mental and social factors would more reliably safeguard the best interests and rights of the child, as noted in general comment no. 6 (2009) of the Committee on the Rights of the Child.

The legislation on the reception and integration of asylum seekers is currently under reform. The new bills contain provisions to improve and further specify the reception and integration of underage asylum seekers. In part, these principles have been harmonised with the Child Welfare Act. However,

unaccompanied minor asylum seekers should be absolutely equated with any other child without a guardian, and services to help them should be governed by the Child Welfare Act, not the Aliens Act. In other words, unaccompanied minor asylum seekers should be treated primarily as children and not primarily as asylum seekers.

The grounds for family reunification specified in the Aliens Act were again restricted in 2010. Under section 38 of the Act, granting a residence permit to an unmarried minor requires that the child is a minor on the date on which the decision on the residence permit is made. However, it takes an unreasonably long time for the Finnish Immigration Service to process family reunification applications. There is thus a conflict between legislation and practice, which contravenes Article 10 of the UN Convention on the Rights of the Child.

## Recommendations

- a) The Finnish government should guarantee that services for unaccompanied minors entering the country are governed according to the Child Welfare Act.
- b) The Finnish government should guarantee that medical age assessments for unaccompanied minor asylum seekers are conducted as a comprehensive examination taking into account not only physical but also mental and social factors.



## 8.2. Ethnic, religious and linguistic rights

### Article 30

The investigations conducted by the Ombudsman for Children concerning the opinions of Roma and Sámi children show that both groups feel strongly about their connections to their families and places of residence. Positive identity has strengthened particularly among Sámi children, as the teaching of Sámi language has been improved in their homeland since the 1990s, as well as other school teaching provided in Sámi.

Nevertheless, children in both minorities feel that their cultures are largely ignored at school. Comprehensive school does not at present teach pupils enough about the Roma and Sámi cultures. In the case of the Roma, more information would mean less prejudice. In the case of the Sámi, cultural rights are principally neglected because of a lack of information.

The Ombudsman for Children considers it a positive development that the National Board of Education and local authorities are engaged in a project to promote the teaching of the Roma language. Employing persons with a Roma background at schools, for instance as special needs assistants, supports school attendance by Roma children. It also helps communication between parents and school, which is important with regard to Roma children.

The Sámi are the only indigenous people in Europe. Their homeland extends to three Nordic countries – Finland, Sweden and Norway – and parts of north-western Russia. A joint report published by the Nordic Ombudsmen for Children in 2008<sup>45</sup> highlighted shared problem points. The Sámi would

45 *Rätten till delaktighet och inflytande för samiska barn och ungdomar. Ett samarbetsprojekt mellan Barnombudsmannen i Finland, Barneombudet i Norge och Barnombudsmannen i Sverige.* [The right of Sámi children and adolescents for participation and influence. A cooperation project between the Ombudsmen for Children of Finland, Norway and Sweden.] 2008. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-8157.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-8157.pdf)

Rasmus, Minna. *Saamelaisuus on kuin lahja. Saamelaislasten hyvinvointi ja heidän oikeuksiensa toteutuminen Suomen saamelaisalueella.* [Being Sámi is a gift. The wellbeing and rights of Sámi children.] Lapsiasiavaltuutetun toimiston julkaisu 1:2008. [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=101063&name=DLFE-8153.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=101063&name=DLFE-8153.pdf).

Summary in English: [http://www.lapsiasia.fi/c/document\\_library/get\\_file?folderId=97173&name=DLFE-8363.pdf](http://www.lapsiasia.fi/c/document_library/get_file?folderId=97173&name=DLFE-8363.pdf)

benefit from the Finnish, Swedish and Norwegian governments cooperating more in creating school curricula for the Sámi, in teacher training, in producing teaching materials and in providing media content for children and adolescents. A good example of this is the joint Finnish-Swedish production of children's TV programmes in North Sámi (Unna Junna).

Today, 70% of Finland's Sámi children live outside the Sámi homeland. It is therefore vital to amend the Basic Education Act so as to ensure that Sámi children are entitled to teaching in the Sámi language and culture regardless of where they live – not only in their homeland area. Moreover, the government must take special action to protect the endangered languages of Inari Sámi and Skolt Sámi. The improvement of children's rights must be taken into account in the Sámi language revitalisation programme launched by the Ministry of Education and Culture in 2010.

The Ombudsman for Children has emphasised the importance of Sámi children being able to participate and influence cultural matters through their own cultural autonomy institutions. Accordingly, the Sámi Parliament is setting up a youth committee for just such a purpose.

The Ombudsman for Children considers it a positive development that progress has been made on the signing of a Sámi agreement between the Finnish, Swedish and Norwegian governments.

The Ombudsman for Children also issued a statement on the rights of Sámi children to the UN Special Rapporteur on Indigenous Peoples in 2010.<sup>46</sup>

## Recommendations

- a) The Finnish government should amend the Basic Education Act so that Sámi children will be ensured an equal right to receive teaching in the Sámi language and about the Sámi language and culture, regardless of where they live.
- b) The Finnish government should cooperate more closely with the Swedish and Norwegian governments to ensure high-quality teaching, leisure services and media services for Sámi children in their own language.



<sup>46</sup> Statement to James Anaya, *UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples*. 28 April 2010 (in English). <http://www.lapsiasia.fi/nyt/lausunnot/lausunto/view/1493965>

### 8.3. Protection against sexual exploitation and sexual abuse

Articles 34 and 39

The number of cases of sexual abuse of children reported to the police increased considerably between 2000 and 2008 (504 in 2000; 1,321 in 2008). In 2009, however, the figure was lower than in the previous year (1,068). The increase is estimated to be due to the amendment of the provisions on sexual offences in the Penal Code in 1999; enhanced operations of the police and other authorities; increased public awareness of the harmful effects of sexual abuse on children; and technological advances enabling easier committing of such offences (e.g. 'grooming'). According to the child victim study of 2008, children had fewer sexual experiences with adults than was the case 20 years earlier. On the other hand, they now have more negative sexual experiences than before. Girls commonly encounter sexual abuse and propositions on the Internet, but this rarely leads to actual physical interaction.

Finland is a signatory to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201). The Ministry of Justice appointed a working group to submit a proposal on the needs to amend legislation so as to conform to the requirements of this Convention. The relevant bills are currently being processed by Parliament. If adopted, these provisions will enhance the prevention, detection and investigation of sexual abuse against children. However, the Government Proposal to Parliament does not include the obligation to check the criminal background of volunteers working with children in different capacities.

What is problematic for underage crime victims is the provision in chapter 17 section 11(2) of the Code of Judicial Procedure which states that if the statement given in a pre-trial criminal investigation by a person who has not reached the age of 15 years has been recorded on a video recording device or on a comparable video and audio recording, the statement may be admitted as evidence in court. On the other hand, the age limit of sexual protection as defined in the Penal Code is 16 years.

The Code of Judicial Procedure should be amended so that recorded testimony could be accepted from children under the age of 16 to avoid them encountering the offender in court; this would improve the status of underage victims of sexual abuse and prevent re-victimisation.

See also section 4.3. Protection from violence.

#### Recommendations

- a) The Finnish government should effectively implement and monitor the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse including an obligation to check the criminal background of volunteers working with children.
- b) The Finnish government should amend the Code of Judicial Procedure so that statements given in a pre-trial criminal investigation by a person who has not reached the age of 16 years, recorded on a video recording device or on a comparable video and audio recording, may be admitted as evidence in court.

The Ombudsman for Children is an independent authority set up on 1 September 2005 to promote the interests and rights of children in Finland. This is the first report issued by the Ombudsman to the UN Committee on the Rights of the Child assessing the implementation of children's rights in Finland.

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ISSN-L 1798-3991  
ISSN 1798-4009 (online)  
ISBN 978-952-00-3110-7 (PDF)

