

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

Introduction

The Ombudsman for Children issued a report on the realisation of the rights of the child to the UN Committee on the Rights of the Child in July 2022. The report includes numerous recommendations and the Ombudsman for Children highlights the importance of implementing these recommendations.

This statement emphasises efforts to ensure realisation of the rights and best interests of the child, as well as efforts to safeguard the wellbeing of children and the status of children who are in a vulnerable position or who have committed crimes.

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1. Ensuring the realisation of the rights and best interests of the child

Finnish national legislation is mainly consistent with the rights of the child ensured under the UN Convention on the Rights of the Child (UNCRC). The level that has been achieved with conventional legislation specifically concerning children is good, but children's rights are not extensively taken into consideration in all legislation.

Finland should introduce a provision establishing the best interests of the child as a primary consideration into its Constitution.

Recognition of the best interests of the child (Article 3.1) as a fundamental right would be a significant step towards child-friendly legislation and legal practice. Other general principles of the UNCRC, Articles 2, 6 and 12, have been recognised as fundamental rights under the Constitution of Finland (731/1999).

The Ombudsman for Children finds that a constitutional provision on the best interests of the child as a primary consideration would extensively consolidate implementation of the rights and best interests of children in the society as a whole – even when other legislation does not specifically demand such implementation.

The guidance it would provide would further obligate legislators and other parties who make decisions concerning children to carry out child impact assessment. Currently, impacts on children are assessed to a varying degree. Furthermore, such legal provision would steer the State, the wellbeing services counties and municipalities to take the rights of the child into consideration when pre-paring their budgets (child budgeting).

Rights of the child should be taught in the basic studies of all key professions. Communication on the rights of the child must continue and be made more efficient at all levels of society.

Awareness about the rights of the child and related competence of professionals working with children has increased, but skills and understanding should be systematically improved. Participation of children must continue to be promoted in all decision-making and activity.

The resources of the Ombudsman for Children remain low considering the responsibilities and expectations placed on the institution and compared to other Nordic countries.



The Ombudsman for Children has been tasked with promoting, monitoring and assessing the realisation of the rights and best interests of children. Social awareness about the binding nature of the UNCRC has grown. This means an increased workload for the Ombudsman for Children, as expertise on the rights of the child is in high demand. Extensive social reforms, such as the health and social services reform and establishment of wellbeing services counties, the social security reform, implementation of the National Child Strategy, the coronavirus pandemic and the war in Ukraine have further added to the duties of the Office of the Ombudsman for Children and expectations faced by the Office both in the short term and the long term.

2. Ensuring the wellbeing of children

Preventive measures and services should be the main focus in safeguarding the wellbeing of children.

Promoting and ensuring safety and healthiness of children's living conditions and environments should be a primary consideration. Safeguarding the rights and best interests of children should be a guiding principle for ongoing reforms, such as the establishment of wellbeing services counties and the social security reform.

Availability of mental health and substance abuse services must be ensured at the basic level and in specialised health care. Availability of low-threshold student welfare services must be secured in all educational institutions.

Mental health services for children and adolescents have been overburdened for a long time both at the basic level and in specialised health care. Substance abuse services for minors are not sufficiently available, and they are not easily accessible.

Child welfare services should focus on their core purpose, which must also be secured through legislation.

Services for children and families should be utilised to ensure that particularly substitute care out-side the home is actually only provided as a last resort support measure. It should not be resorted to because appropriate less invasive services are not available to the child and the family when they are needed. Progress of the Child Welfare Act reform must be ensured from this starting point.

Education appropriations must be raised to the level of the other Nordic countries.

The Ombudsman for Children has expressed serious concerns over the decline of funding directed towards education during the 2010s. Finland has carried out several education policy reforms, some of which have been based on insufficient basis of knowledge and lacked evaluation and monitoring. It is of utmost importance that sufficient funds are allocated to research, implementation and assessment of education, as the significance of education for the comprehensive wellbeing of children and young people is enormous.

3. Children in a vulnerable position

Work against discrimination must be enhanced in all areas of children's lives. Research results indicating discrimination must be taken into account in the implementation of the National Child Strategy, as well as preparation of the social security reform and other reforms currently under way.

The Ombudsman for Children wishes to draw particular attention to children who are in a vulnerable position due to a variety of situations. Especially children with disabilities, children with im-migrant backgrounds, children applying for asylum, Sámi and Roma children, children belonging to sexual and gender minorities (SOGIE) and children who are clients of child welfare services face more discrimination and problems related to their wellbeing. Researchers and experts have shown that rights such as the right of children with disabilities to inclusive education is not realised in a manner that is in their best interests, and support provided to families is deficient. Poverty, lower academic achievement and need for child welfare services are more common among children with immigrant backgrounds. Detention and forced return of children who are seeking asylum is carried out without sufficiently assessing the best interests of the child.

The Ombudsman for Children considers it unfortunate that the reform of legislation pertaining to legal recognition of gender (so-called Trans Act) has been delayed, and it appears that the pro-posed legislation would exclude minors from obtaining legal recognition of their gender. Completion of the Government proposal in the current government term is uncertain.

Practices that are particularly harmful to the health and wellbeing of children must be prohibited by law. Conditions for irreversible surgical and medical interventions that interfere with the physical integrity of children must be defined in legislation.

No progress has been made with regard to legally prohibiting unnecessary medical and surgical interventions performed on intersex children. Preparation of legislation concerning criminalisation of female genital mutilation has been delayed and its completion in the current government term is not certain. Passing of legislation on conditions for non-medical circumcision of boys also continues to be uncertain, even though the Supreme Court has taken the position in its legal practice that the guidelines of the Ministry of Social Affairs and Health are insufficient.

4. Young offenders

Particular focus should be placed on helping young people who commit crimes by developing long-term services and support measures that allow them to break away from criminal communities and practices. Rehabilitation, education, and social integration must be supported during imprisonment.

Minors in remand custody and imprisonment continue to be placed in adult prisons and keeping them separate from adult prisoners cannot be guaranteed in all situations. Based on investigation conducted by the Criminal Sanctions Agency on the placement and treatment of minor prisoners, concrete measures must be taken as soon as possible. Sufficient resources should be allocated to these measures.

It is particularly worrying that the education of minors cannot be ensured to a sufficient degree during remand custody and imprisonment. The rights of these young people to education and participation in compulsory education until the age of 18 are not realised as required by law.