

# COUNTRY REPORT

**IMMIGRATION DETENTION IN FINLAND:**  
LIMITED USE OF "ALTERNATIVES," RESTRICTIVE  
DETENTION REVIEW, DIVISIVE POLITICAL DEBATE

*August 2018*



**GLOBALDETENTIONPROJECT**

## THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover image: Police station in central Oulu, Finland. © Estormiz / Wikimedia Commons

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## GLOSSARY

<b>CAT</b>	Committee against Torture
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	Committee on the Rights of the Child
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>GDP</b>	Global Detention Project
<b>HRC</b>	Human Rights Committee





## KEY CONCERNS

- Finnish courts apply a low threshold for determining whether a person may abscond or hamper a return process, often concluding that the mere existence of a return decision is sufficient to find risk;
- A 2016 amendment to the Aliens Act ended automatic review of continued detention;
- Detention hearings are short and the district court's decisions are very brief as courts typically endorse police or border guard detention recommendations;
- “Alternatives to detention” are rarely used because administrative authorities tend to view detention as the most efficient way to remove a non-citizen from the country;
- When dedicated immigration facilities are at capacity or a non-citizen is apprehended far from such a facility, police and border guard stations are used for immigration detention purposes.



## 1. INTRODUCTION

Finland's recent immigration control practices have largely reflected evolving migration and asylum patterns. Until recently, Finland attracted relatively few asylum seekers and migrants, with around 3,000 asylum applicants per year and a similar number of apprehensions of undocumented migrants. In 2015, as the number of migrants and refugees arriving in Europe surged, Finland witnessed a substantial increase in asylum applications—a ten-fold increase to approximately 32,300—with most applicants coming from Iraq and Somalia.<sup>1</sup> The number of immigration apprehensions subsequently rose almost five-fold, to approximately 14,300, while the number of expulsions increased from 3,200 in 2014 to 6,000 in 2016.

Although these figures are relatively low in comparison to neighbouring [Sweden](#) (which received 163,000 asylum applications in 2015),<sup>2</sup> the sharp increase in arrivals prompted divisive debates in Finland. When the prime minister offered to allow refugees to use one of his homes,<sup>3</sup> some MPs ramped up their anti-immigration rhetoric, citing fears of multiculturalism and the "Islamisation of society."

A December 2015 government action plan on asylum policy emphasised control of immigration and asylum by fostering integration of those granted a residence permit, increasing the efficiency of asylum and return procedures, and reinforcing external border management.<sup>4</sup> In 2016, Finland also restricted asylum seekers' right to state-funded legal aid, reduced the timeframe for appeals, removed the humanitarian protection residence permit, reinforced reporting obligations for asylum seekers, and

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<sup>1</sup> BBC, "Migrant Crisis: Finland's Case Against Immigration," 9 September 2015, <https://www.bbc.com/news/world-europe-34185297>

<sup>2</sup> *Migrationsverket* and the European Migration Network (EMN), "EMN Annual Report on Migration and Asylum 2016, Sweden," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a\\_sweden\\_apr2016\\_part2\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/27a_sweden_apr2016_part2_final_en.pdf)

<sup>3</sup> Reuters, "Finland's Millionaire Prime Minister Offers His Home to Refugees," 5 September 2015, <https://in.reuters.com/article/europe-migrants-finland-pm/finlands-millionaire-prime-minister-offers-his-home-to-refugees-idINKCN0R50RT20150905>

<sup>4</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Changing Influx of Asylum Seekers in 2014–2016: National Report of Finland," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_changing\\_influx\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_changing_influx_en.pdf)

signed a Memorandum of Understanding with Afghanistan on the return of Afghan asylum seekers.<sup>5</sup>

Asylum applications have recently returned to pre-2015 levels. In 2017, there were approximately 5,000 applications (a figure that is comparable to [Poland](#) and [Romania](#)), 900 apprehensions, and 4,000 expulsions.<sup>6</sup>

Detention numbers are relatively low in Finland, ranging between 700-800 detainees during the period 2012-2016 per year.<sup>7</sup> However, “alternatives to detention” are reportedly rarely granted, and detention orders are brief and generally rely on arguments presented by the administration. In addition, when dedicated centres are full or located too far from the site of arrest, the country uses police and border guard stations.

Immigration detention in Finland has attracted criticism and recommendations from four UN human rights treaty bodies, notably the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Human Rights Committee, and the Committee on the Rights of the Child.<sup>8</sup> In 2017 the UN Committee against Torture urged Finland to refrain from detaining asylum seekers and migrants.<sup>9</sup>

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<sup>5</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "Country Factsheet: Finland 2016," 2017, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/factsheets\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/factsheets_en)

<sup>6</sup> Eurostat, "Asylum and Managed Migration," <http://ec.europa.eu/eurostat/data/database>

<sup>7</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Standards: National Report of Finland, 2017," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_effectiveness_of_return_final_en.pdf). However, in another report to the European Migration Network (EMN), the Immigration Service provided different statistics, notably 444 (2013), 410 (2012), 460 (2011), 534 (2010), and 509 (2009). See: Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>8</sup> Committee on the Elimination of Racial Discrimination, "Concluding Observations on the Twenty-Third Periodic Report of Finland, CERD/C/FIN/CO/23," 8 June 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>; Committee against Torture, "Concluding Observations on the Seventh Periodic Report of Finland, CAT/C/FIN/CO/7," 20 January 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>; Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Finland, CCPR/C/FIN/CO/6," 22 August 2013, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>; Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4," 3 August 2011, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>

<sup>9</sup> Committee against Torture, "Concluding Observations on the Seventh Periodic Report of Finland, CAT/C/FIN/CO/7," 20 January 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key Norms.** The 2004 [Aliens Act 301/2004](#) (*Ulkomaalaislaki*) regulates the country's immigration and asylum policy, including immigration detention. Since its adoption, the Aliens Act has been amended more than 70 times. The most relevant amendments concerning immigration detention were those in 2013, transposing detention-related provisions of the [EU Returns Directive](#); and in 2015, transposing the [EU Reception Conditions Directive](#).

Conditions of detention are regulated by the Act on the Treatment of Detained Foreigners and on Detention Units (the Detention Act) ([Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköstä](#) 116/2002), which has been amended several times since its adoption in 2002.

Immigration detention was set forth in Finnish legislation soon after the country's independence. The 1919 Decree on Foreigners' Entry Into and Stay in Finland gave discretion to the police to employ detention if non-citizens failed to fulfil the requirements set forth in the decree, such as by staying in Finland after the expiry of the lawful stay or the time-period for voluntary departure. Detention-related rules were subsequently modified in the legislative provisions of 1942 and the 1958 Aliens Decree, however until the 1970s, Finland's detention policy was solely premised upon safeguarding public order. Following the ratification of the [International Covenant on Civil and Political Rights](#) in 1975, the 1983 Aliens Act laid down the right to appeal against detention decisions.<sup>10</sup>

**2.2 Grounds for detention.** Grounds for administrative immigration-related detention are provided in Section 121 of the Aliens Act. In addition, the Aliens Act sets out grounds for incarceration for immigration-related offences (see section 2.12 Criminalisation).

Section 121 of the Aliens Act lists six grounds justifying the detention of a non-citizen. They may be detained if: 1) taking account of circumstances including their personal situation, there are grounds to believe that the individual will hide, escape, or otherwise significantly impede the return process; 2) detention is necessary for establishing the person's identity; 3) the individual has committed, or is suspected of

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<sup>10</sup> M. Kmak and A. Seilonen, "Balancing Control with Rights: Immigration detention in Finland," in A. Nethery and S.J. Silverman (eds), *Immigration Detention: The Migration of a Policy and its Human Impact*, Routledge, 2015.



committing, a criminal offence and detention is necessary for the enforcement of their return; 4) the individual submitted a new application for international protection while already in detention, largely in order to delay or interfere with the enforcement of a return; 5) the person is liable to a transfer to another Schengen country based on the [EU Dublin Regulation](#) and there is a risk of absconding as defined in article 28 of the regulation; or 6) taking account of circumstances including their personal situation, it is reasonable to assume that the individual constitutes a threat to national security.

The list of grounds has evolved and expanded over the years. The original 2004 version of the Aliens Act contained solely the first three grounds, but since then, Section 121 has been amended twice—both occasions when transposing EU legislation. The 2013 amendment to the Aliens Act, which transposed detention-related provisions of the EU Returns Directive, did not extend the list of grounds. However, the 2015 amendment, transposing the EU Reception Conditions Directive, added the fourth, fifth, and sixth grounds, all of which correspond with grounds for asylum seekers provided in the Reception Conditions Directive.

While the third ground listed above was provided in the 2004 version of the Aliens Act, the scope of this ground has been narrowed down over the years. In the original version of Section 121, a non-citizen could be detained if, taking account of circumstances including their personal situation, there were reasonable grounds to believe that they would commit an offence in Finland. However following the 2015 amendment to the Aliens Act, the individual should have committed, or be suspected of committing, a crime and their detention is thus deemed necessary for the preparation or enforcement of their return. Despite connecting the committing of a crime with the enforcement of a return, this ground is not provided for in the Returns Directive.

Following the transposition of the Returns Directive in Finland's domestic legislation in 2011, the European Commission held that this was insufficient and instructed the country to amend its domestic legislation in seven areas, including defining the risk of absconding.<sup>11</sup> Following the 2013 amendment to the Aliens Act, the risk of absconding is defined in Section 121(a). Accordingly, an individual may pose a flight risk if the non-custodial measure addressed in Sections 118-120 and 120a has been used but has proved inadequate, or if the individual has changed their place of residence without notifying the authority and without providing their new contact details. When assessing the risk of absconding, the situation of the person in general is also taken into account.

In practice, the courts apply a low threshold for concluding that a person may abscond or hamper the return process. Frequently the mere existence of a return

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<sup>11</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: National Report of Finland, 2017," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_effectiveness_of_return_final_en.pdf)

decision is sufficient to find a risk of absconding, or to conclude that the person will avoid a return process, thus justifying detention. The necessity assessment may not be systematically conducted since the courts' decisions are brief.<sup>12</sup> In 2013, the UN [Human Rights Committee](#) (HRC) urged Finland to ensure that immigration detention is justified as reasonable, necessary, and proportionate in the light of specific circumstances.<sup>13</sup>

**2.3. Asylum seekers.** The above grounds apply to both asylum seekers and undocumented non-citizens.

**2.4 Children.** Although Finnish legislation does not unconditionally ban the detention of children, the 2015 amendment to the Aliens Act reinforced child-specific protections in Section 122.

Detention of a child must meet the grounds justifying detention listed under Section 121, and must be considered indispensable as a last-resort measure. The child and a social worker must be heard before a district court decides on detention and the social worker should deliver a written opinion on detention (Section 125(a)). Special attention must be paid to the best interest of the child and to his or her development and health (Section 6). In practice, social workers visit the [Joutseno facility](#)—a detention facility that has been adapted to confine children—and meet each child with their parents every two weeks. They assess the child's condition and deliver their assessment to a district court.<sup>14</sup>

Beyond these conditions, Section 122 further provides that a child accompanied by his or her guardian may be detained when detention is indispensable for preserving the family unit. Yet, under Government Bill 172/2014 (Article 122), it is possible to place one of the parents in detention and the other, with the child, in an open facility.<sup>15</sup> The UN [Committee on the Rights of the Child](#) (CRC) urged Finland to ensure that immigration detention of children is a measure of last resort, imposed for the shortest time possible when no alternative measures can be applied.<sup>16</sup>

As in the [Czech Republic](#) and [Poland](#), unaccompanied children under the age of 15 may not be detained. Unaccompanied children who have reached the age of 15 may be detained only after the decision on their return has become enforceable. They can be detained for up to three days, which can be extended by another three days

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<sup>12</sup> A. Seilonen and M. Kmak, "Administrative Detention of Migrants in the District Court of Helsinki," *University of Helsinki*, 2015, <http://www.helsinki.fi/law-and-other/publications/detention-monitoring-report.pdf>

<sup>13</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Finland, CCPR/C/FIN/CO/6," 22 August 2013, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>

<sup>14</sup> European Union Agency for Fundamental Rights, "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

<sup>15</sup> European Union Agency for Fundamental Rights, "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

<sup>16</sup> Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4," 3 August 2011, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>

for “special reasons.” In 2013, the [European Commission against Racism and Intolerance](#) (ECRI) urged Finland to put an end, as soon as possible, to the detention of unaccompanied children.<sup>17</sup>

Following the 2017 amendment to the Aliens Act, Section 120(b) provides for a designated residence as an alternative to detention for unaccompanied children aged 15-17 years old against whom an enforceable expulsion order has been issued. They are accommodated in a reception centre and obligated to report one to four times per day. The duration of the placement is one week, extendable for one additional week. If the child fails to comply with these requirements, he or she may be placed in detention.<sup>18</sup>

In 2016, Finland detained four unaccompanied children.<sup>19</sup> In 2013, Finland detained 41 children (of whom 10 were unaccompanied); in 2012, 26 children (of whom 4 were unaccompanied); and in 2011, 17 children (of whom 4 were unaccompanied).<sup>20</sup>

The average length of detention of children was 11.8 days in 2013 (20 days for unaccompanied children); 10.7 days in 2012 (12 days for unaccompanied children); 25.1 days in 2011 (20.8 days for unaccompanied children); and 12 days in 2010 (16.5 for unaccompanied children).<sup>21</sup>

Children may not be confined in police or border guard detention facilities. Instead, they can only be placed in dedicated detention centres (Aliens Act, Section 123a(4)). Unaccompanied children should be separated from adults, and families should be offered separate accommodation, guaranteeing them adequate privacy (Detention Act, Section 11). Children should be provided with leisure activities appropriate for the circumstances of detention and their age (Section 14).

The authorities tend to place children and families with children in the Joutseno centre, which is adapted to children's needs and, when children are placed there, receives visits from social workers representing municipal welfare services. If the centre is full, children and families can be detained in the [Metsäla detention centre](#).

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<sup>17</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Report on Finland (Fourth Monitoring Cycle), CRI(2013),19," 9 July 2013, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Finland/Finland\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Finland/Finland_CBC_en.asp)

<sup>18</sup> European Union Agency for Fundamental Rights, "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

<sup>19</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: National Report of Finland, 2017," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_effectiveness_of_return_final_en.pdf)

<sup>20</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>21</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

Here, they are placed in the women's section but they share common areas with adult men.<sup>22</sup>

**2.5 Length of detention.** Like [Denmark](#), [Sweden](#), [Estonia](#), and [Lithuania](#), Finland did not regulate the maximum length of detention prior to the transposition of the EU Returns Directive. After the transposition, the country introduced a maximum detention limit of one year, mirroring Sweden. Upon the 2011 amendment to the Aliens Act, Section 127(1) precisely mirrors the wording of the Returns Directive and establishes that detention cannot exceed six months. It can be extended up to 12 months if the expulsion is delayed due to a lack of cooperation from the detainee during the return process, or from the destination country.

While the maximum detention time limit set out in law is laudable, one-year as a maximum duration is significantly longer than the period observed in juridical practice before the transposition of the Returns Directive. In practice, judges tended to release a detainee after three months of continuous detention if deportation was not possible.<sup>23</sup>

According to police statistics, the average length of detention for all categories of detainees was 11.8 days in 2013; 11.2 days in 2012; and 12.7 days in 2011.<sup>24</sup> This represents a significant drop since 2008-2009, when the average duration exceeded 20 days.<sup>25</sup>

**2.6 Procedural guarantees.** Upon detention, detainees or their lawful representatives should be immediately informed in writing—in a language that they understand or can reasonably be expected to understand—about the grounds for their detention, as well as receiving information regarding detention proceedings and access to legal aid (Section 123(2)). Yet, the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (CPT) observed that while non-citizens were orally informed upon their apprehension of at least some of their rights, no written information on their rights was available at police or border guard stations. The committee urged Finland to ensure that as soon as non-citizens are brought into a police or border guard station, they are provided

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<sup>22</sup> European Union Agency for Fundamental Rights, "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

<sup>23</sup> Pekka Nuutinen (Manager, Helsinki Detention Unit) and Mikko Mäkinen (Assistant manager, Helsinki Detention Unit), Interview with Aiko Holvikivi (Global Detention Project), September 2009.

<sup>24</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>25</sup> Precisely 24.2 days in 2008 and 29 days between January and April 2009: Pekka Nuutinen (Manager, Helsinki Detention Unit) and Mikko Mäkinen (Assistant manager, Helsinki Detention Unit), Interview with Aiko Holvikivi (Global Detention Project), September 2009.

with a form, available in different languages, explaining all of their rights in a straightforward manner.<sup>26</sup>

Without delay and no later than one day after arrest, the administrative authorities responsible for arresting the individual must notify the district court (which is a general court hearing civil and criminal cases)<sup>27</sup> of the municipality in which the arrest took place. The lawfulness of detention is then reviewed *ex officio* by the court. The district court should hear the case without delay and no later than four days from the date when the individual was first placed in detention. In instances when an unaccompanied minor is detained or a detainee is placed in police detention facilities, the court should confirm the detention order no later than one day after the notification date (Section 124(1)-(2)).

Both the authorities responsible for the arrest and the detainee himself should be present at the district court hearing. However, since the 2015 amendment to the Aliens Act, the hearing may be conducted without the detainee or an officer being physically present if the district court considers it appropriate. Rather, videoconferencing or other appropriate technical means of communication can be used (Section 125(1)-(3)). Once the hearing is completed, the district court renders its decision, which should indicate the grounds for the detention (Section 126(1)).

With the 2016 amendment to the Aliens Act, Finland put an end to the automatic review of continued detention. Previously, the district court had to review detention on its own initiative no later than two weeks after a detention decision. Under the current version of Section 128, the detainee instead has to apply for a review himself. Precisely two weeks after the decision to detain or extend detention, the detainee can request a district court review. The court should decide within four days.

In practice, district court detention decisions are very brief. In the majority of cases, the court endorses the police's or border guard's decision to detain a person.<sup>28</sup> On average, hearings last less than ten minutes, and are thus of a summary nature.<sup>29</sup> Although detainees can submit a complaint, the decisions ordering or extending detention taken by the district court are not subject to appeal (Aliens Act, Section

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<sup>26</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>27</sup> E. Riikka and M. Nykänen, "National Synthesis Report: Finland," *Redial Project, Odysseus Network*, 2016, <http://euredial.eu/docs/publications/national-synthesis-reports>

<sup>28</sup> A. Seilonen and M. Kmak, "Administrative Detention of Migrants in the District Court of Helsinki," *University of Helsinki*, 2015, <http://www.helsinki.fi/law-and-other/publications/detention-monitoring-report.pdf>

<sup>29</sup> M. Kmak and A. Seilonen, "Balancing Control with Rights: Immigration detention in Finland," in A. Nethery and S.J. Silverman (eds), *Immigration Detention: The Migration of a Policy and its Human Impact*, Routledge, 2015.



129). Hence, Finland's highest courts are not involved in reviewing immigration detention.<sup>30</sup>

According to the Finnish Immigration Service, detainees are entitled to legal and linguistic assistance free of charge.<sup>31</sup> Detainees placed in the Metsälä centre are provided interpretation and legal services by the NGO [Refugee Advice Centre](#), which is under contract with the detention facility.<sup>32</sup> Under the regular scheme laid down in the Legal Aid Act (*Oikeusapulaki*), non-citizens should have access to legal aid for the detention hearing itself. However, the hearings are sometimes arranged at such short notice that detainees do not have enough time to arrange a lawyer. Moreover, in some parts of the country, there are not enough lawyers who specialise in migration-related issues.<sup>33</sup> The CPT urged the Finnish authorities to ensure that detainees have access to a lawyer from the outset of their deprivation of liberty, i.e. from the moment they are first obligated to remain at police or border guard premises.<sup>34</sup>

Under Section 203 of the Aliens Act, non-citizens should also have access to interpretation assistance in detention-related procedures.<sup>35</sup> Reportedly, non-citizens are infrequently offered interpretation assistance during the initial stages of their detention. The CPT urged the authorities to systematically provide linguistic assistance, and inform non-citizens of their right to such assistance, immediately upon detention.<sup>36</sup>

**2.7 Detaining authorities and institutions.** Both the police (a commanding officer at a local police department, the National Bureau of Investigation, or the Finnish Security Intelligence Service) and the border guard (an official of the border guard

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<sup>30</sup> E. Riikka and M. Nykänen, "National Synthesis Report: Finland," *Redial Project, Odysseus Network*, 2016, <http://euredial.eu/docs/publications/national-synthesis-reports>

<sup>31</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>32</sup> S. Rummakko (Press officer, Refugee Advice Centre, Finland), Interview with Aiko Holvikivi (Global Detention Project), 28 September 2009; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>33</sup> E/ Riikka and M. Nykänen, "National Synthesis Report: Finland," *Redial Project, Odysseus Network*, 2016, <http://euredial.eu/docs/publications/national-synthesis-reports>

<sup>34</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>35</sup> Finnish Government, "Response of the Finnish Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Finland from 22 September to 2 October 2014, CPT/Inf (2015) 33," October 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>36</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

entitled to arrest individuals or a border guard officer holding the rank of at least lieutenant) may arrest migrants (Aliens Act, Section 123(1)). Detention must then be validated by the district court of the municipality in which the arrest took place (Aliens Act, Section 124(1)-(2)).

The Finnish Immigration Service, which operates under the Interior Ministry,<sup>37</sup> is responsible for managing, planning, and supervising the practical operations of detention units (Detention Act, Section 3). Detention centre staff, meanwhile, should be civil servants. The manager of a detention facility should have an appropriate qualification, as well as practical leadership and language skills (Detention Act, Section 36).

**2.8 Non-custodial measures.** According to Section 121 of the Aliens Act, a non-citizen may be detained if preventive measures laid down in Sections 118-120 are not sufficient. These measures include reporting to the police or border guard at regular intervals (Section 118), handing in travel documents (Section 119), and paying bail (Section 120).

In practice, however, alternatives to detention are infrequently used.<sup>38</sup> To be granted an alternative to detention, the non-citizen should be willing to cooperate with the authorities, have a valid address and travel documents, and not be subject to an entry-ban. Yet, for the Finnish police and border guard, detention is deemed to be the most efficient way to remove a non-citizen from the country. It is also the most cost effective method because removal proceedings are costly and an absconding would trigger economic losses.<sup>39</sup> Moreover, the judicial authorities may not systematically assess the adequacy of alternatives to detention since the district courts' detention decisions are brief.<sup>40</sup>

In 2012, alternatives to detention were granted to 239 non-citizens in return proceedings and 35 in asylum proceedings; in 2011, to 205 non-citizens in return proceedings and 83 in asylum proceedings; and in 2010, to 292 in non-citizens in return proceedings and 47 in asylum proceedings.<sup>41</sup> In 2017, the UN [Committee](#)

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<sup>37</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers Under the Directive 2013/33/EU," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

<sup>38</sup> M. Kmak and A. Seilonen, "Balancing Control with Rights: Immigration detention in Finland," in A. Nethery and S.J. Silverman (eds), *Immigration Detention: The Migration of a Policy and its Human Impact*, Routledge, 2015.

<sup>39</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>40</sup> A. Seilonen and M. Kmak, "Administrative Detention of Migrants in the District Court of Helsinki," *University of Helsinki*, 2015, <http://www.helsinki.fi/law-and-other/publications/detention-monitoring-report.pdf>

<sup>41</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

[against Torture](#) (CAT) called upon Finland to promote alternatives to detention,<sup>42</sup> and a few years earlier, the HRC urged the country to employ these measures whenever possible.<sup>43</sup>

**2.9 Regulation of detention conditions.** By virtue of Section 123a(1) of the Aliens Act, non-citizens should be placed in a detention unit as referred to in the Detention Act.

Exceptionally, a non-citizen may be placed in police detention facilities if detention centres are temporarily full. Likewise, if the individual is arrested far from the nearest detention centre, they can be placed in police detention facilities for up to four days or in border guard detention facilities for up to two days. Children may not be placed in police or border guard detention facilities, but rather in detention centres. Applicants for international protection should also, as a rule, be placed in a detention centre. Detention in police and border guard facilities is regulated by the Detention Act, but the Act on the Treatment of Persons Detained by Police (841/2006) (*Poliisin säilyttämien henkilöiden kohtelusta annettua lakia*) also applies and regulates the order and security in these facilities (Aliens Act, Section 123a(2)-(6); Detention Act, Section 1(3)).

The Detention Act details the conditions of detention. Accordingly, detainees must be treated fairly and with respect to their dignity. Their rights may not be restricted more than necessary for the purpose of detention, security, and order (Section 4). Upon admission, the non-citizen should be informed of their rights and obligations, as well as the rules of the detention centre. This information should be conveyed in writing in the detainee's native language, or in a language they are reasonably expected to understand. If it is apparent that a detainee wishes to apply for international protection, they should be provided with information detailing the process of making such an application. Interpretation assistance should be provided to help facilitate access to the asylum procedure (Section 5).

Within detention facilities, men and women should be accommodated separately, unless they are members of the same family and wish to stay together. Unaccompanied children should be placed separately from adults, and families should be offered separate accommodation, guaranteeing them adequate privacy (Section 11).

Detainees are entitled to necessary medical care (Section 13) and at least one hour outdoors per day (Section 14). They are entitled to receive visits from relatives, diplomatic or consular officers, non-governmental organisations, lawyers, and United Nations High Commissioner for Refugees (UNHCR) representatives (Section 6). Irrespective of their available means, detainees should have the possibility to

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<sup>42</sup> Committee against Torture, "Concluding Observations on the Seventh Periodic Report of Finland, CAT/C/FIN/CO/7," 20 January 2017, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

<sup>43</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Finland, CCPR/C/FIN/CO/6," 22 August 2013, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

communicate with persons enumerated above (Section 7). They can use telephones and electronic communication devices, provided that they do not interfere with the conditions and safety of the detention centre or of other detainees and persons. Detainees' mobile phones may be confiscated if their use damages the centre, compromises a detainee's stay in the centre or the identification of detainees, or contributes to a commission of an offence (Sections 17-18).

A detainee may be kept separate from other detainees if 1) they pose a danger to their own or other detainees' health, and pose a serious danger to the security or order of the detention centre; 2) to protect them from serious harm to life, health, and safety, or 3) exceptionally, for identification purposes or fulfilment of the requirements for entry into the country. The head of the detention centre must re-assess the need for separation based on the first two accounts at least every three days (Section 8). If separation on these accounts cannot prevent the danger in question, an adult detainee may, at the request of the detention centre's director, exceptionally be placed in police premises (Section 9).

Detention centres can be monitored with technical equipment, detainees' cells may be supervised, and, if necessary for security reasons, personal possessions in the cells may be controlled. However, such supervision should not undermine detainees' privacy. Detainees may be subject to security checks for security, order, and property protection reasons, or if they are suspected of possessing banned objects. If a member of staff is carrying out a physical check, they must be the same gender as the detainee (Sections 20-21). Subject to necessity, trained centre personnel may use force to carry out security checks and inspections, while gas guns, handcuffs, and batons may be used to prevent a detainee attempting to escape, to confiscate prohibited items, to prevent third persons accessing detention centres, or to enforce isolation (Section 35).

**2.10 Domestic monitoring.** The [Non-discrimination Ombudsman](#) should be notified of every detention decision (Aliens Act, Section 208). He also has the right to visit detention centres and to discuss confidential information with the detainees (Detention Act, Section 6a).

National and international organisations have the right to visit detention centres, based on the centre providing consent (Detention Act, Section 6a). As the CPT observed in 2014, representatives of different NGOs have regularly visited the Metsälä centre and provided detainees with information and legal assistance.<sup>44</sup> The CPT reminded the authorities that to be fully effective, monitoring visits should be both frequent and unannounced and monitoring bodies should be able to interview

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<sup>44</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

detainees in private.<sup>45</sup>

**2.11 International monitoring.** Like all Council of Europe countries that have ratified the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#), Finland receives monitoring visits from the CPT. In the past few years, four UN human rights treaty bodies made immigration-detention related recommendations to Finland, notably the [Committee on the Elimination of Racial Discrimination](#) (CERD) (2017),<sup>46</sup> CAT (2017),<sup>47</sup> HRC (2013),<sup>48</sup> and the CRC (2011).<sup>49</sup>

**2.12 Criminalisation.** Finland's Criminal Code (*Rikoslaki*) penalises irregular entry to the country with a fine or imprisonment for up to one year. However, in view of the short duration of irregular entry, the nature of the act, or other circumstances, this border offence can be considered a petty crime and is punishable with a fine rather than imprisonment (Chapter 17, Sections 7-7a). Under the Aliens Act, intentional undocumented stay in the country triggers a fine (Section 185).<sup>50</sup>

**2.13 Privatisation.** As of 2014, the Metsäla centre employed eight security guards on a contract basis. However, they were considered civil servants since the company was publicly owned. This set up might have changed since 2014 because the country considered the possibility of signing a contract with a private security company. The guards' main task was to monitor the perimeter and operate the CCTV system. However, in case of emergency and based on instructions from the centre's manager, they could be authorised to use truncheons, tear gas, and handcuffs.<sup>51</sup> After its 2014 visit, the CPT commended the authorities for ensuring that guards received specialised training in the use of such weapons, as this was something it had recommended in the past. Yet, given the potentially dangerous

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<sup>45</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>46</sup> Committee on the Elimination of Racial Discrimination, "Concluding Observations on the Twenty-Third Periodic Report of Finland, CERD/C/FIN/CO/23," 8 June 2017, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

<sup>47</sup> Committee against Torture, "Concluding Observations on the Seventh Periodic Report of Finland, CAT/C/FIN/CO/7," 20 January 2017, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

<sup>48</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Finland, CCPR/C/FIN/CO/6," 22 August 2013, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

<sup>49</sup> Committee on the Rights of the Child, "Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4," 3 August 2011, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>

<sup>50</sup> European Union Agency for Fundamental Rights (FRA), "Criminalisation of Migrants in an Irregular Situation and of Persons Engaging with Them," 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>

<sup>51</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25, August 2015, <https://www.coe.int/en/web/cpt/finland>



effects of tear gas, the committee recommended withdrawing it from the list of standard equipment at the disposal of security guards.<sup>52</sup>

In 2009, the Ombudsman questioned the legality of the use of an external security service since under Section 26 of the Detention Act, staff responsible for supervisory tasks must be in the civil service.<sup>53</sup> However, because the service provider is owned by the city of Helsinki, the detention unit's management proposed that the nature of the security guard's employment contract should be changed to make the security personnel government officials and to thus fulfil this legal requirement.<sup>54</sup>

As of 2009, Palmia (a for-profit company owned by the city of Helsinki) was the organisation providing security services to the Metsälä centre, alongside catering and cleaning.<sup>55</sup>

**2.14 Cost of detention.** In 2013, the cost of one day in Metsälä centre was 179 EUR. The total annual cost of this centre was 2,635,061 EUR, including 1,460,000 EUR for staff; 630,000 EUR for food and accommodation; 87,000 EUR for medical assistance, and 5,000 EUR for legal advice.<sup>56</sup>

**2.15 Trends and statistics.** Finland detained 716 non-citizens in 2016; 801 in 2015; 717 in 2014; 853 in 2013; and 730 in 2012. Of the total number of immigration detainees in 2016, 640 were men; 76 women; and 4 were unaccompanied children.<sup>57</sup>

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<sup>52</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>53</sup> *Yle Uutiset*, "Säilöönottoyksikön valvonta on hoidettu vastoin lakia," *Yle Uutiset Kotimaam*, 2 March 2009, <https://yle.fi/uutiset/3-5728843>

<sup>54</sup> Pekka Nuutinen (Manager, Helsinki Detention Unit) and Mikko Mäkinen (Assistant manager, Helsinki Detention Unit), Interview with Aiko Holvikivi (Global Detention Project), September 2009.

<sup>55</sup> Pekka Nuutinen (Manager, Helsinki Detention Unit) and Mikko Mäkinen (Assistant manager, Helsinki Detention Unit), Interview with Aiko Holvikivi (Global Detention Project), September 2009.

<sup>56</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>57</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: National Report of Finland, 2017," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_effectiveness_of_return_final_en.pdf). However, in another report to the European Migration Network (EMN), the Immigration Service provided different statistics, notably 444 (2013), 410 (2012), 460 (2011), 534 (2010), and 509 (2009). See: Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>



### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** As of 2016, Finland operated two dedicated immigration detention centres (called detention units): the [Metsäla detention unit](#) located close to Helsinki airport (capacity of 40) and the [Joutseno detention unit](#) located in Konnunsuo near Joutseno, close to the country's south-eastern border (capacity of 30). While the Metsäla centre confines more high-risk non-citizens, the Joutseno facility specialises in vulnerable categories, including children and families.<sup>58</sup>

The country sometimes uses police stations, which is permitted under the Aliens Act (see above "Regulation of detention conditions"). According to the Finnish Immigration Service, police stations are used because of the small number of detention centres, their low capacity, and their geographical location (both centres are located in southern Finland and transfer costs from northern Finland are high). Police detention facilities confine criminal suspects and detainees awaiting sentencing, and every person is placed in their own single cell.<sup>59</sup>

In 2006, 169 persons were placed in police or border guard facilities, and 140 in 2007. The duration of their stay tends not to exceed four days in police stations and one day in border guard facilities.<sup>60</sup> More recently however, the CAT expressed its concern at the absence of statistics recording the number of non-citizens placed in these facilities and urged Finland to collect such data, disaggregated by sex, age, ethnicity, and country of origin.<sup>61</sup> Several human rights bodies criticised the use of police and border guard facilities and recommended placing detainees in

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<sup>58</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>; Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on the Pre-Removal Centres / Facilities for TCNs in the Process of Return in the Member States," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

<sup>59</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>60</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>61</sup> Committee against Torture, "Concluding Observations on the Seventh Periodic Report of Finland, CAT/C/FIN/CO/7," 20 January 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>

“appropriate facilities” or, more directly, opening an additional centre (this was before the Joutseno facility was opened).<sup>62</sup>

### 3.2 Detention facilities. Metsäla and Joutseno detention centres.

**3.3 Conditions in detention.** According to the Finnish Immigration Service, women are detained separately from men, and children are separated from adults. Families are offered accommodation ensuring their privacy. Detainees can move freely within premises, and centres offer gym access, TV and DVD devices, billiards tables, and basketball courts. Detainees can use their own mobile phones if they do not have cameras. Otherwise, they can use the centre's telephone.<sup>63</sup>

Detainees can use their own laptops and access the internet. The centres do not offer any educational programmes but the [Finnish Red Cross](#) organises some activities. Four meals are served each day. A nurse visits the centres two to three times per week and, if needed, a doctor visits once a week. Medication is distributed by the detention personnel, and if needed, specialised treatment is available outside the centres. Visits by the nurse and doctor have to be agreed with the detention staff and may be delayed due to the limited number of visiting rooms. Medical visits can last up to three hours and a maximum of two visitors (not including children) are allowed at the same time.<sup>64</sup>

If a detainee causes harm to himself or others, or threatens the general safety of the centre, he may be placed in isolation. This is a single room with a mattress, toilet, and shower and is under permanent video surveillance. Those placed in isolation receive food two to three times per day and can spend one hour outdoors alone. If solitary confinement does not remedy the problem (for instance, an isolation room is

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<sup>62</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Report on Finland (Fourth Monitoring Cycle), CRI(2013)19," July 2013, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Finland/Finland\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Finland/Finland_CBC_en.asp); Committee on the Elimination of Racial Discrimination, "Concluding Observations on the Twenty-Third Periodic Report of Finland, CERD/C/FIN/CO/23," 8 June 2017, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/FIIndex.aspx>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>63</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

<sup>64</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>; Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers Under the Directive 2013/33/EU," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

unavailable or the individual is unwilling to collaborate), the person can be placed in police custody.<sup>65</sup>

**3.3.a. The Metsälä detention unit.** The Metsälä detention centre was established in 2005 and replaced an earlier detention unit (operational between 2003 and 2004), located in Helsinki's former Katajanokka prison.<sup>66</sup> The detention centre operates in the same building as the Metsälä reception centre. Previously, the two facilities were operated by separate management, with the detention centre under the operation of the Helsinki City Social Sector, whose staff were social workers.<sup>67</sup> Until January 2008, the detention centre was run by the Ministry of Labour, when it was placed under the responsibility of the Ministry of Interior.<sup>68</sup> Currently, the Finnish Immigration Service's Reception Unit is responsible for both the reception and detention centres,<sup>69</sup> hence in the Global Detention Project (GDP)'s terminology, the facility is coded as "mixed regime."

The capacity of the Metsälä detention centre is 40 and confines men in two-person cells of around 14 square metres. Families and vulnerable persons are placed in the women's section—consisting of three rooms for six to nine persons as well as a common room—which is separated from the rest of the accommodation by a glass wall.<sup>70</sup>

In 2013, the HRC urged Finland to improve material conditions in the Metsälä detention centre.<sup>71</sup> Upon its 2014 visit, the CPT found material conditions to be generally adequate. The centre's accommodation and other facilities were deemed sufficiently spacious, bright, heated, and ventilated. The rooms were adequately

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<sup>65</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on SI AHQ on Article 16. of the Return Directive (2008/115/EC)," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

<sup>66</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>67</sup> Pekka Nuutinen (Manager, Helsinki Detention Unit) and Mikko Mäkinen (Assistant manager, Helsinki Detention Unit), Interview with Aiko Holvikivi (Global Detention Project), September 2009.

<sup>68</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>69</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers Under the Directive 2013/33/EU," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

<sup>70</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>71</sup> Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Finland, CCPR/C/FIN/CO/6," 22 August 2013, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/FIIndex.aspx>

furnished, each with beds and full bedding, a table, chairs, bedside lockers, and wardrobe.<sup>72</sup> As for food, a variety of religious and medical diets were found to be available.<sup>73</sup>

Detainees could move freely within the accommodation area and had keys to their rooms. They had access to the internet (albeit restricted), television programmes in multiple languages, DVDs, books and magazines, and a variety of games and toys were available for children. However, the CPT noted a lack of organised activities and thus encouraged the Finnish authorities to develop a range of activities, in particular, educational ones for children. The CPT also encouraged the authorities to increase detainees' access to the outdoors to more than just one hour per day. The exercise yard was spacious and equipped with benches and chairs; however there was no proper shelter to protect detainees against the weather. The CPT recommended remedying this deficiency.<sup>74</sup>

Regarding medical services, the CPT found that a nurse visited the centre on a daily basis during the working week, and a doctor was also present for four hours each week. The CPT urged the authorities to ensure the presence of a nurse at the weekends. Detainees in need of psychological and psychiatric assistance, examination, or treatment were sent to an outside psychiatric establishment. However, there were no regular visits by a psychiatrist or a psychologist and the committee urged the authorities to ensure that detainees have adequate access to psychological assistance and psychiatric care.<sup>75</sup>

The CPT applauded Finland for the staffing of the centre. The management and staff working in direct contact with the detainees were sufficient in number,<sup>76</sup> had varied cultural backgrounds, and broad language skills. They had received initial—as well as ongoing—training, reflecting the specificity of their job.<sup>77</sup>

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<sup>72</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 30 April 2008, CPT/Inf (2009) 5," January 2009, <https://www.coe.int/en/web/cpt/finland>

<sup>73</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>74</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>75</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>76</sup> As of 2013, the centre had 24 employees, see: Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "Organisation of Reception Facilities for Asylum Seekers in Different Member States," 2014, <https://bit.ly/2OsboT8>

<sup>77</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the



The CPT found detainees' contact with the outside world to be adequate. Detainees could receive visits, make telephone calls, and send and receive letters. Isolation was applied 35 times in 2013 and, on average, lasted for just over one day. According to the CPT, conditions in the two isolation rooms, as well as the regime applied to those placed in isolation (including unrestricted access to outdoor exercise, radio, books, and shower) were on the whole adequate. Yet, the committee noted that a nurse would only be required to visit a detainee after they had spent three days in isolation, thus recommending that a nurse visit detainees in isolation immediately after the beginning of the measure and thereafter on a daily basis.<sup>78</sup>

**3.3.b. The Joutseno detention unit.** The Joutseno facility opened in the autumn of 2014, probably as a response to calls from various international bodies (see above) to establish a new detention facility in order to cease the practice of detaining non-citizens in police or border guard facilities.<sup>79</sup> In a similar manner to the Metsäla centre, the Joutseno detention centre is placed within the Joutseno reception centre, which is located on the premises of the former Konnunsuo prison.<sup>80</sup> Given that the detention and reception section are both managed by the Immigration Service,<sup>81</sup> the GDP labels the centre as a "mixed regime."

The facility has a capacity of 30, with 20 places for men (mainly single cells) and 10 places for families.<sup>82</sup> It is said to offer more attention to vulnerable categories of persons, in particular families. In the section for women, families, and other vulnerable persons, there are two family rooms as well as rooms for one to two persons.<sup>83</sup>

According to the CPT, material conditions are unavoidably influenced by the facility's

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Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>78</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>79</sup> M. Kmak and A. Seilonen, "Balancing Control with Rights: Immigration Detention in Finland," in A. Nethery and S.J. Silverman (eds.), *Immigration Detention: The Migration of a Policy and its Human Impact*, Routledge, 2015.

<sup>80</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>81</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers Under the Directive 2013/33/EU," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

<sup>82</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>83</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Finland, 2014," 2014, <https://bit.ly/2vy248X>

location on the premises of a former prison; in particular, the committee noted that single-occupancy rooms for adult male detainees strongly resembled prison cells.<sup>84</sup> According to the government, this cell-like appearance was minimised by the furniture and equipment placed in each room—including a bed, a closet, a wall-mounted shelf, a table, a clock, a blu-ray player (with an Internet connection), a refrigerator-freezer, a stool, a dustbin, a fixed internet connection (Wi-Fi to arrive), and a television (with over 100 channels).<sup>85</sup>

According to the CPT, the positioning of the centre within the premises of a former prison also resulted in the limited availability of space for association and activity areas, especially when the detention centre operates at its full capacity. However, the committee noted that the overall accommodation standards were good, with all the rooms being well lit, ventilated and heated, and suitably furnished. The centre had a secure outdoor yard, equipped with benches and with a children's playground. Yet, the CPT encouraged Finland to enlarge the yard because it could easily become cramped if the centre were to run at full capacity.<sup>86</sup>

The CPT applauded the centre's staffing situation—staff were sufficient in number and had adequate qualifications. The staff working directly with detainees received a training course in languages, psychology, cross-cultural communication, and human rights. Several of them also had a migration background and spoke multiple languages. Having recruited several former prison officers, the centre had been able to avoid relying upon the services of a security company.<sup>87</sup>

The CPT expressed concern at the remote location of the facility, which might render visits relatively difficult. The CPT invited the authorities to reflect upon ways to minimise this problem, such as by improving public transport routes to the centre.<sup>88</sup>

**3.3.c. Temporary transit return centre.** In 2016, the Finnish Immigration Service and Helsinki Police operated a temporary transit return centre near Helsinki-Vantaa

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<sup>84</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>85</sup> Finnish Government, "Response of the Finnish Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Finland from 22 September to 2 October 2014, CPT/Inf (2015) 33," October 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>86</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>87</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

<sup>88</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Finnish Government on the Visit to Finland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 September to 2 October 2014, CPT/Inf (2015) 25," August 2015, <https://www.coe.int/en/web/cpt/finland>

Airport, which resembled the Emergency Housing Structure of Kirchberg in [Luxembourg](#). The establishment of the centre came in the wake of a large number of Iraqi failed asylum seekers reportedly being willing to return to their country. The capacity of the centre was between 90 and 100. Individuals were placed there for a few days before their return flight. According to the Finnish Immigration Service, those placed in the Vantaa centre were free to leave the centre and received the same services as other asylum seekers in Finland, including food, necessary health care, and reception allowances. The centre closed at the end of 2016.<sup>89</sup>

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<sup>89</sup> Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "EMN Ad-Hoc Query on the Pre-Removal Centres / Facilities for TCNs in the Process of Return in the Member States," 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en); Finnish Immigration Service (Finnish National Contact Point of the European Migration Network), "The Changing Influx of Asylum Seekers in 2014–2016: National Report of Finland," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_changing\\_influx\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_changing_influx_en.pdf)



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