



I-CLAIM

Improving the Living
and Labour Conditions
of Irregularised Migrant
Households in Europe

Country report

The Legal and Policy Infrastructure of Irregularity

Finland

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Executive summary

The purpose of this report is to examine the legal and policy infrastructures of migrant irregularity in Finland. *Improving the Living and Labour Conditions of Irregularised Migrant Households in Europe (I-CLAIM)* is a research project, in which migrant irregularity is understood as produced by immigration and asylum laws, policies, and practices, as well as labour market and welfare regimes and political, media, and public narratives. Irregularity is not an intrinsic quality of an individual or a group of people; rather, it is a situation in which people find themselves due to various causes. This report is based on an I-CLAIM work package consisting of the analysis of a variety of policy documents and reports on irregularity, including preparatory legal documents, law texts, political programmes, material produced by ministries, research-based reports, and information publicly available on relevant institutional websites. Furthermore, interviews conducted with 12 experts representing different fields of expertise have guided the analysis and provided valuable insight into how state practitioners, NGOs, and other relevant stakeholders operate, as well as the current state of the living and working conditions of irregularised migrants and their families in Finland.

The report presents general trends and features of migrant irregularity in Finland, including estimates of the number of irregularised people and the most common characteristics of irregularised situations that we have identified. It discusses key policy and legal changes from the last 20 years, and routes into and out of irregularity, including key legislative and policy changes that Petteri Orpo's right-wing government is planning. The on-going and planned changes in migration legislation adopted in Orpo's government programme constitute a paradigm shift in Finnish migration policies. Some of the planned changes may contribute to increasing the number of migrants living in irregular situations in the future, as well as their access to basic rights such as health care and housing for irregularised migrants.

In Finland, migrant irregularity is considered by most interviewed experts to be a relatively limited phenomenon compared to many other EU Member States, with the estimated number of people in irregular situations being between 3,000 and 6,000. There was a significant increase in the number of irregularised migrants after the asylum 'crisis' of 2015–2016. In 2015, the number of asylum seekers increased from 3,600 in 2014 to over 32,400 in 2015 (Migri 2024a). As a result, changes to the Finnish asylum policy and legislation were rapidly introduced in 2016 in order to make Finland an undesirable country to seek asylum in. Due to these changes, and others described in this report, it became more difficult for asylum applicants to obtain international protection or otherwise regularise their stay, thus making it easier for people to end up in an irregular situation (Ahonen & Kallius 2019; Näre 2020a). While rejected asylum seekers are considered to be the biggest group of irregularised migrants in Finland, migrants can find themselves in an irregular situation due to various other reasons: due to a loss of a job and subsequent loss of a visa, due to the lack of a valid travel document, due to a negative decision on a residence permit application or its renewal, due to overstaying their visa, or due to not having a visa or residence permit in the first place. Furthermore, 'irregularised from the perspective of health care' is a categorisation used by some stakeholders to describe all those falling outside of the welfare state's health and social services, including EU citizens who have not registered their stay in Finland.

The report also examines the entanglements between employment and welfare regimes, focusing on the labour market sectors of agrifood, domestic work, and cleaning. Employment is one of the main routes out of an irregular situation. However, the possibilities for employment for migrants in irregular situations are limited because of the requirements for the residence permit. For example, the requirement for a valid travel and identification document excludes certain nationals and groups from applying for the permit even if they

find employment. Furthermore, among the many changes that Orpo's government is proposing is a tightening of the criteria for employment-based residence permits and preventing the possibility for asylum seekers to apply for an employment-based residence permit. The report also discusses other routes out of irregularity, and the challenges and opportunities related to regularising one's status through different types of residence permits. Here, the focus includes the household perspective, including a discussion of the processes for family reunification. Finally, the report discusses how discrimination and the racialisation of migration regimes differentiate people based on their nationalities and the impact of this on the accessibility of residence permits, revealing structural racism and discrimination in Finland.

Tiivistelmä

Epävirallisen oikeudellisen aseman poliittiset ja oikeudelliset rakenteet Suomessa

Tämän raportin tarkoituksena on tarkastella maahanmuuttajien epäviralliseen asemaan ja paperittomuuteen liittyviä oikeudellisia ja poliittisia rakenteita Suomessa. Raportti on osa Horisontti Eurooppa -puiteohjelman rahoittamaa tutkimushanketta *Improving the Living and Labour Conditions of Irregularised Migrant Households in Europe* (I-CLAIM), jossa tutkitaan epävirallisessa oikeudellisessa asemassa elävien maahanmuuttajien asemaa ja maahanmuuttajien työtä maataloudessa, alustavälitteisellä logistiikka-alalla ja kotitaloustyössä kuudessa Euroopan maassa: Suomessa, Italiassa, Hollannissa, Iso-Britanniassa, Saksassa ja Puolassa. Suomen osahankkeessa keskitytään epävirallisessa ja epävarmassa oikeudellisessa asemassa olevien maahanmuuttajien asemaan maatalouden ruoantuotannossa sekä kotisiivous- ja kotitaloustyössä. Hankkeessa tarkastellaan myös epävirallista maahanmuuttoa koskevaa Euroopan Unionin politiikkaa.

I-Claim -tutkimushankkeessa maahanmuuttajien epävirallinen asema (*irregular status*) ymmärretään laajasti maahanmuutto- ja turvapaikkalainsäädännön sekä -käytäntöjen synnyttämänä tilanteena, jota tuottavat myös työmarkkina- ja hyvinvointipolitiikka sekä julkiset narratiivit. I-CLAIM -hankkeessa tutkitaan epävirallisen oikeudellisen aseman lisäksi prekaaria eli epävarmaa oikeudellista asemaa, joka kuvastaa erityisesti turvapaikanhakijan tai lyhytaikaisten oleskelulupien haltijan tilannetta. I-CLAIM -hankkeen lähtökohtana on, että epävirallinen tai prekaari oikeudellinen asema ei ole yksilön tai ihmisryhmän ominaisuus vaan hallinnollinen tilanne, johon ihmiset päätyvät eri reittejä pitkin, joskus jopa tietämättään.

Tämä raportti perustuu maahanmuuttoa ja oleskelulupa-asioita koskevien poliittisten asiakirjojen ja raporttien analyysiin. Näihin kuuluu oikeudellisia asiakirjoja, lakitekstejä, poliittisia ohjelmia, ministeriöiden ja järjestöjen tuottamaa materiaalia, tutkimukseen perustuvia raportteja sekä tietoja, joita on julkisesti saatavilla instituutioiden verkkosivustoilla. Lisäksi aineistoon kuuluu 12 eri alaa edustavan asiantuntijan haastattelut. Haastattelut antavat arvokasta tietoa siitä, miten valtiolliset toimijat, kansalaisjärjestöt ja muut sidosryhmät lähestyvät epävirallista maahanmuuttoa sekä siitä, minkälaisia elin- ja työolosuhteita epävirallisessa ja prekaarissa asemassa olevilla maahanmuuttajilla ja heidän perheillään on Suomessa. Raportissa todetaan, että eri hallinnonaloilla epävirallista maahanmuuttoa lähestytään hyvin eri tavoin. Esimerkiksi Sisäministeriössä puhutaan laittomasta maahanmuutosta, mikä on YK:n ja EU:n suosiman terminologian vastaista. Harhaanjohtavasti laitton käännetään englanniksi sanalla *irregular*.

Raportissa esitellään epävirallisuuden rakenteellisia piirteitä Suomessa ja esitetään myös arvioita epävirallisessa oikeudellisessa asemassa olevien henkilöiden määrästä. Raportissa käydään läpi yleisimmät reitit epäviralliseen oikeudelliseen asemaan ja siitä pois. Raportissa käsitellään keskeisiä poliittisia ja lainsäädännöllisiä muutoksia viimeisten 20 vuoden ajalta, mukaan lukien Petteri Orpon oikeistohallituksen suunnittelemaat keskeiset muutokset.

Raportin analyysien perusteella Orpon hallitusohjelmassa hyväksytyt, meneillään olevat ja suunnitellut muutokset maahanmuuttolainsäädäntöön voidaan sanoa merkitsevän paradigman muutosta Suomen maahanmuuttopolitiikassa. Suunnitellut muutokset merkitsevät useita kiristyksiä oleskeluluvan ehtoihin, minkä riskinä on epävirallisessa oikeudellisessa asemassa elävien maahanmuuttajien määrän kasvua. Kirjaukset uhkaavat myös kaventaa ulkomaalaisten perusoikeuksia, erityisesti oikeutta kansainväliseen suojeluun, terveydenhuoltoon ja asumiseen.

Useimmat haastatellut asiantuntijat pitävät epävirallista maahanmuuttoa Suomessa suhteellisen pienenä ilmiönä verrattuna moniin muihin EU:n jäsenvaltioihin. Ilman oleskelulupaa maassa oleskelevien henkilöiden määrän arvioidaan olevan 3000–6000. Lukumäärä kasvoi merkittävästi vuosien 2015–2016 turvapaikkakriisin jälkeen. Vuonna 2015 turvapaikanhakijoiden määrä kasvoi vuodesta 2014, jolloin se oli 3600, lähes kymmenkertaiseksi vuonna 2015, jolloin uusia turvapaikkahakemuksia jätettiin yli 32 400 (Migri 2024a). Tämän seurauksena Suomen turvapaikkapolitiikkaan ja -lainsäädäntöön tehtiin vuonna 2016 useita muutoksia, joiden tarkoituksena oli vähentää Suomen 'vetovoimaa' turvapaikanhakijoiden keskuudessa. Näiden ja muiden tässä raportissa kuvattujen muutosten vuoksi turvapaikanhakijoiden oli entistä vaikeampi saada kansainvälistä suojelua tai muutoin laillistaa oleskelunsa, mikä johti monen kohdalla epäviralliseen oikeudelliseen asemaan (Ahonen & Kallius 2019; Näre 2020a).

Kielteisen päätöksen saaneita turvapaikanhakijoita, joita ei ole pystytty käännättämään maasta, pidetään suurimpana epävirallisessa oikeudellisessa asemassa elävien maahanmuuttajien ryhmänä Suomessa. Epäviralliseen oikeudelliseen tilanteeseen voi joutua kuitenkin myös monista muista syistä: työpaikan menettämisen ja sitä seuranneen oleskeluluvan menettämisen vuoksi, voimassa olevan matkustusasiakirjan puuttumisen vuoksi, oleskelulupahakemukseen tai sen uusimiseen liittyvän kielteisen päätöksen vuoksi, viisumin voimassaoloajan ylittämisen vuoksi tai siksi, ettei henkilöllä ole ollut viisumia tai oleskelulupaa alun perinkään. Lisäksi "terveydenhuollon näkökulmasta paperittomat" on joidenkin sidosryhmien käyttämä määritelmä, joka kuvaa kaikkia hyvinvointivaltion terveys- ja sosiaalipalvelujen ulkopuolelle jääviä henkilöitä, mukaan lukien EU:n kansalaisia, jotka eivät ole rekisteröineet oleskeluaan Suomessa.

Raportissa tarkastellaan myös epävirallisessa oikeudellisessa asemassa elävien maahanmuuttajien asemaa työmarkkinoilla sekä heidän oikeuttaan terveydenhuoltoon ja sosiaaliturvaan. Työllistyminen on yksi tärkeimmistä väylistä, joiden kautta epävirallisesta oikeudellisesta tilanteesta voi päästä pois. Monelle työllistymismahdollisuudet ovat kuitenkin rajalliset oleskeluluvan saamista koskevien vaatimusten vuoksi. Esimerkiksi vaatimus voimassa olevista matkustusasiakirjasta ja henkilöllisyystodistuksesta estää joitain ryhmiä hakemasta oleskelulupaa, vaikka he löytäisivätkin työtä. Lisäksi Orpon hallituksen ehdottamien muutosten joukossa on työperusteisten oleskelulupien kriteerien tiukentaminen ja se, että turvapaikanhakijat eivät voisi hakea työperusteista oleskelulupaa.

Työperäisen oleskeluluvan lisäksi tarkastellaan myös muita haasteita ja mahdollisuuksia, jotka liittyvät aseman laillistamiseen erityyppisten oleskelulupien avulla. Raportissa tarkastellaan näitä kysymyksiä myös kotitalouksien ja perheiden näkökulmasta. Siinä tuodaan esiin, miten esimerkiksi työntekijän oleskeluluvan vaatimukset vaikuttavat perheisiin ja perheenyhdistämisprosessiin. Raportissa pohditaan myös, miten syrjivät ja rodullistavat hallinnolliset kategorisoinnit, esimerkiksi eri kansalaisuuksien erilainen kohtelu, vaikuttaa oleskelulupien saatavuuteen, ja miten rakenteellinen rasismi ilmenee perusoikeuksien toteutumisessa.

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Introduction

In the I-CLAIM (*Improving the Living and Labour Conditions of Irregularised Migrant Households in Europe*) research project, migrant irregularity is understood as produced by immigration and asylum laws, policies, and practices, as well as labour market and welfare regimes and political, media, and public narratives. Irregularity is not an intrinsic quality of an individual or a group of people; rather, it is a situation of administrative irregularity and precarity in which people find themselves due to various causes. I-CLAIM introduces the concept of an ‘irregularity assemblage’ to capture how irregularity is produced in migration and asylum laws, policies, and practice, as well as in broader labour market and welfare regimes. The purpose of this report is to examine legal and policy infrastructures of irregularity in Finland. The policy analysis is based on a variety of policy documents and reports on irregularity, including reports on the preparation of legislation, law texts, political programmes, material produced by ministries, research-based reports, and information publicly available on relevant institutions’ websites (see list in Appendix 1). Furthermore, interviews conducted with 12 experts (Appendix 2) representing different fields of expertise have guided the analysis and provided valuable insight into how state practitioners, NGOs, and other relevant stakeholders approach migrant irregularity, as well as the current state of the living and working conditions of irregularised migrants and their families in Finland.

The report is divided into the following sections: the next section presents general trends and features of migrant irregularity in Finland, including estimates of the number of irregularised people and the most common characteristics of irregularised situations that we have identified. In section 2, we present key policy and legal changes from the last 20 years and discuss routes out of irregularity, including a reflection on the challenges and opportunities related to regularising one’s status through different types of residence permits. Section 3 examines some of the entanglements between irregularity and employment and welfare regimes. We also discuss discrimination and the racialisation of immigration regimes, which differentiate people based on their nationalities and thus have an impact on the accessibility for residence permits, pointing to structural racism and discrimination in Finland. Section 4 approaches the household dimension by investigating the perspective of families, gender, generation, and the process of family reunification. In the final section, we conclude our findings.

1. Migrant irregularity: general trends and features

In Finland, migrant irregularity is considered by most interviewed experts to be a relatively limited phenomenon compared to many other EU Member States, with the estimated number of people in irregular situations being between 3,000 and 6,000. There was a significant increase in the number of irregularised migrants after the asylum crisis of 2015–2016. The number of asylum seekers increased from 3,600 in 2014 to over 32,400 in 2015, creating a novel situation for the migration administration system in Finland (Näre 2020a). The Finnish Immigration Service (Migri henceforth) responded to the rising number of applications by recruiting and training new staff, who often had little prior experience in this role. Changes in the Finnish Aliens Act were rapidly introduced in 2016 in order to reduce the ‘economic burden’ of asylum seekers to the Finnish legal system and to make asylum processes more ‘efficient’ (HE 32/2016, 10-11). Due to these changes, and others described more closely below, it became more difficult for asylum applicants to obtain international protection or otherwise regularise their stay, thus making it easier for people to end up in an irregular situation (Ahonen & Kallius 2019; Näre 2020a). However, migrant irregularity does not only concern rejected asylum seekers; migrants can find themselves in an irregular situation due to a negative decision on a residence permit application, due to overstaying their visa, or due to not having a visa or residence permit in the first place. Moreover, even though the phenomenon is relatively small in numbers compared to many other European countries, living in the irregular condition can be prolonged over several years. It concerns not only individual adult migrants but whole families, including underaged young people and children.

Based on the expert interviews and published reports, irregularity is a serious concern for the following groups, but not limited only to these. Note that the following categorisation is not mutually exclusive:

- **Rejected asylum seekers** make up the most significant group of irregularised migrants in Finland. Some may have been given a temporary residence permit for one year because removal to the country of origin was not possible for practical or medical reasons, or based on compassionate grounds (Migri 2024b). Until 2016, it was possible to give individuals a residence permit on the grounds of humanitarian protection if they did not meet the grounds for asylum or subsidiary protection. This category of residence permit was revoked from the Aliens Act in 2016.
- **Individuals lacking access to recognised travel documents.** A travel document recognised by the Finnish authorities is needed for most residence permit types, and importantly for labour-based permits, even when the applicants’ identity could be proven otherwise. This puts several groups at a disadvantage (see text box 1.4.).
- **Individuals whose temporary residence permits have expired.** This includes both people whose visa has expired and individuals who have not been able to renew their temporary residence permits (see section 2.4.), or who receive a negative decision on their residence permit application. If they appeal the decision, they can reside in the country while their appeal is processed.
- **Stateless individuals.** People born in refugee camps, in exile, or in states not recognised internationally, such as Palestine, who cannot acquire accepted travel documents. Moreover, tens of thousands ethnic Russians living in Estonia are stateless. They have only a so-called ‘grey passport’ as proof of identity. While Estonians, as EU citizens, do not need a labour-based permit to work in Finland, stateless grey passport holders do.

- **EU citizens who have not registered their residence after 3 months.** EU citizens need to register their stay after 3 months of residence in Finland, and a reason needs to be provided for the registration. The reason can be work, entrepreneurship, or family (Migri 2023a). While there are no strict income requirements, Migri assesses that the income needs to be secure, which is a difficult requirement, especially for Eastern European Roma, also referred to as the traveller community. EU citizens who have not registered their stay in Finland are not entitled to residents' social and welfare services. However, as the free movement of persons is stipulated in the Founding Treaty of European Union (1992), defining EU citizens as irregular if they fail to register their stay within three months of their arrival to an EU member state is in many ways problematic, according to our interviewees.
- **Third-country nationals with a residence permit in another EU country.** Third-country nationals holding a residence permit in another EU country can come and stay in Finland up to 90 days, but they do not have the right to work in Finland unless they apply for a residence permit based on employment. They can also apply for a residence permit on some other grounds.
- **Temporary protection of Ukrainians and third-country nationals and stateless persons fleeing war in Ukraine.** Ukrainian citizens have been granted temporary protection and after one year of residence they can register as permanent residents in municipalities and gain access to the same social and welfare services as other permanent residents. However, for third-country nationals who have fled Ukraine the situation is very different. As of 7th of September 2023, temporary protection for third country nationals, or stateless persons who had a temporary residence permit in Ukraine, will no longer be granted (Intermin 2023a), and their right to temporary protection will not be continued after 4th of March 2024. They need to return to their country of origin or apply for international protection, or a residence permit based on other grounds.

In addition to these groups, routes into irregularity are often individual cases, based on Migri's discretionary assessment of whether individuals still meet the requirements for their previously granted residence permit. Migri calls this 'post-decision monitoring of residence permits', and it is based on checks in a selection of national registers, and it can focus on specific residence permit types, such as students' residence permits (Migri 2024c).

1.1. Definitions

In Finland, the term that refers to undocumented or irregularised persons, *paperittomat* (directly translated as 'paperless') is widely used to describe those residing in the country without a valid residence permit, as well as those who do not hold any identity documentation that is considered valid by the authorities. There is a range of situations that fall under this category, as discussed above.

Our interviewees stated that different sectors of the Finnish administration use different vocabulary. For instance, the term 'illegality' is used by some stakeholders to refer to illegal stays, while others decisively opt against any formulation that contains the word 'illegal'. For example, the Ministry of the Interior and Migri officials refer to people without residence permits as 'residing in the country illegally' (interviews with a Migri Officer and the Ministry of the Interior). There is a discrepancy between the English translation of the Finnish term in the documents. The Finnish term refers to 'illegal entry and stay' which is translated into 'irregular

entry and stay' (Intermin 2021). According to Ahonen and Kallius (2019, 98), the practice of describing irregularised peoples as individuals who are 'residing in the country illegally' is an implicit message that the state's immigration and border politics have no role in the production of irregularity.

While the term 'paperless' is most often used to refer to third country nationals without residence permits in Finland, in some contexts EU nationals are covered by the term as well. Some stakeholders and institutions use the term 'irregularised from the perspective of health care' to refer to all migrants excluded from the national welfare provision, including EU nationals who have not registered their stay in Finland or overseas students who do not have adequate insurance coverage (Finnish Refugee Advice Centre 2023).

Free movement within the EU is only applicable based on certain grounds. In order for an EU citizen to register their stay in the online service, one needs to have a national proof of identity or passport, (in the case of paid employment) proof of employment or information on self-employment, (in the case of students) proof of being registered with a Finnish educational institution, or information on means of support. If a person is considered a burden to the social and health care system, this can be grounds for removal from the country.

1.2. Figures and estimates about irregularised migrants in Finland

It is estimated that approximately 3,000-6,000 people reside in Finland without an official status (Finnish Refugee Advice Centre 2023). However, the number is significantly higher than some other estimates, as it depends on who is considered irregularised and how these figures are collected. According to a report by the Ministry of the Interior (2021), 1,220 third country nationals were residing in Finland without the right to residence in 2019. The Association of Finnish Municipalities (2020) estimated that between 700 and 1,100 people in an irregular situation resided in Finland in 2020. Their report focused only on asylum seekers who had received a negative decision in their asylum application.

As of November 2023, 64,081 Ukrainian nationals and 1,252 citizens of other countries who held temporary residence permits in Ukraine who are fleeing the War in Ukraine have applied for temporary protection (Migri 2023b). Especially the latter group is at the risk of falling into an irregular legal status, as their right to temporary protection will not be continued after March 4th, 2024.

1.3. Travel documents and the bureaucratic production of irregularity

Applicants for most residence permit categories in Finland are required to provide a travel document that is considered valid by Finnish authorities. This ruling makes it in practice difficult for many groups of people to even apply for a residence permit.

Finland does not recognise travel documents issued by Somalia as a valid proof of identity for work-related or other permits than family reunification (Formin 2024).¹ The Supreme Administrative Court has ruled that for family reunification applications travel documents issued by Somalia should be accepted as complying with the European Convention on Human Rights article 8's right to respect for private and family life. Furthermore, according to Aliens Act (§35), Migri can use discretion in accepting other proof of identity in 'exceptional circumstances'. Recently, a complaint was filed to the European

¹ The exception is the Somali biometric diplomatic passport, introduced in 2014.

Court of Human Rights against Finland regarding the violation of the European Convention on Human Rights article 8 and non-discrimination, due to Finland's refusal to accept Somalia's travel documents for a labour-based residence permits (Intermin 2022b).

An expert we interviewed at Migri described the catch-22 situation as follows:

'An Alien's Passport is not issued without the right of residence in Finland (...) so it becomes like a vicious circle. It is not granted without an existing residence permit, and on the other hand, the residence permit requires a valid travel document. And that's exactly what, for example, the non-discrimination ombudsman has tried to get changed, and has also taken this to the European Court of Human Rights, which then stated that it does not take a position on it. Member states have the right to regulate nationally [whether Alien's Passports are granted].' (Interview with a Migri official, PUB2)

Finland accepts ordinary passports issued by Afghanistan as travel documents and proof of identity. However, to access a passport Afghans need an identity card, Tazkira. Especially individuals who belong to the discriminated Shia Hazara ethnic minority in Afghanistan can find it difficult to access Tazkiras, as two male family members with Tazkiras are required to prove the identity of the applicant. The absence of embassy services in Finland also hinders the possibility of acquiring travel documents. To remedy the situation for Afghan asylum seekers, the embassy of Afghanistan in Sweden has organised passport delegations from Stockholm to the capital region in Finland.

The travel document requirement affects people without nationality, for example those born in refugee camps, in exile, or in states not recognised internationally, such as Palestine. While it is possible for Migri to grant an Alien's Passport (valid for a year) or a refugee travel document for a person who has received international protection in cases of family reunification, and it is possible to make exceptions to the requirement of travel document as mentioned above, the Supreme Administrative Court has ruled that right to work is not a basic right, and thus there is no need to make exceptions in the labour residence permit applications.

2. The legal and policy framework of irregularity over the past 20 years

In this section we will discuss the key political, legal, and policy changes over the past 20 years that have shaped the irregularity infrastructure in Finland. In the 21st century, Finland has steadily been a destination country for increasing numbers of migrants. Until 1980s Finland was mainly an emigration country, but this changed after the collapse of the Soviet Union when migrants and refugees, particularly so-called Ingrian Finns, started moving to Finland from Russia and Estonia. Refugee mobilities to Finland began in 1973 with the arrival of refugees from Chile, followed by refugees from Vietnam in 1979, and Somalis and Kosovar Albanians since the 1990s. Finland has received quota refugees since 1986. Migration mobilities diversified after Finland joined the European Union in 1995, and the EU enlargement of 2004 signified an increase in migration, especially from Estonia. Increasing labour migration was first mentioned as an explicit political goal in Matti Vanhanen's II centre-right government programme in 2007.

Following broader trends in Europe, the political resistance towards humanitarian migration has increased. Migration, and especially humanitarian migration, is a central dividing question in national politics. Especially the right-wing populist party Finns Party's agenda and popularity is based on anti-migration rhetoric. At the same time, the need for workers in an ageing population, especially in the social and health care sectors, is a recurrent topic in politics, and (labour-)migration is commonly suggested as a remedy (Näre & Nordberg 2016). The question of irregularised people's rights has not been a key issue or matter of political debate before the past two decades. After the so-called asylum 'crisis' of 2015–2016, the Finnish pro-asylum civil society mobilisation grew and attracted new activists, and new forms of action emerged (e.g., Merikoski 2021; Näre 2020a).

Finland's Aliens Act entered into effect in 2004. On 29 April 2004 the Council of the European Union (EU) adopted a Directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees, or as persons who otherwise need international protection, and the content of the protection granted (2004/83/EC). The objective of the Directive is to promote the harmonisation of international protection and related benefits in the Member States. The Finnish Aliens Act (301/2004) contains provisions on the definition of refugees and other persons in need of international protection and some provisions on the content of international protection (HE 166/2007).

These changes to legislation and other important moments in policy, of which select ones are illustrated in the timeline above, demonstrate the gradual restriction of asylum seekers' rights in Finland during the last 20 years. From these we highlight some of the developments, many of which were brought about in the aftermath of the so-called asylum 'crisis' of 2015.

The coalition government of prime minister Juha Sipilä, which was in office from 2015–2019, was comprised of three conservative right-wing parties, and made dramatic changes to asylum policy and other laws related to humanitarian migration. The right-wing populist Finns Party took part in the government for the first time, putting further pressure on the government to appear tough on migration. In line with other Northern European countries during the asylum crisis, Finland took part in a 'race to the bottom' in its attempts to become an unattractive country for asylum seekers. Among these changes, in 2015 subsidiary protection was no longer granted if voluntary return was deemed possible (Aliens Act 51 §). As a result, individuals who have been refused asylum or a residence permit and who have not attempted to leave the country voluntarily will not be granted a temporary permit, even if their removal cannot be carried out by the authorities. The amendment is particularly harmful because it obliges reception centres to remove from the centres those

persons who have received a negative decision and who do not wish to return voluntarily to their countries of origin, and whose return cannot be carried out by the authorities. These persons will thus be deprived of accommodation, health services, and the reception allowance (Lupa elää 2023).

Furthermore, in 2016 access to legal counselling during the asylum process was limited (Aliens Act 646/2016) and the time limits for appeals on decisions were reduced.² Also in 2016, humanitarian protection was removed from the Aliens Act and thus was no longer granted (HE 2/2016), especially affecting Iraqi and Afghani asylum seekers, whose asylum claims were often denied but who could have received a residence permit on humanitarian protection grounds.

All in all, since 2015 the grounds for international protection have become stricter – this is not explained by a change in legislation but by a change in the interpretation of the law within the immigration service (Saarikomäki et al. 2018). In 2016–2017, Migri’s Country Information Service published several situational reviews on Afghanistan, Iraq, and Somalia. It was stated that several regions in these countries are safe enough that internal flight is possible in most cases, even if an individual cannot return to their old home region (Migri 2023)). The decision to end reception services for people who cannot be returned to their country of origin but who also cannot return voluntarily was taken in 2017 (Law on reception 176/2011 14 a §). A situation where one cannot return occurs when the country of origin does not receive deportees, or when there are no viable travel connections to the country of origin. However, there is still an assumption that people could return ‘voluntarily’. Because of this decision many people were left without reception services and a place to live. For example, Iraqi nationals were often at risk of falling into the category of non-deportable, as for several years Iraq did not receive deportees unless they had committed a crime in the country of destination.

In 2019, changes to the practices of confirmatory (reassessment) application were made. For Migri to reassess an application for which a decision was previously given, it requires that the application contains new facts or grounds that significantly increase the likelihood that the applicant should be considered as a beneficiary of international protection (Aliens Act 102 §). This is significant, because many asylum applicants’ cases were hastily and/or wrongfully processed, especially in the peak years 2015–2016, often resulting in dismissal or misrecognition of crucial information or outright suspicion of the applicants’ accounts, which lead to a negative decision even in many cases where the grounds for international protection were evident. After this amendment to the law, the applicants could no longer ask for their case to be reassessed unless they could provide new grounds or evidence.

In 2022, the changes made by Sanna Marin’s Social Democrat led government (in office 2019–2022) came into effect, which were designed to revoke some of the restrictions to the asylum seekers’ rights made by the right-wing government before them. The Aliens Act was changed so that if the family sponsor is a minor, there is no income requirement for family reunification. However, in other cases income requirements remained, and other legal obstacles related to family reunification remained as they were (Amnesty 2023). The use of legal counselling in asylum interviews was secured by making it possible to use external lawyers.

² An appeal against a decision of the Finnish Immigration Service must be lodged with the Administrative Court within 21 days of receipt of the decision, instead of the previous 30 days. An appeal to the Supreme Administrative Court must now be lodged within 14 days of the decision of the administrative courts, instead of 30 days (Aliens Act, 190 and 198 §). This was changed back to 30 days in both cases under the next government (in office 2019–2023) as it attempted to revoke some of the decisions made by the previous one (in office 2015–2019).

However, an applicant may choose their own lawyer only in the appeals phase, and the fees paid to legal counsellors is still inadequate.

In 2023, the law came into effect that extended the right to necessary non-immediate treatment to people without a residence permit. Previously only immediate treatment was given, except for some municipalities (e.g., City of Helsinki has offered broader health services from 2017 onwards). However, the current government is planning to again reduce the breadth of medical care to emergency care only.

2.1. Paradigm change in Finnish migration legislation: Orpo's government programme of 2023

Published in the summer of 2023, the current government's programme (Valtioneuvosto 2023c) includes a long list of planned changes to the Aliens Act, including, among other propositions, the following:

- **International protection** will be changed to temporary protection and reduced to three years for those who have received refugee status, and one year for those who have received subsidiary protection. Travel documents will be required for all residence permits applications. Moreover, the possibility for asylum seekers to apply for labour-based residence permits will be removed (Intermin 2023b), which would significantly reduce the chances of regularisation for many individuals.
- **Deportation and criminalization of irregularity.** The government aims to ensure that those who have lost their residence status will also lose their status at the municipality where they are registered, leaving them without social and health services (more in section 3.1). The possibility to criminalise irregular stay will also be considered.
- **Family reunification.** Several changes are planned, including limiting the notion of family to only spouse and children. 21 years will be the minimum age to be a sponsor, and the decision not to impose income limits for underaged sponsors, made by the previous government, will be revoked.
- **Labour-based and study-based residence permits.** An individual whose employment contract ends must leave the country if they have not found new employment within three months. The income limit for labour-based permits will be increased from 1,331 to 1,600 euros per month. Reliance on Finnish income support will lead to cancellation of study-based residence permits.
- **Permanent residence.** In the future, it is proposed that a permanent residence can be granted after a six-year residence period, with new additional prerequisites such as verified sufficient language skills. A shorter residence period of four years would be sufficient for those who earn at least 40,000 euros annually or hold a higher education degree completed in Finland, with other requirements.
- **Citizenship Act** will be reformed by extending the required period of residence in Finland to eight years, calculated as regular residence only. A citizenship test and language test will be introduced, and the income requirement may be tightened. Loss of citizenship will be made possible in some cases.

2.2. Key developments related to recent ‘crises’

In a matter of weeks after the Russian Federation’s attack on Ukraine in 2022, the European Commission proposed to activate the Temporary Protection Directive (2011/55EC) for the first time in history. The directive was originally drafted in response to the Balkan Wars in the 1990s as a means to protect displaced persons arriving from countries outside of the EU, but it was never implemented. The directive was activated on 4 March 2022, and it applied to Ukrainian nationals residing in Ukraine before 24 February 2022, as well as other nationals who were legally residing in Ukraine before 24 February 2022, and their family members (European Commission 2023). The directive applies to all EU Member States except Denmark, which has nevertheless introduced a similar national temporary protection scheme by adopting the Special Act on Temporary Residence Permit for Persons Displaced from Ukraine. Iceland, Norway, and Switzerland have introduced similar national temporary protection schemes as well.

Since the beginning of the Russian Federation’s unjustified attack on Ukraine in February 2022, nearly 6.2 million refugees have fled Ukraine, of which over 5.8 million reside in Europe. The numbers of Ukrainian refugees are comparable to other large refugee situations in the world. Since 2011, the Syrian civil war has forced over 12 million Syrians to leave their homes; 6.8 million have been internally displaced and over 5 million of them are living in neighbouring countries. Four decades of war and conflict has forced at least 8.2 million Afghans to flee to 103 different countries. The Afghan refugee situation constitutes the longest and the third-largest population of displaced individuals in the world. The political response in Europe in 2022 was in stark contrast with the response to the asylum crisis in 2015–2016 (Näre & Tkach 2023, also Merikoski 2023). The movement of less than 2.5 million refugees from Syria, Afghanistan, and other countries who applied for asylum in European states in 2015–2016 was considered a ‘crisis’ in the media and political discourses across Europe (Krzyżanowski, Triandafyllidou & Wodak 2018), and their arrival was met with wide political hostility. This was an increase of less than 700,000 asylum applications from 2014 (Eurostat 2017).

When compared to one another, these recent crises reveal the selectiveness of political will to help those fleeing war and other conflicts and crises. In Finland, over 64,000 Ukrainians have registered for temporary protection without causing an uproar in the media and without protest from the anti-migration fractions, contrary to the over 35,000 asylum seekers from Iraq, Afghanistan, and Somalia in 2015–2016. In winter 2024, as we are writing this, a border crisis at the Finnish-Russian border is ongoing. Russia has mobilised some hundreds of asylum seekers from countries such as Iraq, Afghanistan, Syria, and Yemen to the border - currently a little over 1,000 asylum seekers – which has caused Finland to close the border as a response to what is termed as Russia’s hybrid attack (more in 2.4).

2.3. The impact of the COVID-19 pandemic on irregularised people

The COVID-19 pandemic affected irregularised people in many ways; for example, migrants’ attempts to be reunited with their families or to seek an authorised entry route to Finland was limited due to embassy closures. Furthermore, people in undocumented or irregular situations were particularly vulnerable to the disease. One notable difficulty was to properly inform irregular migrants and ensure their access to adequate information. In Helsinki, various pop-up desks were set up to inform and advise people in irregular situations, as well as regularised foreign speaking populations in which the prevalence of COVID-19 was higher than in others, and to distribute masks to them. Because of the often crowded living conditions, irregular migrants’ possibilities for social distancing or quarantine were limited. An interviewed social worker (PUB1) commented that during the pandemic the restrictions and lockdowns had the largest effect

on the everyday life of those without a home, because closure of public places reduced the places where they could spend time when the weather was cold and people were ordered to leave emergency shelters during the day. Moreover, other possible chronic or untreated illnesses often worsened COVID-19 symptoms. While in some municipalities the testing and treatment for COVID-19 was not free, for the undocumented, depending on the municipality, some offered testing and treatment for free or for the same price as registered inhabitants. Importantly, some irregularised migrants were reluctant to get tested because they wanted to avoid giving information about themselves (Jauhainen & Tedeschi 2021).

2.4. The Finnish-Russian border closure

In autumn 2023, the number of asylum seekers arriving at the eastern border of Finland from Russia started to increase when Russia stopped preventing people without travel documents arriving at the Finnish border. In November, these mobilities were highly mediatised even though the total number of asylum seekers applying for asylum was very modest. The media and the politicians quickly named the asylum situation a 'Russia's hybrid operation'. Asylum seekers crossing the border were depicted as tools used by Russia and as threats to national security, while their need for international protection was publicly questioned by, for example, the Minister of the Interior. The total number of asylum seekers arriving at the Finnish border in autumn 2023 was approximately 1,000, the majority from countries with a relatively high acceptance rate in Finland, namely Iraq, Syria, Somalia, and Yemen (UNHCR 2023). However, the narrative was that it is not the number of asylum seekers that matters but the fact that Russian secret service is behind the transportation of these people to the border. The spokesperson of the Finnish parliament, Jussi Halla-Aho, representing the populist Finns party, asked on social media X whether these people could include Russian soldiers similar to the 'little green men' that entered Crimea in 2014.

The political will to close the entire Eastern border was high, and the border was closed. According to the Border Guard Act (578/2005), the Finnish government can decide to temporarily close a border crossing point if the closure is deemed necessary to countering a serious threat to public order, national security, or national health. The decision was made based on reports from the Border Guard that were classified as secret, which has made it difficult to assess how exactly the threat to national security has been assessed. The border closure is an example of the increasing securitisation of asylum seeking, which does not need to be based on real evidence of an actual threat that the asylum-seeking would pose. The decision has been widely criticised by legal professionals as violating the right to seek asylum at the border and the rights of national minorities (Council of Europe's Framework Convention for the Protection of National Minorities; Treaty Series 2/1998), as it in practice prohibits Russian speaking minorities in Finland and dual citizens from crossing the border and meeting their families. Dual citizens have now appealed to the High Administrative Court that the border closure violates their basic right to movement and their rights as a minority. The border closure is emblematic of a wider trend of challenging the fundamental right to apply for asylum.

2.5. Routes out of irregularity

In this section, we discuss the different residence permits through which migrants may seek to regularise their stay in Finland. As Finland does not have a regularisation scheme for irregularised migrants, regularisation must be sought within the existing residence categories.

Residence permits in Finland are issued on either a fixed-term or permanent basis. A fixed-term residence permit is granted either as a temporary (usually for one to two years) or as a continuous (renewable) permit (usually family-based permits and asylum). A permanent residence may be issued when the person has resided in Finland continuously for a minimum of four years. If the person is a third-country national with an EU residence permit in another country, they can apply for a permanent residence after five years of uninterrupted residence. For all residence permits, the general requirements are that the applicant has a valid passport, has not been prescribed a prohibition of entry, and is not considered a danger to public order and security, public health, or to Finland's international relations.

There are numerous residence permit categories in Finland, and sometimes residence can be granted based on 'other' grounds not specified in the list of permit types. The following paragraphs present the most relevant residence permit routes out of irregularity.

2.5.1. *Residence permits based on international protection*

Asylum is granted when a well-founded fear of being persecuted because of one's origin, religion, nationality, membership in a certain social group, or political opinions in the home country or the country of permanent residence can be proved, or when one cannot rely on the protection of the authorities of their home country because of persecution. If a person is granted asylum, i.e. a refugee status, it is currently for four years. After that, one needs to apply for an extended permit.

If the requirements for granting asylum are not met, Migri may grant the applicant a residence permit on the basis of subsidiary protection, in cases where they face a threat of the death penalty, execution, torture, or other inhuman treatment or punishment, or if the applicant cannot return to their home country without facing serious personal danger. Subsidiary protection is also a four-year permit, and extendable. A one-year permit on 'compassionate grounds' may be given if it would be manifestly unreasonable to make a negative decision because of the applicant's medical condition, ties to Finland, or other individual compassionate grounds.

2.5.2. *Residence permit based on employment*

For a non-EU citizen, applying for a residence permit for an employed person can be done from abroad or when in Finland. It always requires a valid travel document, even if one's identity can be proven. This puts several groups at a disadvantage. As discussed in 1.4., Somali nationals' identification documents are categorically not considered credible by the Ministry of Foreign Affairs (2023), so it is impossible to apply for a residence permit based on employment. There were also time periods when the *Tazkira* document used by nationals of Afghanistan was not accepted, although currently it is accepted.

For a non-EU citizen, the residence permit for an employed person is always subjected to a labour market testing that has two parts (more in section 3.3.: *Labour markets and employment regimes*). The cost of a first application is between 490 to 740 euros (for a renewal 160 to 430 euros) depending on the consideration or labour market testing, a partial-decision, and whether the permit was applied for online or in paper form (Migri 2023f). For migrants in irregular situations, the cost of applying for a permit can in itself form an obstacle to regularisation.

2.5.3. *Residence permit for victims of human trafficking or exploitation by the employer*

Victims of human trafficking are eligible for a temporary residence permit. One needs to cooperate with the authorities to help them catch the persons who are suspected of human trafficking, stay in the country for a court hearing, and can no longer be in contact with the persons suspected of human trafficking. Those deemed to be in a particularly vulnerable position may receive a continuous (renewable) residence permit without the need to cooperate with the authorities (Migri 2024g).

A one-year-long extension residence permit or certificate³ due to exploitation by the employer is available in some cases. According to the PICUM report on labour migration (2022), this permit type is not always unproblematic. For example, workers may be hesitant to leave exploitative employment because the legislation is unclear whether this type of residence permit would then include income limits on family reunification. Furthermore, the permit based on exploitation by the employer is valid only for one year and is not renewable.

An interviewed expert on labour exploitation (NGO6) mentioned that, in practice, the line between human trafficking and exploitation by the employer is not at all clear. However, from the migrant's point of view, for the situation to be deemed human trafficking can be advantageous, because they are then granted a continuous (renewable) residence permit with no income limits or working restrictions and they are also given additional support, for example mental health counselling. If the situation has not been deemed or proven severe enough and it is interpreted as 'only' employer exploitation, the situation is more precarious for the migrant worker.

2.5.4. *Residence permit based on family ties*

Applying for residence based on family relations to a Finnish citizen or resident is one of the most typical residence permit categories, and the family reunification process was the most common route to entering Finland up until 2015 (Fingerroos, Tapaninen & Tiilikainen 2016). Family migration and regularisation through family relations have been subject to several changes over the past 15 years, making it more difficult for people with a refugee background and/or low income to secure residence for their family members (more about these policy changes and family dimension in section 4.).

Victims of domestic violence may be entitled to a one-year extension to their permit if they have had a permit on the basis of family ties and that relationship has ended because of domestic violence. They have to have sufficient means in their bank account (min 1000 euros/month), and they need to meet the general requirements for a residence permit, such as possessing valid travel documents.

The bureaucracy of residence permit requirements is complex, and there are many different permit categories and requirements. The processing fees for many of the permit types for non-EU citizens are also very expensive, significantly adding to the difficulty. There are regular discussions in the political sphere and media about reducing the application times and making the bureaucratic burden lighter, but these openings are mainly about providing fast-track solutions for the so-called 'highly skilled migrants'.

³ As employees' residence permits are tied to their specific field of employment, a certificate is needed in order to be able to change to another field of employment from the field for which one's previous residence permit was given, e.g., from construction work to cleaning (Migri 2023i).

In 2021, the Ministry of the Interior conducted two inquiries into finding national solutions to the situation of individuals living in irregularity in Finland (Intermin 2021). The first inquiry evaluated the possibility of granting a full or partial regularisation for approximately 3,000 individuals (Intermin 2022a). The second concerned the possibility of granting a temporary residence permit or Alien's Passport⁴ to rejected asylum seekers who could apply for a residence permit based on work but who cannot do so due to the impossibility of meeting the travel document requirement (Intermin 2022b). This was the first time that the Ministry of Interior considered other options than removal orders to irregular migrants' situations (GVT3).

Simultaneously, but not related to these inquiries, the Right to Live activist network organized a citizen's petition for an amnesty for individuals who have lived in a prolonged status of irregularity in Finland. For a petition to be submitted to the Parliament, 50,000 signatures are required. The Right to Live petition received 51,800 signatures in June 2022 and the petition was submitted to the Finnish parliament on the 7th of June 2022 (Lupa elää 2023). However, none of these proposals went forward due to political resistance. The current, conservative-led Orpo government (2023–) programme includes proposals that will make it difficult for rejected asylum seekers to regularise their residence, as discussed above (see 2.1.).

2.6. Migration law enforcement: deportation, criminalisation

In international research, the term 'deportation' refers to different forms of removal from the country. In the Finnish language, there is an administrative difference between refusal of entry (*käännättäminen*) and deportation (*karkoitus*). Refusal not only refers to refusal at the border, but also to the removal of people already residing in the country but who do not hold a residence permit, whereas deportation refers to people who have a residence permit, but have, for example, committed crimes due to which they are being removed (Pirkkalainen, Lyytinen & Pellander 2023). 'Voluntary return' is a problematic term, as in practice it is rarely voluntary, as there are no other option available for the person returning.

A person can be prohibited from entering the Schengen area if, among other things, they are perceived as having evaded immigration regulations or they have applied for international protection and the application has been rejected (Migri 2023c). Clause 2 of article 36 § regarding evading immigration regulations is commonly used as grounds to deny a residence permit application. This creates a situation where, according to several interviewed experts, migrants are in practice being punished for attempting to regularise their stay in Finland when their attempts to seek alternative residence permit grounds after a failed asylum application is interpreted as 'evasion of immigration regulations'.

According to European Migration Network (2022), in 2022 the police removed a total of 1,740 persons from Finland. The figures have increased despite a decrease during the COVID-19 pandemic. The top 5 nationalities were Estonia, Russia, Iraq, and Uzbekistan. So far, the highest number was 6,657 removals in 2016. All in all, the number of removals is declining, and it can be seen to correlate with the declining number of asylum seekers.

⁴ An Alien's Passport is a travel document always given to those who have been granted a residence permit on the basis of subsidiary protection in Finland, or to those who have a residence permit on the basis of temporary protection but do not have a valid travel document. It may also be given based on other grounds, such as being stateless or not being able to apply for a travel document from the country of their nationality. In these cases, the Immigration service uses its discretion.

3. Entanglements with welfare regimes and employment

In this section, we discuss access to welfare services and rights that migrants in irregularised situations have. We begin by introducing the broader picture of social and welfare rights secured by law and the challenges irregularised migrants face when attempting to obtain those rights in practice. Furthermore, we discuss the entanglements between welfare and employment, as these spheres of life are often interlinked. While the right to work in Finland is dependent on the type of residence permit, and informal work sectors are relatively small in Finland, in practice people without residence permits must also make their ends meet. Furthermore, for those with a temporary residence permit, the dependence of the permit on one's employment contract makes vulnerable people and their families even more vulnerable, as we will discuss below.

3.1. Access to social and welfare rights in an irregular or precarious situation

In Finland, as in other Nordic countries, the basis to the right to health care and social services is residence, not citizenship. Residence is based on the Municipality of Residence Act (201/1994). The Municipality of Residence Act is currently (Feb 2024) being revised. In the future, for foreigners to obtain residence in a municipality would always require a residence permit or a residence card, or that the right of residence in Finland is registered with Migri (Valtioneuvosto 2023a).

The necessary social and health services must be provided by the municipalities in a situation that is presumed to be temporary where a person cannot secure his or her livelihood from other sources (*Sosiaalihuoltolaki* 12 §). In terms of financial aid, the Ministry of Social Affairs and Health's Municipal Guideline 2/2017 on emergency social and health services for persons without the right of residence in the country states that the necessary subsistence should be ensured, primarily by means of payment commitments (vouchers) and not cash.

As Katisko and others note (2023), the Finnish Constitution (19 §) dictates that everyone is entitled to immediate care and livelihood, and basic social rights should not depend on the municipality. The need for support should be individually evaluated. Their research shows, however, that the services and support given to irregularised groups vary greatly between municipalities. In practice, the provision of financial and social support differs depending on a person's place of residence in the country and whether it is considered to be temporary or other than temporary. This is evaluated by social workers and Kela (the Social Insurance Institution) on a case-by-case basis. If a person has been subjected to the decision to leave the country or removal, the nature of the stay is seen as temporary. In some cases, despite the temporary nature of a person's stay, they might be entitled to emergency and necessary financial support and essential medicines if the person is unable to support themselves otherwise (Katisko et al. 2023). However, according to an interviewed social worker who works with people in irregular situations, the financial support given is usually insufficient (PUB1). This also forces people to accept undeclared work and renders them highly vulnerable to exploitation (see also Jokinen & Ollus 2014).

Asylum seekers, however, are in a separate system during their asylum process. Their social and health services are provided through the reception centres, and they are entitled to a monthly reception allowance (55–290 euros), the amount of which depends on their own status (living independently or being sole provider), age (under or over 18 years old), and terms of the accommodation. Interestingly, following the logic of activating labour market policies, the amount of reception allowance can be reduced by 20 percent over a two-month period if the asylum seeker repeatedly and without due cause declines to participate in work and study activities organised by the reception centre (Finlex 16.6.2011/746). All in all, the low level of the reception allowance can in many instances force people to take on employment or seek irregular work.

All children have the right to attend comprehensive education, including pre-primary education when the child turns six, (the Constitution and the Basic Education Act), regardless of their residence status. For upper secondary education and vocational education, there are no specific legal provisions regarding the requirement for a residence permit. However, the universal right to day-care does not include families in irregular situations. Day-care is available in some municipalities, depending on the agency of NGOs and local social workers who evaluate the family's situation. At the other end of the education trajectory, it is impossible to apply for tertiary education without a residence permit or a recognised travel document. According to a law amendment in 2020, it has been impossible for asylum seekers to apply for a residence permit based on their student status (Lupa elää 2023). These restrictions have forced young migrants in irregular situations to pursue employment as the only way to secure a residence permit, thus limiting their prospects in the future (see also Näre, Bendixsen & Maury 2024).

The accommodation services offered to migrants in irregular situations vary depending on the municipality. Families with underaged children are usually provided with an apartment. Temporary shelter accommodation for the homeless is offered in many municipalities, but can be experienced as unsafe, and often one must leave the shelter in the morning and cannot return until the evening.

Several interviewees highlighted the differences between municipalities in Finland. The most comprehensive social and health services for undocumented or irregularised migrants are in Helsinki, which has its own centre for social and health services for migrants in irregular situation. An interviewed social worker commented that the differences between municipalities have sometimes led to a situation where other municipalities 'send' undocumented or irregular migrants to the capital region of Helsinki when they feel they have no services to offer, or they are unsure of how to handle the situation. An interviewed expert from the Ministry of Social Affairs and Health summarized the situation:

'There are still regions where they (social and health services) don't see the undocumented as their clients unless there is an urgent need of medical attention. In these regions migrants are directed to NGOs or parishes to get assistance, because they have always done so and they find it works well. [...] However, people should have the same rights regardless of where they live.' (GVT4)

Moreover, in addition to the different regional practices, overlaps in social and welfare institutional systems and bureaucratic processes also make it difficult to identify both prolonged and urgent needs. An interviewed social worker described a case in point:

'We have overlapping legislations, systems between which people are being pushed back and forth. (When their asylum application is in process) they are thrown into the reception system, and within that they may be placed elsewhere in the country, and each time the local service system and the providers change. Their doctors, social workers, psychologists, etc. [...] And then when there is a negative decision on the asylum process, they get thrown out of the reception system and to us (municipal social services) as an irregularised person, even if their appeal process is still ongoing in the administrative or higher court. And if there is also human trafficking involved, there is a third overlapping system in place, and that person is in a limbo between the municipalities, the reception system, and the assistance system for victims, where potentially very traumatised people are being juggled from one place to another.' (PUB1)

3.2. The right to work in Finland

For an EU citizen, the right to work starts immediately after a person has arrived in Finland, even though the registration process is still ongoing. However, the registration must meet certain grounds, and a person cannot be seen as a burden to the Finnish social security system (Migri 2023g). The registration of an EU citizen in Finland costs 54 euros (Migri 2023f). If a third country national with a residence permit in another EU country wishes to work in Finland, the person must apply for a residence permit based on employment. As for holders of an EU permanent residence permit, their right to work is valid only in the EU country that granted the permit (Migri 2023h).

Students from non-EU countries are granted a temporary permit for the duration of their studies if the applicant has a study place in Finland, has paid the potential tuition fee, and are in possession of sufficient funds in their bank account (6,720 euros). The holder of a student permit has the right to work if the average amount of work is 30 hours or less per week. The limit used to be 25 hours per week during the study semester, which made it difficult for many students to earn enough to cover living expenses in Finland within the worktime restriction, resulting in many students working extra hours informally (Maury 2022). Upon graduation, one can apply for an additional year of temporary residence to seek a place of employment and be eligible for a work permit without labour market testing (Finnish Aliens Act, 301/2004).

During the period of waiting for the decision on their asylum application, asylum seekers have a right to work if they hold an official travel document. Even so, one must wait at least 3 months before they are able to start working. However, if a person does not possess an official travel document, they must wait 6 months to gain the right to work. If an asylum seeker receives a negative decision on their asylum claim, they can appeal to the Administrative Court within 30 days. During the period the asylum seeker waits for a decision they can continue working. If the asylum application is rejected and the person is unable to appeal within 30 days, the right to work is terminated, leaving people in a situation in which they have to either stop working or work irregularly. As Näre and Maury (2024) discuss, the bureaucratic processes are unpredictable. The time window within which an asylum seeker can seek regularisation to their situation through another residence permit category can close at any point, because when the decision from the Administrative Court arrives they are no longer entitled to work legally. Similarly, an asylum seeker can be rendered deportable from one day to the next. In the case of a new asylum application, the same rules apply as with the first application, and the right to work starts after 3 or 6 months, depending on the holding of a valid travel document. An asylum seeker is not allowed to work as an entrepreneur or as a freelancer, because according to the Aliens Act an asylum seeker must be in an employment relationship (Migri 2023d). They can, however, work for free as unpaid trainees, or in voluntary work.

Individuals whose residence permit has expired and who, for various reasons, have not had their residence permit renewed in time, do not have the right to work regardless of the grounds of the residence permit.

3.3. Labour markets and employment regimes

Most migrant workers in Finland hold a residence permit of some type. In order to apply for a residence permit based on employment, as mentioned above, one has to have a valid travel document, even if one's identity can be proven otherwise, and a work contract or a formal job offer, as well as the necessary qualifications for the job. Furthermore, labour market testing will be done unless the labour sector is exempted from labour market testing. Labour market testing means that the employer must advertise the

vacancy for at least two weeks on the website of the Employment Office and indicate in their statement the number of applications received, and why no national or EU/EEA candidate was suitable for the job. The worker's salary must be enough to count as sufficient means to maintain oneself in the country. (PICUM 2022, 4). The second part of labour market testing is evaluating the terms of employment and whether they adhere to collective labour agreements. This evaluation is done by public employment offices. According to §5 of the Seasonal Work Act, seasonal work permits require that certain conditions are met. A seasonal work permit, seasonal work visa, or seasonal work certificate can be granted depending on the person's nationality and the duration of the work (always less than 90 days) (Migri 2023f).

The informal sector of the Finnish labour market is not very visible, but it does exist. An increasingly common practice used by employers is to change an employment contract into a service agreement in order to save all employer costs without the worker necessarily understanding the difference, or even without the worker's knowledge. This practice is common in the cleaning and construction sectors, but also in forestry. Importantly, applying for the renewal of a labour-based residence permit based on a service agreement is impossible.

Acquiring a residence permit for an entrepreneur requires a valid identification document, and also a decision that the entrepreneurship will be profitable in the future (Migri 2023e). For example, food delivery workers may in theory apply for an entrepreneur's residence permit, but in practice it can be difficult to meet the requirement for future income. Many delivery workers or cleaners in irregular or precarious situations rent the company's platform profile from someone else, which may result in exploitative situations, as they usually have to pay a percentage of their earnings to the profile owner.

3.4. The labour sectors of agrifood, cleaning, and domestic work

3.4.1. *Agrifood*

It is difficult to obtain statistics on the number of migrant workers in the agrifood sector in Finland. The number of all foreigners who are employed in agriculture and forestry in Finland in 2022 was a little over 3,700, which corresponds to approximately 7 percent of the workforce in this sector. However, this number does not include seasonal workers in the sector. Migri's statistics on seasonal workers from the past four years show that the number of seasonal workers varies between a little over 1,100 to over 1,700 people (Migri 2024f). Until 2022 the majority of seasonal worker visas were granted to Ukrainians, but with the temporary protection scheme they no longer need a residence permit for seasonal work, and Vietnamese have thus become the most prevalent nationality applying for seasonal work visas (Migri 2024d).

According to the interviewed Migri officer, there is a lot of unclarity in the agricultural sector, especially in berry picking, which is a typical form of seasonal work in Finland. People who work in strawberry farms require a seasonal work visa, certificate, or a permit, and their employment is tied to the employer, who is obliged to provide accommodation, and the workers are also entitled to use municipal health services. The pickers of wild berries, however, require a tourist visa, because the work is not based on formal employment and has no employment protection. Since 2005, between 2,000 and 4,000 wild berry pickers have come to Finland to work in July-September with a tourist visa, mainly from Thailand. Several cases of human trafficking for labour purposes of Thai pickers have been revealed over the years. The Ministry for Foreign Affairs in Finland has decided not to grant tourist visas for Thai berry pickers in 2024. Although there is a distinction in the legislation between these two types of berries (wild forest berries and farmed berries), in

practice the distinction is not clear cut. Those employed to pick strawberries at a farm often also pick and sell wild berries or mushrooms in their free time, with or without the mediation of their farmer-employer.

In the summer of 2021, the so-called 'Berry Law' came into effect concerning the pickers of natural products (*Laki luonnontuotteita keräävien ulkomaalaisten oikeudellisesta asemasta 487/2021*), which aims to clarify the situation and ensure the rights of pickers. According to the law, the picker holds the right to determine their own working hours and sell the natural products they pick to a party of their choice (The Occupational Safety and Health Administration in Finland 2023) – at least on paper. Despite the 'Berry Law', the wild berry pickers are not entitled to social and health services, and they might be subjected to exploitation by the party who has organised their travels and picking infrastructure (Interview EXP3). In December 2022, the Ministry of Employment and Economy submitted a report to Parliament on the effects of the law. It is estimated to have improved the position of workers, although the short implementation period makes it difficult to assess the impact. However, it is clear that the Berry Law has not completely eliminated the problems in this sector (Valtioneuvosto 2023b).

3.4.2. *Cleaning and domestic work*

The cleaning and domestic work sectors are heavily migranticised in Finland: 29,2 % of workers in these sectors have a migrant background. Cleaners and domestic workers come from various backgrounds, but Filipino domestic workers are an important group. In the capital region, the figure is significantly higher, as 63% of cleaners in the region are foreign-born (Näre 2024; Saukkonen 2022). Cleaner is the most common job for a migrant in Finland, regardless of their educational background (Näre 2024). This is due to both legislation and racism in the Finnish labour markets (see below). Since 2015, cleaning and private care and domestic work have been exempted from labour market testing in the capital region of Helsinki. This gives a strong incentive for migrants to find employment in this sector, and thus directs migrant workers to low-skilled sectors (Wide 2023). According to existing research (e.g. Jokinen & Ollus 2014) and the interviewed experts, cleaning is one of the most common sectors in which irregular migrants are employed.

Migrants working in cleaning have different types of employment. Some work in a platformised settings for cleaning companies that sell cleaning services, often through a digital application. These jobs have the same issues that most platform type jobs have, such as no guaranteed hours and a forced entrepreneurship contract. On the other hand, platform-based gig jobs provide much needed income possibilities for irregular migrants, with some level of formalisation. Compared to completely informal work, the payment is at least secured through the application. There is a low threshold for registering on the app, and even though proof of identity and a work permit might be required this can be circumvented by renting someone else's account. Clearly, in such situations, the worker is vulnerable if they are dependent on another person's account.

A fairly typical arrangement in the big cities is a so-called cleaning circle, a small company typically set up by a local supporter in order to secure a residence permit for a migrant they are close to. All members of the cleaning circle pay a fixed sum monthly for house cleaning, and thus the person employed full-time by the circle may apply for a residence permit based on employment. The permit is renewable as long as the job continues and other residence permit requirements continue to be met. After the decline in successful asylum applications in 2015–2016, many activists and host families of asylum seekers organised cleaning circles for asylum seekers they supported in case they could not gain residence based on international protection.

3.5. Discrimination and the racialisation of labour and immigration regimes

According to several recent European Union Agency for Fundamental Rights (FRA) reports, experiences of racist discrimination are very common in Finland. According to the latest report (FRA 2023), 57% of people of African descent have experienced discrimination⁵ in the last 12 months, and 66% in the last five years. Furthermore, quantitative and qualitative academic research on discrimination in the Finnish labour markets demonstrates that a high level of discrimination exists and, for example, people with ‘foreign-sounding names’ find it difficult to find employment that matches their qualifications (e.g., Ahmad 2020). Not employing foreigners or not promoting foreigners to tasks matching their qualifications is often justified by employers by their lack of Finnish language skills. This is common even though many workplaces nowadays operate in English in the more highly educated sectors, as well as in tasks where mediocre Finnish (or Swedish) would be adequate. Finding housing is similarly difficult with a foreign name. In the 2023 FRA report, Finland had the highest prevalence of experienced racial discrimination (62%) in the housing market of the studied countries.

Differential legal treatment of third-country nationals vs. EU nationals, for example groups such as Somalis vis à vis access to residence permits, point to structural racism and constitutes de facto discrimination based on nationality. While discretion is used in the case of EU nationals’ family members’ registration, and there is no set income limit and the needs are assessed on a case-by-case basis, the relatively high income requirements for the family reunification of third country nationals also point to structural racism.

The differential legal treatment of third-country nationals vs. EU nationals and citizens is also present in the income requirements set by different institutions. The Social Insurance Institution of Finland (Kela) has set an income level of 800,02 euros per month as the threshold that entitles a permanently employed person to access social security benefits in Finland (Kela 2024), while the income level for a labour-based residence permit for a third-country national is much higher, at 1,331 euros per month (Migri 2024d). Similarly, the income levels required for family reunification are high: if a person earns the median Finnish salary, which was 3,411 euros per month in 2022 (Statistics Finland 2024), a sponsor could only afford to bring a spouse and one child. This is because the income requirement for two children and a spouse is more than 3,500 euros before tax, with the requirement rising with each child (Migri 2024e). Thus, most migrants must earn more than the median Finnish salary in order to be reunited with their families. As most migrants in practice earn less than that from one job, this forces individuals to hold several jobs simultaneously.

The Roma people and the so-called ‘mobile population of the Eastern Europe’, have to rely heavily on the third sector as a provider of basic social services. For example, there are day centres and night shelters specifically for the Roma, whose housing situation is often difficult. The city of Helsinki has financed some third sector service providers that organise housing for the Roma. According to an interviewed representative of city of Helsinki, this is now considered problematic, because there should not be services offered to only some ethnicities which exclude others, as all public services should be offered based on individual need (PUB 1). However, as the Roma have specific needs and they are a heavily discriminated group, removing the public support of these specific NGO services will most likely have a negative impact on an already extremely marginalised group’s wellbeing and housing situation.

⁵ Areas of life where one has experienced discrimination in the FRA survey are looking for work, being at work, education (as a student or as a parent), health, housing, and accessing administrative offices or public services, or other services, such as restaurants and bars, public transport, and shops.

4. Household dimension: Families, gender, and generation

The requirements for family reunification have been subject to several changes over the past decade and a half. These changes have made it more difficult for people with a refugee background to reunite with their families and increased precarity for individuals and families who are in a temporary or irregularised situation. In 2010, several changes regarding family reunification were made to the Aliens Act (549/2010). These changes were introduced in order to bring certainty to the recognition of 'real' family ties and to stop assumed misuse of the procedure (Fingerroos, Tapaninen & Tiilikainen 2016). For example, medical age evaluation was added to minor's applications. Also, in the same year, the law on integration (1368/2010) affected family reunification: the sponsor (*perheen­kokoaja*) residing in Finland could no longer file the application for their family members; instead, family members had to file the application in person at their nearest Finnish consulate that accepts such applications in order to be biometrically identified. In practice, this made it difficult for many families to be able to file the family reunification application. Especially in Africa and Asia, the Finnish embassies are located sparsely, and traveling to them is often costly and dangerous. Furthermore, the applicant must provide valid travel documents and proof of legal stay in the country of the embassy (Fingerroos, Tapaninen & Tiilikainen 2016). The task can thus be a difficult – or even impossible – one. For example, family members in Afghanistan must travel to India to file the application at the Finnish affiliate in Delhi, and again for a possible interview (see Näre 2020b).

Income requirements for family reunification for most residence types, including people who have been granted international protection, were introduced in 2016. Exceptions to the rule are underaged sponsors, those who have been granted asylum status, and if the application is filed by family members within three months of receipt of the sponsor's residence permit. The family must be an 'existing' one, i.e., one that was already a family unit before the sponsor arrived in Finland, so a family made for example during the asylum process does not count. There is a heavy emphasis on blood relations and the nuclear family unit. However, blood relations or formal family ties may not be enough if it is evaluated that the family has not led 'a real family life'. It is also mentioned by the Ministry of the Interior that the Finnish definition of a family member 'does not correspond to the concept of family in other countries in all cases, because the Finnish concept is narrower than in other countries' (Intermin 2023d).

An evaluation of the child's best interest is always done, and it is stressed in Migri's guidelines dated 30.6.2021 (Migri 2021) that the child's best interest does not automatically mean that the child's parents can also have residence permits. If there is reason to believe that the parents have sent the child deliberately ahead with the purpose of gaining residence for the whole family, the application may not be successful. This is deemed a pattern of unwanted migration that can be perceived to be against the child's best interest. When the child's best interest is evaluated, it is in some cases perceived that fathering can be done remotely, or sometimes the father is not perceived as living a real family life with the family, whereas living with a mother is almost always considered to be within the child's best interest. In cases where the family has been dispersed for several years, this can be read as a fundamental break in family ties.

According to the UN Convention on the Rights of the Child, all children have the right to be registered at birth and the right to acquire a nationality. Hence, the Finnish Nationality Act also recognises a child's right to nationality if a child is born in Finland, does not possess the nationality of another state, and does not have a secondary right to acquire the citizenship of any other foreign State (Nationality Act 203/359).

It is relatively common, according to the interviewed experts, that there are different residence statuses within a single family. Some members may have been granted a residence permit while others stay in a precarious or irregular situation. This creates a situation in which some members of the family are entitled to some services while others are not, and in some cases people are afraid to seek help because they are worried about their irregularised family member and do not trust social services. The situation depends greatly on what kind of statuses the family members hold. If the other partner is a citizen or a permanent resident, the situation is relatively easier, although that may also bring about abusive situations due to an imbalance of power. Because many families' residence permits are dependent on the family sponsor's income this creates vulnerabilities in the labour market, as workers may be reluctant to report employment-based exploitation. Furthermore, the reliance on a family member makes it difficult for victims of domestic abuse to report it and/or separate.

In the case of an irregular family's breakdown, the parent who stays with the children is usually entitled to municipal housing, while the other is not, and they may have to rely on an emergency shelter or friends' hospitality, which makes it difficult for the other parent to keep up a relationship with their children. Furthermore, income difficulties usually increase after separation. Thus, children's rights (such as the right to family life) in a case of family breakdown are often not achieved to an adequate standard.

5. Concluding Remarks

Based on the analysis of legal and policy documents, reports, and interviews with experts, we have identified some key features of the production of irregularity in Finland and of the rights of those living in an irregularised situation. There are a range of individual situations and routes into irregularity, as explained in section 1, with rejected asylum seekers being one of the most precarious groups, but some groups such as Somalis also find it impossible to regularise their residence due to structural discrimination. The Finnish Aliens Act is an extremely complex piece of legislation that grants individual officers great discretionary power. This, according to the interviewed experts from the Ministry of Interior, creates opportunities to utilise the legislation flexibly (GVT3). This flexibility can then result in a situation where immigration officials can change the rules of interpretation according to the influence of political powers or the effects of the wider migratory situation. As Saarikkomäki and others (2020) demonstrated in their analysis of Migri's decisions, the officials changed the way they interpreted credibility as a reaction to an increase in the number of applications. This is remarkable in a country like Finland, that prides itself on being one that follows the Rule of Law. Similarly, the ongoing closure of the Finnish-Russian border testifies to how politically contentious and securitised a phenomenon asylum-seeking is in Finland. Even a very small number of asylum seekers has resulted in the removal of the de facto right to apply for asylum based on a 'security threat' challenging individuals fundamental rights.

Employment is one of the main routes out of irregularity. However, the possibilities for employment for migrants in irregular situations are limited because of the requirements for the residence permit. For example, the requirement for possessing a valid travel and identification document excludes certain nationals and groups from applying for the permit even if they find employment. The lengthy bureaucratic processes can also result in a situation in which recognized travel documents expire but the person has no possibility to renew them. This Catch-22 situation is well known at the Ministry of the Interior, but even during the previous left-wing government led by Sanna Marin there was no political will to remedy the situation.

Moreover, a person's legal status is tied to their employment, which may cause further precarity and difficulties, as it makes these people vulnerable to work-based exploitation. The analysed policy texts and interviewed experts also pointed out the problematic entanglement of family life and working conditions on several levels. For example, the threshold to report exploitation at work is high if one's family's residence permits are tied to employment by the sponsor.

The accessibility of social and health services varies between municipalities. In Finland, Helsinki has the longest tradition of offering the most substantive social and health services for migrants in irregular situation. In other municipalities, the social and health service workers' lack of knowledge can be problematic and have an effect on how migrants in irregular situations can access services. The fragmentation of reception and social and health service institutions can also cause stress and harm for people who are already in a vulnerable situation. The current law that extended the right to necessary non-immediate treatment to people without a valid residence permit has improved the situation for irregularised migrants, but the current government's intention to revoke it, if implemented by municipalities and regions, will be a setback.

Families in irregular situations face many difficulties when attempting to regularise their stay. Even if one member of the family can regularise their status, establishing residence for the rest of the family is not a straightforward process. Family reunification is difficult, and it includes income requirements, proof of

family ties, and an adequate reason for the possibly long-term separation. Different legal statuses within a family are also common, and cause further uncertainty and stress.

The current Orpo-led right wing government, elected in 2023, is planning to introduce several changes that will have an impact on the lives of irregularised and precarious migrants, and on the possible routes into and out of irregularity. As of now it is impossible to say how many of the proposed changes will actually take effect and in what form, but it is safe to assume the situation will be worse in the future for vulnerable groups than before, and regularisation will be significantly more difficult. The proposed changes in migration legislation signify a paradigm change in Finnish migration policy. The proposed changes create an increasingly hostile environment for individuals seeking international protection in Finland. Finally, the general tightening of conditions for regular residence permits risks pushing increasing number of individuals into irregularity and precarity.

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Appendix 1: List of referenced and analysed policy texts

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Appendix 2: List of interviews

SECTOR	POSITION	ORGANISATION	DATE	CODE
NGO	Expert	Physicians for Social Responsibility	10.10.2023	NGO1
NGO	Lawyer	The Finnish Refugee Advice Center	17.10.2023	NGO2
NGO (international)	Lawyer	Amnesty	19.10.2023	NGO3
Government	Official	Ministry of Economic Affairs and Employment in Finland	19.10.2023	GOV1
Public	Head of social work	City of Helsinki, Social services	25.10.2023	PUB1
Public	Head of section	Finnish Immigration Office, work permits	30.10.2023	PUB2
NGO	Expert	Victim Support Finland	31.10.2023	NGO4
NGO	Expert	Turun Valkonauha ry	01.11.2023	NGO5
Government	Expert	Ministry of Social Affairs and Health	09.11.2023	GOV2
Government	Official	Ministry of the Interior	13.11.2023	GVT3
Government	Expert	Ministry of the Interior	13.11.2023	GVT4
NGO (international)	Expert	The European Institution for Crime Prevention and Control	23.11.2023	NGO6

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