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Finland Country Brief on Irregular Migration Policy Context

AUTHORS:

Jussi S. Jauhiainen, Selma Smolander and Henri Toivonen



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THE MIRREM PROJECT

MIRREM examines estimates and statistical indicators on the irregular migrant population in Europe as well as related policies, including the regularisation of migrants in irregular situations.

MIRREM analyses policies defining migrant irregularity, stakeholders' data needs and usage, and assesses existing estimates and statistical indicators on irregular migration in the countries under study and at the EU level. Using several coordinated pilots, the project develops new and innovative methods for measuring irregular migration and explores if and how these instruments can be applied in other socio-economic or institutional contexts. Based on a broad mapping of regularisation practices in the EU as well as detailed case studies, MIRREM will develop 'regularisation scenarios' to better understand conditions under which regularisation should be considered as a policy option. Together with expert groups that will be set up on irregular migration data and regularisation, respectively, the project will synthesise findings into a Handbook on data on irregular migration and a Handbook on pathways out of irregularity. The project's research covers 20 countries, including 12 EU countries and the United Kingdom. This Deliverable of 15 country briefs is developed as part of Work Package 3 Politics: Understanding Legal and Policy Contexts.

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KEYWORDS

Irregular migration; policy measures; pathways into and out of irregularity

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Finland

This Brief provides an abridged overview of the national policy landscape on irregular migration in the country, based on a more extensive policy analysis. It also provides an overview of the main types of migrant irregularity that emerge and the pathways into and out of irregularity, including regularisations as relevant. Annexed to this Deliverable is also an overview of the mapped legal and policy frameworks.

1.1 POLICY PRIORITIES

- **Forced and voluntary return**

To facilitate the return of those individuals who have entered or stay in Finland irregularly (irregular migrants, undocumented migrants, or paperless persons), and to decide on what kind of measures to take for individuals who cannot be returned to their country of origin (Ministry of the Interior, 2022). According to the Government of Finland (2023, p. 221), “rejected asylum applicants will return or will be returned to their countries of origin as soon as possible. The principle of non-refoulement will be complied with. The Government will ensure that the asylum process will not become a channel for job seeking and labour immigration.”

- **Social and health care services for irregular migrants**

The most recent change to social and health services took place at the beginning of 2023 under the leadership of Prime Minister Sanna Marin's government, when every individual, with special focus on irregular migrants, was granted the right to necessary health care throughout Finland (Government of Finland, 2020). Prime Minister Petteri Orpo's government, active since June 2023, considers measures so that irregular migrants would only be entitled to urgent health care and social services.

1.2 OVERVIEW OF THE FINNISH POLICY FRAMEWORK

See Annex 1 for an overview of the legal and policy frameworks mapped for this country.

1.2.1 Policy implementation measures

- **Reforms in the Aliens Act**

The Aliens Act (301/2004) is a standalone legislation that determines the conditions of non-citizens in Finland. In 2015, an amendment to Section 51 of the Act had significant implications for irregular migrants. Prior to the amendment, individuals, whose asylum request was rejected and who were uncooperative with authorities, could obtain temporary residence permits. However, the amendment excluded such individuals, thereafter, only granting permits to those facing other obstacles to their removal from the country. Humanitarian protection was further removed as a reason to grant the residence permit in 2016. This has subsequently contributed to the increase of irregular migrants in Finland (Wahlbeck 2019; Jauhiainen & Tedeschi, 2021).

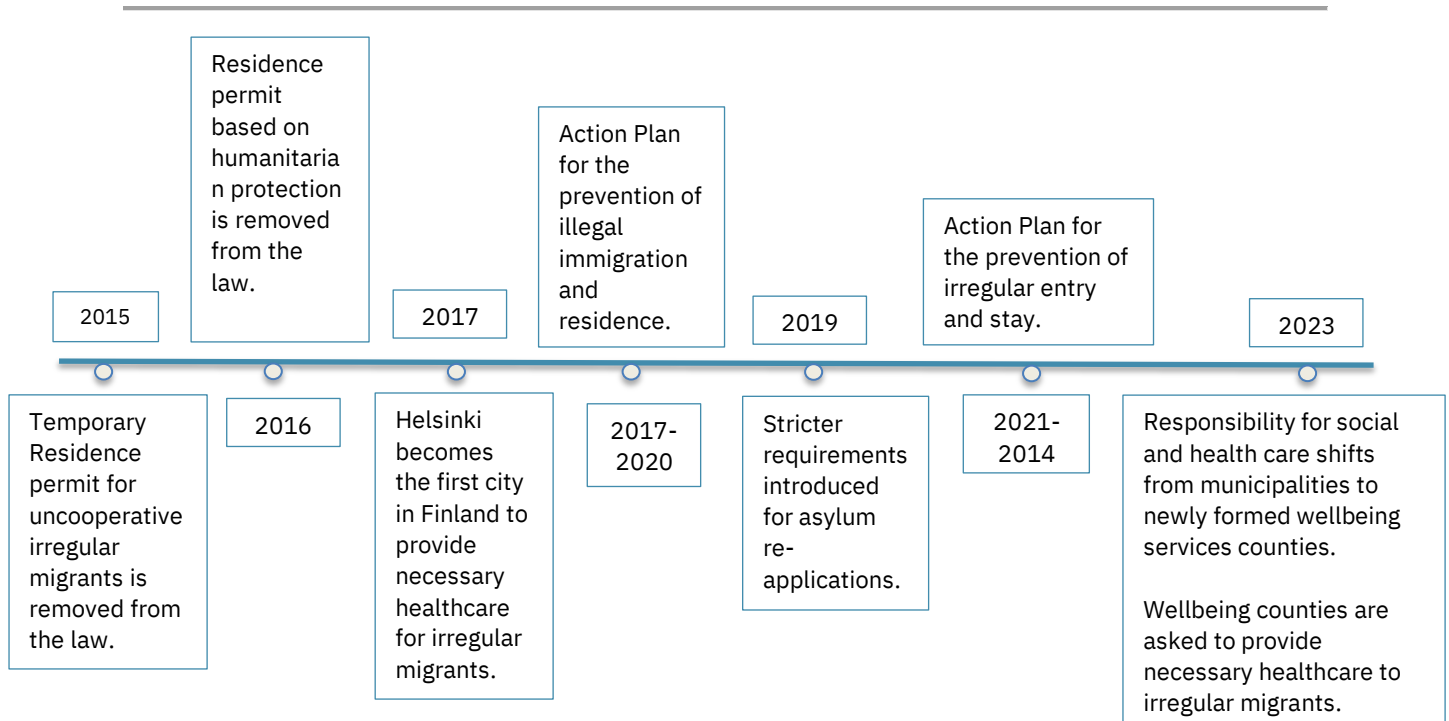
- **Action Plan for the Prevention of Irregular Entry and Stay for 2021–2024**

This comprehensive plan encompasses a range of actions, such as promoting both forced and voluntary return options for irregular migrants and examining potential avenues for enabling their continued presence in the country, such as through employment opportunities. The primary objective of the Action Plan is to proactively combat the emergence of a “shadow society”, referring to the population of irregular migrants (Ministry of the Interior, 2021).

- **“Firewall policy”**

A notable, though not yet official, practice is the implementation of a “firewall” policy, which permits irregular migrants to report crimes, access healthcare and compulsory basic education without fear of arrest and subsequent forced removal from Finland to the country of origin. This practice is implemented in some but not in all municipalities throughout Finland. However, not all national and local authorities agree with NGOs about the best practices if and when to implement firewall policies (Katisko et al., 2023, p. 66, 88).

1.2.2 Policy evolution: Main turning points



1.2.3 Policy impact

- **Change in the Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings (746/2011) Section 14a**

The revision restricted the duration of reception services solely to individuals who had received a negative decision regarding their international protection application and who could not effectively be repatriated by the authorities. The majority of the over 32,000 asylum seekers who arrived in 2015 did not secure asylum or other residence permits, therefore shifting into irregular status. For these migrants, reception services were no longer available (Act on the..., 2011; Wahlbeck, 2019).

- **Abolition of the basis of humanitarian protection in the Aliens Act**

The removal of the humanitarian reasons in 2016 for granting residence permits in Finland, as stipulated in the Finnish Aliens Act, had a comparable effect to the situation described earlier. This legal change and its subsequent application specifically affected individuals who were previously eligible for a residence permit based on humanitarian grounds (Aliens Act, 2004; Wahlbeck, 2019; Jauhiainen & Tedeschi, 2021).

- **The establishment of wellbeing services counties in early 2023**

This reform involved the transfer of responsibilities for organising social and health care, as well as rescue operations, from more than 300 municipalities to 21 welfare areas across Finland. As a result, the services pertaining to the irregular migrant population also fell under the purview of these well-being services counties (Laki sosiaali... 2021). Given the recent nature of this reform, assessing its effects accurately remains challenging.

1.2.4 Policy Challenges in Addressing Migrant Irregularity

- **Forced and voluntary returns**

Issues related to the return process cause administration challenges between different actors. A prominent issue revolves around determining the appropriate course of action for individuals who cannot be returned, as well as those whose returns are disrupted due to various factors. The main challenges concern affecting return to certain third countries and the lack of functional cooperation with certain third countries in that regard (Könönen, 2018; Jauhiainen & Tedeschi, 2021). The Government of Finland (2023, p. 224) “promote the conclusion of agreements on the return of third-country nationals” [from Finland].

- **Discrepancies and varying interpretations of current legislation**

A significant challenge that was evidenced in the interviews related to varying interpretations of existing legislation and policies (see also Pirjatanniemi et al. 2018; Saarikkomäki et al. 2021). In instances where specific guidelines are followed, certain aspects of interpretation are delegated to lower levels of governance. This can potentially lead to variation in the treatment of the irregular migrant population.

- **Knowledge gaps among authorities and migrants themselves**

Irregular migration is not a well-understood phenomenon among all authorities. The lack of data about the ongoing situation of irregular migration creates knowledge gaps among different authorities. In addition, irregular migrants themselves are not always aware of their rights (see Jauhiainen & Tedeschi, 2021).

- **Geographical challenges**

Geographically, the capital city of Helsinki and its surrounding region are major hubs for irregular migrants. These areas not only attract a larger number of international migrants and irregular migrants, but also provide a greater concentration of services offered by the public sector and non-profit organisations. They also provide employment opportunities in the private sector. In contrast, in municipalities with very few irregular migrants and a small number of immigrants overall, irregular migrants often stand out from the majority population, making it more difficult to remain unnoticed in these municipalities (see Jauhiainen & Tedeschi, 2021).

Table 1: Relevant Finnish institutions

Sr. No.	Institution/ Department	Responsibilities	Weblink
1.	Ministry of the Interior of Finland	Develops Finland's migration policy and oversees the Finnish Immigration Service, the Police of Finland, and the Finnish Border Guard.	Link (EN)
2.	Finnish Immigration Service	Makes decisions related to immigration, asylum, refugee and citizenship matters.	Link (EN)
3.	Police of Finland	Enforces immigration laws and regulations, including those related to irregular migration.	Link (EN)
4.	Finnish Border Guard	Monitors the entry of people crossing non-Schengen borders and enforces the rules and regulations related to immigration and border security.	Link (EN)
5.	Ministry of Social Affairs and Health	The Ministry's area of responsibility includes questions related to social services and health services for irregular migrants.	Link (EN)
6.	Wellbeing services counties	Since 2023, there are 21 wellbeing services counties in Finland, which are responsible for organising regional social and health services.	Link (EN)
7.	Social Insurance Institution (KELA)	KELA reimburses wellbeing services counties for the costs of urgent social services. The wellbeing services county can receive compensation if it has provided urgent social services to a person who has received a negative asylum decision and whose reception services have ended.	Link (EN)

1.3 THE SPECTRUM OF MIGRANT IRREGULARITY IN FINLAND: CATEGORIES AND PATHWAYS INTO/OUT OF IRREGULARITY

Table 2: Categories of migrant irregularity in Finland

Most relevant categories of migrants in an irregular situation	Description (who does this category apply to, what conditions may lead to this category, and what are the implications of being in such a situation)
Asylum seeker whose request for international protection was rejected, i.e. did not lead into international protection or residence permit	Individuals who have sought asylum in Finland but did not receive a positive decision, followed by various situations where they continue to reside in the country. This category encompasses individuals who received a negative asylum decision and remain in Finland, exceeding the 30-day limit after a negative asylum decision without appealing or reapplying. It includes asylum seekers who disrupt the asylum process by failing to attend asylum interviews, as well as those who remain in Finland for more than 90 days after applying for assistance to voluntarily return to their home country.
Individual granted a residence permit according to the now-outdated section of the Aliens Act	Individuals who were previously granted residence permits on the basis of humanitarian protection or who were previously granted a temporary residence permit due to obstacles to removal from Finland, but lost their right to residence permit after the Aliens Act was amended.
Individual who bypasses the asylum process upon entering Finland	Individuals who flee conflicts or are asylum-related migrants but fail to initiate the asylum process; individuals who enter Finland but are too afraid to inform the authorities; individuals who fail the asylum process in another EU country but reside irregularly in Finland; and individuals in Finland who, under the Dublin Regulation, are unable to initiate the asylum process in Finland.
Overstayer	Individuals who entered Finland with a valid visa but subsequently failed to renew it or leave the country after the visa has expired, as well as those whose fixed or continuous residence permit expired or terminated without renewal. It includes individuals who unknowingly overstay their residence permits, as well as those who later become afraid of informing the authorities about it. Individuals with a residence permit from another EU member state who stay in Finland for over 90 days without informing the authorities or decide to reside in Finland for work reasons without permission.

Individual who enters Finland without permission but who does not perceive the need for protection	Individuals who have been residing in Finland irregularly and have never applied for a residence permit, as well as third-country nationals who entered Finland without a visa or despite being barred from entry.
Most relevant categories of migrants with a reasonable claim to a provisional status	Conditions (e.g. who does this category apply to, under what conditions, who is exempted, implications)
Rejected asylum seeker who cannot be returned	Reasons for the inability of the authorities to initiate the return of rejected asylum seekers include medical reasons, inadequate travel documentation, the refusal of the person's country of origin to accept their return, or the existence of ambiguous and challenging conditions in the country of origin, making it difficult for the person to be returned. These individuals can be granted a temporary residence permit.
EU/Nordic citizens from another EU member state or Nordic country without residence rights	Conditions (e.g. who does this category apply to, under what conditions, who is exempted, implications)
European Union citizen who fails to register their residency	These individuals are required to register their stay in Finland if their duration of stay exceeds 90 days. Additionally, they must demonstrate their ability to provide for their own livelihood during their stay. The regularisation of their situation occurs simply by registering their stay with the authorities.
Citizen from Denmark, Iceland, Norway or Sweden who fails to register their residency	These individuals are obligated to register their stay in Finland if their duration of stay exceeds six months. Unlike the previous group, these individuals are not required to provide proof of livelihood. The regularisation of their situation occurs simply by registering their stay with the authorities.
European Union citizen who fails to comply with an order to leave the country	These individuals have been deported or ordered to leave Finland due to their inability to meet financial obligations or support themselves adequately, or based on considerations of public safety. Members of the latter group can be given an entry ban of up to 15 years.
Citizens from Iceland, Norway,	These individuals have been deported or ordered to leave Finland based on considerations of public safety.

Sweden or Denmark who fail to comply with an order to leave the country	
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1.3.1 Pathways into and out of irregularity

- **From asylum seeker to irregular migrant**

The most prominent group of irregular migrants in Finland comprises former asylum seekers who initially entered the country legally but subsequently became irregular. That might happen for example if an individual receives a negative asylum decision and remains in Finland (Jauhiainen & Tedeschi, 2021).

- **Losing legal status after legal entry to Finland**

Due to the change in the Aliens Act (301/2004), some people who were previously granted a residence permit on the basis of humanitarian protection according to the now-outdated section of the Aliens Act cannot get an extension to their residence permit and therefore become irregular migrants. Related to the same outdated section, some individuals who were previously granted a temporary residence permit due to lack of cooperation in the removal process also become irregular migrants. Some people also become irregular migrants after their visas or residence permits have expired and they remain in Finland (Katisko et al., 2023, 11–12).

- **Assisted Voluntary Return**

One significant way of addressing irregular migration in Finland is through assisted voluntary return. Sections 14a and 31 of the Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings (746/2011) clearly specify assisted voluntary return as an option for those who recently lost their right to reside. The Act permits assisted voluntary return for those third-country nationals who applied for international protection (and were unsuccessful), those without residency in any municipality who previously received temporary protection as victims of human trafficking, and those who lost their right to reside in Finland after receiving a residence permit under Section 51 of the Aliens Act (following the legal changes in 2016).

- **Involuntary return**

Forced returns are another way that authorities combat irregular migration in Finland. According to Section 151 of the Aliens Act (301/2004), the Police of Finland and the Finnish Border Guard are responsible for removing individuals who are either entering or staying in Finland illegally. The grounds for deportation are outlined in Section 149, and include those irregular migrants who have previously lived in Finland with a residence permit but no longer have a valid permit, as well as those who have lost citizenship and are living in the country without a proper residence permit.

- **Getting a residence permit**

To attain legal residency in Finland, irregular migrants must meet the prerequisites for obtaining a residence permit. There are various possibilities for fulfilling these requirements, including seeking international or alternative protection as stipulated in the Aliens Act (301/2004) when significant changes occur in an individual's circumstances or in their home country. For instance, changes in individual's health status or armed conflict in their country of origin may render individuals eligible for different forms of protection and qualify them to remain in Finland. Additionally, irregular migrants with family members already living in Finland can regularise their stay through family reunification, subject to certain conditions outlined in the Aliens Act.

1.3.2 Regularisation

Currently, Finland does not have any fixed regularisation schemes in place for irregular migrants. While there have been political discussions and investigations regarding the potential implementation of a formal regularisation process, for example through being employed, no concrete plans have been made (Katisko et al., 2023). In addition, the national government in place since June 2023 has clearly expressed that it is opposed to regularisation of irregular migrants. "To support the Government's objectives to tighten asylum policy, we [the Government of Finland] will introduce the more stringent provisions and best practices made possible by the Qualification Directive, Asylum Procedures Directive and Return Directive (Government of Finland, 2023, p. 221).

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ANNEX 1: Policy and Legal Frameworks

Laws and policies on migrant irregularity

Sr. No.	Title of policy/law	Year	Description	Web link to source
1	Act on the Status and Rights of Patients	1992	According to section 3, Regarding the right to treatment of persons temporarily staying in Finland, what is separately agreed or mutually agreed upon between the states applies.	Link (FI)
2	Employment Contracts Act	2001	Chapter 11a, an amendment added to the Employment Contracts Act in 2012, outlines the terms and consequences for employers who hire irregular migrants in Finland.	Link (EN)
3	Aliens Act	2004 2015	Sections 49, 51 and 52 relate to the granting of a residence permit to those staying in Finland unlawfully. Sections 129a, 129b and 151 outline the conditions in which the Police and Border Guard are authorized to monitor and inspect irregular migrants and enforce the Aliens Act. Additionally, the opposite of the legal presence of migrants outlined in Section 3 may also constitute irregular migrant status under other laws. Amendment in 2015 introduced stricter conditions for family reunification, abolished one category in international protection, shortened the appeal introduction period for cases related to international protection, and imposed limitations on accessing legal aid. Re-applications were restricted, and	Link (EN)

			modifications were made to regulations concerning safeguarding measures, enforcement of conversion decisions, and deportation. Adjustments were made to the penal provisions concerning violations of entry bans.	
4	Border Guard Act	2005	The Border Guard Act outlines the responsibilities, powers, and procedures for the enforcement of border security in Finland.	Link (EN)
5	Social Welfare Act	2014	Under section 12 every person staying in a Wellbeing services county has the right to receive social services based on their individual needs in an urgent case in such a way that their right to essential care and livelihood is not jeopardized. Services must always be based on an individual assessment by a social care professional.	Link (FI)
6	Action Plan for the Prevention of Irregular Entry and Stay	2021 – 2024	Revised from the previous iteration, this plan outlines 52 actions for the government and its agencies to combat irregular entry and stay in Finland. These measures cover the entire process, from the origin country to transit, border control, and actions within Finland. The plan also includes actions to facilitate the return of irregular migrants and support individuals who cannot be returned.	Link (EN)
7	Government programme	2023	The government programme guides the policy of the coming reign in Finland for the years 2023-2027. The programme includes concrete measures to weaken the status of irregular migrants, for example in terms of enhancing deportation.	Link (EN)

Laws and policies indirectly impacting migrant irregularity

Sr. No.	Title of policy/law	Year	Description: How it relates to migrant irregularity	Weblink to source
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1	Criminal code	1889	Finnish law applies to crimes committed in Finland. If an irregular migrant commits a crime in Finland or is subjected to a crime in Finland, the criminal law applies to it.	Link (EN)
2	Constitution of Finland	1999	Chapter 2 of the Finnish Constitution outlines the rights and freedoms that are granted to all individuals living in Finland. For example, sections 16, 18, and 19 of chapter 2 specify that everyone has the right to access basic education, work, and essential healthcare services.	Link (EN)
3	Child Welfare Act	2007	All children living in Finland have the right, if necessary, to services according to the Child Welfare Act.	Link (FI)
4	Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings	2011	This legislation delineates the measures through which authorities can ensure the protection and assistance for victims of human trafficking. Under Section 14a, since year 2015 the duration of reception services were limited only in situations where a person who has received a negative international protection decision cannot be returned by the authorities, which has affected the situation of irregular migrants.	Link (FI)
3	Police Act	2011	The law specifies the powers of the police to intervene in the situation of the irregular migrant.	Link (FI)
5	Act on the Organization of Social and Health Care	2021	Under Section 56a, all wellbeing service counties are required to provide necessary healthcare to all irregular migrants.	Link (FI)

ABOUT THE AUTHORS

Jussi S. Jauhiainen is Professor at the University of Turku, Finland.

Selma Smolander is Research Assistant at the University of Turku, Finland.

Henri Toivonen is Research Assistant at the University of Turku, Finland.

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