



**Comments by the United Nations High Commissioner for Refugees  
(UNHCR) Regional Representation for Northern Europe on the draft  
Law Proposal amending the Aliens Act and some other laws of the  
Republic of Finland**

**I. Introduction**

1. The UNHCR Regional Representation for Northern Europe (hereafter “RRNE”) is grateful to the Ministry of Justice of Finland for the invitation to comment on the draft Law Proposal amending the Finnish Aliens Act (301/2004), the Act on the Register of Aliens (1270/1997), the Administrative Act (430/1999), and the Act on the Supreme Administrative Court (1265/2006) (hereafter the “Proposal”).
2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees.<sup>1</sup> According to its Statute, UNHCR fulfils its mandate *inter alia* by “[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto[.]”<sup>2</sup> This supervisory responsibility is reiterated in the preamble as well as reflected in Article 35 of the 1951 Convention,<sup>3</sup> and in Article II of the 1967 Protocol relating to the Status of Refugees (hereafter collectively referred to as the “1951 Convention”). UNHCR’s supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in the 1951 Convention,<sup>4</sup> as well as by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.
3. UNHCR’s supervisory responsibility has also been reflected in European Union law, including by way of a general reference to the 1951 Convention in Article

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<sup>1</sup> UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3628> (“UNHCR Statute”).

<sup>2</sup> *Ibid.*, para. 8(a).

<sup>3</sup> According to Article 35 (1) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the 1951 Convention”.

<sup>4</sup> UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.refworld.org/docid/4f33c8d92.html>.

78(1) of the Treaty on the Functioning of the European Union (hereafter “TFEU”),<sup>5</sup> as well as in Declaration 17 to the Treaty of Amsterdam, which provides that “*consultations shall be established with the United Nations High Commissioner for Refugees ... on matters relating to asylum policy*”.<sup>6</sup> Secondary EU legislation also emphasizes the role of UNHCR. For instance, Article 29 of the ‘Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast)’<sup>7</sup> (hereafter “recast APD”) states that Member States shall allow UNHCR “*to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure*”.

## II. General Observations

4. UNHCR notes that according to the Proposal a number of restrictions will be introduced in the Finnish asylum system, including significant reductions of legal aid in the first instance, as well as removal of safeguards concerning detention and expulsion proceedings. Changes will also be made to the appeals process, with the aim to process appeals of decisions regarding international protection in a more efficient, flexible and expeditious manner. As UNHCR understands the Proposal, the background to the proposed measures is the sharp increase in asylum applications during 2015, which poses challenges to the asylum procedure, including the Helsinki Administrative Court and the Supreme Administrative Court, as the second and third instance in Finland.
5. UNHCR welcomes many of the proposed amendments, such as the expeditious treatment of asylum matters in the courts. UNHCR appreciates the intention to make the appeals process more expedient, as long as the quality of decisions are not undermined and the necessary procedural safeguards are retained. A swift handling of the cases in the courts forms part of the legal safeguards and is also required by the Finnish Constitution. It is important for asylum-seekers to receive their decisions in a reasonable time. This shortens the time spent in the reception centres, which is good for the applicants, and also saves money.
6. However, UNHCR regrets that some of the amendments, while staying within minimum safeguards, restrict current good practices in Finland. For example, the Proposal intends to shorten the appeal period for first and second instance decisions from 30 to 14 days. UNHCR further observes that the possibility to appeal to the Supreme Court is proposed to become more restrictive through the

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<sup>5</sup> European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, OJ C 115/47 of 9.05.2008, available at: <http://www.unhcr.org/refworld/docid/4b17a07e2.html>.

<sup>6</sup> European Union, *Declaration on Article 73k of the Treaty establishing the European Community*, OJ C 340/134 of 10.11.1997, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11997D/AFI/DCL/17: EN:HTML>.

<sup>7</sup> European Union: Council of the European Union, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 29 June 2013, L 180/60, available at: <http://www.refworld.org/docid/51d29b224.html>.

abolishment of one of the grounds for leave to appeal.<sup>8</sup> Further, UNHCR notes that a new paragraph is proposed to be added to the Aliens Act, restricting the possibility of submitting supplementary information to the court. According to the proposal the court may set a term of validity after which no supplementary information can be submitted. The composition of judges in the Helsinki Administrative Court is also proposed to be changed.

7. Finland has for a long time had many best practices in its asylum procedure, especially concerning the legal aid available for asylum-seekers. UNHCR is concerned that with many of the proposed amendments, the current best practices in Finland will be abandoned as Finland aims to instead align its practices closer to the minimum level. While UNHCR acknowledges the restraints put on the Finnish asylum system in a situation where, in a single year, the number of asylum applications grew tenfold, UNHCR encourages Finland to retain its current good practices and to continue being one of the region's leaders in refugee protection.
8. In the following observations on specific proposals, UNHCR will focus its comments on its most urgent concerns, i.e. the proposed restrictions on legal aid; rehearing at a district court; enforcing decisions on refusal of entry; and the Law on the Register of Aliens.

### **III. Specific Observations**

#### **Section 9. Legal aid**

9. According to the Proposal, the Aliens Act will be amended so that legal aid is provided during the first instance asylum procedure only if there are exceptional grounds (“erityisen painavia syitä”) to grant legal aid. Such grounds would include applicants who are in a vulnerable position, traumatized applicants, torture survivors, applicants who cannot read or write, and children. As UNHCR understands the Proposal, the asylum-seeker would always have the right to a legal counsel, also during the asylum interview, but legal aid will only be state-funded if there are exceptional reasons.
10. Further, according to the Proposal, only attorneys-at-law or lawyers with a permit would be appointed as legal counsels in administrative and appeal matters. Individual legal aid based on the Act on Legal Aid would still be available to applicants applying for international protection from the public legal aid offices as well as, in second instance, from private lawyers. As UNHCR understands the Proposal, this would mean that private legal aid providers, such as the Finnish Refugee Advice Centre (hereafter “FRAC”), UNHCR's longstanding partner in asylum and refugee protection, would no longer be able to represent clients in the first instance procedure through the legal aid system.
11. According to the Proposal, the reason for the restrictions is that the provision of legal aid in Finland in asylum matters is wider than in other administrative

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<sup>8</sup> According to the Proposal, leave to appeal would only be granted should a decision by the Supreme Administrative Court be of importance for the application of the Act to other similar cases, or for the sake of consistency in legal practice. The possibility to grant leave to appeal based on “other weighty reasons” (“muu painava syy”) will be omitted from the Aliens Act.

matters as well as the standards set out in the recast APD, and that it is not possible to maintain this standard in the current situation. Furthermore, there is a reduced need for legal aid in “clear situations”.<sup>9</sup> Also, there are not enough legal counsels available to ensure that all applicants receive legal aid as set out in the Act on Legal Aid. The Proposal claims that the changes would improve the legal certainty for the applicant and the standard of the legal assistance.

12. While UNHCR welcomes that vulnerable applicants would still have the right to legal aid free of charge, UNHCR regrets that Finland is introducing restrictions on free legal aid. UNHCR considers that investing in the first instance procedure in line with the principle of “front loading”, including through the provision of legal aid early in the process, has the potential to enhance the quality and timeliness of decisions, which are less likely to be overturned at second instance, and may thus reduce the number of appeals. In addition, a shorter procedure can be expected to reduce the cost of the reception conditions. “Frontloading” the asylum process may thus save resources for Member States and produce more efficient and fairer decisions for asylum-seekers.<sup>10</sup>
13. In UNHCR’s view, the right to legal assistance and representation is an essential procedural safeguard. Asylum-seekers are often unable to articulate cogently the elements relevant to an asylum claim without the assistance of a qualified counsellor, as they are not sufficiently familiar with the precise grounds for the recognition of refugee status and the legal system of a foreign country. Quality legal assistance and representation is, moreover, in the interest of States, as it can help to ensure that international protection needs are identified accurately and early. The efficiency of first instance procedures is thereby improved.<sup>11</sup>
14. Many Member States of the European Union provide a right to legal aid or legal advice in first instance procedures. This is confirmed by the European Commission<sup>12</sup> and research conducted by the European Council on Refugees and Exiles.<sup>13</sup> For example, the Solihull project in the United Kingdom,<sup>14</sup> which piloted early access to legal advice in first instance procedures, demonstrated, *inter alia*, that a more interactive role for legal representatives before, during and after the substantive asylum interview, and prior to the decision, may have the potential for large savings on support and appeal costs. This is because the

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<sup>9</sup> Pages 10 and 14 of the Proposal

<sup>10</sup> UNHCR, *Moving Further Toward a Common European Asylum System: UNHCR's statement on the EU asylum legislative package*, June 2013, p. 2, available at: <http://www.refworld.org/docid/51de61304.html>.

<sup>11</sup> UNHCR, *UNHCR comments on the European Commission's proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (COM(2009)554, 21 October 2009)*, August 2010, para 17, available at: <http://www.refworld.org/docid/4c63ebd32.html>.

<sup>12</sup> European Union, European Commission, *Report from the Commission to the European Parliament and the Council on the Application of Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status*, 8 September 2010, COM(2010) 465 final, para 5.1.5, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0465:FIN:EN:PDF>.

<sup>13</sup> European Council on Refugees and Exiles, *ECRE/ELENA Survey on Legal Aid for Asylum Seekers in Europe*, October 2010, available at: <http://www.unhcr.org/refworld/docid/4d243cb42.html>.

<sup>14</sup> Asylum Aid, *Evaluation of the Solihull Pilot for the United Kingdom Border Agency and the Legal Services Commission*, October 2008, available at: <http://www.refworld.org/docid/4c62615e2.html>.

resulting improved quality in the first instance negative decisions rendered them more sustainable, with a consequent reduction in allowed appeals.

15. In light of the above, UNHCR has expressed regret that the recast APD does not provide for full free legal assistance and representation in procedures at first instance. In UNHCR's view, free legal assistance should be provided in first instance, ideally encompassing the preparation of procedural documents, and legal representation (with participation of the representative) in the personal interview.<sup>15</sup> In this respect, UNHCR recalls the obligation according to Article 19 of the recast APD of Member States to provide applicants for international protection, upon request, with specific legal and procedural information free of charge in the procedures at first instance including, at least, information on the procedure in the light of the applicant's particular circumstances. However, UNHCR recommends to carefully consider the alternative offered by Article 20(2), namely the provision of free legal assistance and/or representation in the procedures at first instance.
16. The provision of legal and procedural information free of charge as required by Article 19 of the recast APD would need to be organised outside the legal aid system. UNHCR notes that there are no indications in the Proposal as to if, how and when this would be organised. If the proposed restrictions on legal aid in the first instance are not revised and the new system is not in place when the proposed law amendment enters into force, Finland may be at variance with Article 19 of the recast APD.
17. As noted above, the Proposal seem to indicate that only public legal aid offices will be able to provide the legal aid in the first instance, without clear elaboration or justification. Private lawyers would be available to provide free legal aid only during the appeal stage. As there are private lawyers in Finland with a vast experience in refugee law, this goal is not best met by excluding other lawyers than legal aid office lawyers from providing legal aid. For example, FRAC has more than 25 years of experience in providing legal assistance to asylum-seekers and the lawyers of the organisation are highly trained specialists in refugee law. UNHCR would thus strongly encourage the Government of Finland to retain the role of FRAC in providing legal aid in the first instance, in order for asylum-seekers, decision-makers and others to continue to benefit from their experience and expertise in the area of asylum.
18. UNHCR wishes to note that it is aware that there have been concerns about the quality of the legal assistance in Finland and that for some legal representatives, financial profit seems to be the primary motivation rather than ensuring that their clients are properly heard and that all the relevant aspects of their asylum applications are brought before the immigration authorities. UNHCR agrees that it is important to ensure qualified and high-quality providers of legal assistance. Given the growing complexity of asylum procedures and the issues involved, incorrect advice could have serious consequences for the applicant, and increase the likelihood of an incorrect decision by the authorities. Qualified providers of

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<sup>15</sup> UNHCR, *UNHCR comments on the European Commission's Amended Proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast) COM (2011) 319 final*, January 2012, page 17, available at: <http://www.refworld.org/docid/4f3281762.html>.

information and legal assistance are therefore essential. Moreover, providers of information and legal assistance should always act in the interest of the applicant.<sup>16</sup>

19. To improve the quality of the legal assistance, UNHCR would, however, recommend to invest in capacity building and certification of the legal representatives rather than, as proposed, cutting down on the scope of the legal aid or restricting the providers of legal aid to public legal aid offices only. UNHCR however welcomes the proposed amendment that only attorneys-at-law or lawyers with a permit can be appointed as legal counsels to asylum-seekers.

#### **UNHCR Recommendations:**

##### **UNHCR recommends**

- To omit the restrictions in access to legal aid in the first instance.
- When considering its obligations under the provisions of the recast APD relating to legal aid, to carefully weigh the alternative offered by Article 20(2) which provide for free legal assistance and/or representation.
- If the restrictions on legal aid in the first instance are not omitted from the Proposal, to complement the Proposal with information on how Finland is going to fulfil the requirement in Article 19 of the recast APD.
- While UNHCR welcomes that only attorneys-at-law or lawyers with a permit would be appointed as legal counsels to asylum-seekers, UNHCR recommends not to restrict first instance legal aid to only legal aid offices as this risks reducing the standard of the legal aid, instead of improving it.
- To improve the quality of the legal assistance, UNHCR recommends to invest in capacity building and certification of the legal representatives.

#### **Section 128. Rehearing at a district court**

20. The periodic court review of detention decisions would, according to the Proposal, no longer be automatic, but be dependent on a request from the person being detained.
21. In UNHCR's view, as a minimum procedural guarantee, asylum-seekers have the right to be brought promptly before a judicial or other independent authority to have the detention decision reviewed. This review should ideally be automatic and take place in the first instance within 24 – 48 hours of the initial decision to hold the asylum-seeker.<sup>17</sup> Following the initial review of detention, they should also be entitled to regular periodic reviews of the necessity for the continuation

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<sup>16</sup> *Ibid.*, p. 18

<sup>17</sup> UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, Guideline 7, para. 47 (iii), available at: <http://www.refworld.org/docid/503489533b8.html>.

of detention before a court or an independent body, which the asylum-seeker and his/her representative would have the right to attend. Good practice indicates that following an initial judicial confirmation of the right to detain, review would take place every seven days until the one month mark and thereafter every month until the maximum period set by law is reached.<sup>18</sup> It is UNHCR's understanding that legal aid is available in Finland for those detained, which is an important to make the right to review of the detention decision effective.

22. UNHCR is concerned about subjecting the provision of basic human rights, such as a hearing on the legality of detention, to the request of the individual. Deviating from the absolute requirement of a hearing within a specified period of time may present unnecessary challenges in interpreting and subsequently deciding whether an official request for a hearing has indeed been presented by the individual. Such a situation could also lead to arbitrariness, in that during times of high influx, decisions might be taken in haste, and the need for an automatic review of the legality of detention by an independent court of law be more important than ever.
23. Article 9(3) of the Directive laying down standards for the reception of applicants for international protection (recast)<sup>19</sup> (hereafter "recast RCD") enables reviews to take place both automatically and upon the request. The article specifies that when conducted at the request of the applicant, a review shall be decided on as speedily as possible after the launch of the relevant proceedings. To this end, Member States shall define in national law the period within which the judicial review ex officio and/or the judicial review at the request of the applicant shall be conducted. In UNHCR's view, automatic reviews and reviews at the request of the applicant can be combined, which would provide the widest possible opportunities to seek review for applicants, including e.g. before the regular automatic ex officio review when special circumstances arise, like vulnerability concerns.

**UNHCR recommendations:**

**UNHCR recommends**

- That Finland does not adopt the proposed amendment but retains the automatic periodic court review of decisions to detain asylum-seekers as an important legal safeguard.
- That Finland, besides automatic periodical reviews, enables reviews at the request of the applicant.

**Section 201. Enforcing decisions on refusal of entry**

<sup>18</sup> *Ibid.*, para. 47 (iv).

<sup>19</sup> European Union: Council of the European Union, *Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*, 29 June 2013, OJ L. 180/96 -105/32; 29.6.2013, 2013/33/EU, available at: <http://www.refworld.org/docid/51d29db54.html>

24. A previously valid return decision could, according to the Proposal, be enforced should the person withdraw their appeal and reapply for asylum. The stated aim of the measure is to prevent the possibility of prolonging the return process by reapplying for asylum with a subsequent application. As UNHCR understands the Proposal, the amendment would primarily affect applicants who are channeled into accelerated procedures and applicants who ask for leave to appeal at the Supreme Administrative Court, as the submission of an appeal application does not have an automatic suspensive effect in these situations in Finland. UNHCR considers that this, in combination with the abolishment of one of the grounds for leave to appeal, could risk reducing the access to the Supreme Administrative Court.
25. In UNHCR's view, an expulsion order should not be enforceable until and unless a final negative decision has been taken on the asylum application.<sup>20</sup> Further, Member States should not automatically refuse to examine a subsequent application on the ground that the new elements or findings could have been raised in the previous procedure or on appeal. Such a procedural bar may lead to a breach of Member State's *non-refoulement* and human rights treaty obligations.<sup>21</sup>
26. The only permissible exceptions to the right to remain in the territory are prescribed in Article 9 (2) of the recast APD, which encompass situations where "*a person makes a subsequent application referred to in Article 41 or where they will surrender or extradite, as appropriate, a person either to another Member State pursuant to obligations in accordance with a European arrest warrant or otherwise, or to a third country or to international criminal courts or tribunals.*"
27. Importantly, even the making of another subsequent application does not exempt a State from the duty to carry out a mandatory check on possible *refoulement*. According to the last indent of Article 41 (1) recast APD, Member States may make an exception from the right to remain in the country "*only where the determining authority considers that a return decision will not lead to direct or indirect refoulement in violation of that Member State's international and Union obligations*". Moreover, pursuant to Article 46 (8) of the recast APD, Member States shall allow the applicant to remain in the territory pending the outcome of the procedure to rule whether or not the applicant may remain on the territory. Such a procedure can be invoked, *inter alia*, in situations when a subsequent application was considered inadmissible under Article 33 (2) (d) of the recast APD and the applicant wants to prepare and submit to the court the arguments in favor of granting him/her the right to remain on the territory, as prescribed by Article 46 (7) of the recast APD.
28. It is therefore necessary to ensure in the law that any applicant for international protection is treated in accordance with the basic principles and guarantees as provided in Chapter II of the recast APD, including the right to remain in the

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<sup>20</sup> UNHCR, *UNHCR comments on the European Commission's proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (COM(2009)554, 21 October 2009)*, August 2010, para. 34, see footnote 11.

<sup>21</sup> *Ibid.* para. 30.



territory until the final decision on their application is made, or until the court will decide on whether or not the applicant may remain on the territory.

29. In view of the above, UNHCR considers that there is a risk that Finland's legislation opens up for returns that may be at variance with the principle of *non-refoulement*, if filing a subsequent application after an withdrawal of the application in the appeals stage does not stop the enforcing of a decision on refusal of entry (expulsion order).

**UNHCR Recommendations:**

**UNHCR recommends**

- Finland to omit the proposed amendment to Section 201.

**Act on the Register of Aliens**

30. The Administrative Courts' right to obtain information and assistance is proposed to be amended to correspond with the requirements set by the Finnish Constitutional Law Committee and the current practices concerning the authorities' right to access confidential material. Due to the variety of matters handled by the Administrative Court, its right to obtain information cannot be regulated by extensively listing all authorities and all information possessed by them that are subject to the right to obtain information. Therefore the right to obtain information would, in accordance with the constitutional law committee's requirements, be defined as such information the Administrative Court necessarily needs in order to resolve the matter at hand.
31. The Law on the Register of Aliens (laki ulkomaalaisrekisteristä 1270/1997) should according to the Proposal be amended, with the aim of a more efficient and smooth handling of matters relating to the Aliens Act and especially international protection. It is therefore proposed that Section 3 of the act be amended to include the Administrative Court and the Supreme Administrative Court as registrars of the register of aliens. The Finnish Police and the Finnish Immigration Service ("Migri") already have access to the database. When both Courts through the automatic information handling system would be permitted to administer and use the data in the register of aliens, they themselves could access the information needed from the register and deposit the information on the decisions given.
32. The responsibilities of the registrar shall, according to the Proposal, be clarified by adding a provision to the Aliens Act stating that the registrar is only responsible for the accuracy of the information it has added to the register. It is proposed to introduce a provision on entitling legal aid offices to electronically access the information needed from the register of aliens for the handling of legal aid applications without any restrictions by the rules of confidentiality. As UNHCR understands the Proposal, the purpose is to make the legal aid system for all persons applying for international protection as flexible and fast as possible

33. UNHCR wishes to remind that the sharing of personal information concerning asylum-seekers is guided by a number of principles as well as EU legislation.<sup>22</sup> Data sharing is normally regulated by national law and needs to have a legitimate basis and specific purpose. It should also be necessary and proportionate to a legitimate and specific purpose, and not exceed this. Generally, all personal data regarding persons of concern to UNHCR is considered as sensitive due to the particularly vulnerable position of asylum-seekers, and therefore requires handling in a confidential manner. Under no circumstances should data on persons of concern be shared with the country of origin. Data subjects further have the right to access, correction, deletion, and objection to their personal information. States are required to ensure that information concerning a person's private life does not reach the hands of persons who are not authorized by law to receive, process and use it, and is never used for purposes incompatible with the International Covenant on Civil and Political Rights.<sup>23</sup>
34. While the Proposal notes that the Court will only obtain data that it “necessarily needs”, and that the purpose is to ensure a more efficient case management, UNHCR would recommend the Finnish Government to further review whether the purpose is sufficiently specific, as well as whether the necessity and proportionality requirements are met. UNHCR further observes that the Proposal does not clarify how and what kind of information will be shared. UNHCR also recommends to review the aspects of confidentiality of information.
35. UNHCR contributes to coordination and informed decision-making by providing accurate, relevant and timely data and statistics. In Finland, statistics on the asylum procedure are currently only available for the first instance. The Proposal does not disclose if the fact that the courts are given status as registrars, and that decisions made by the courts should be recorded in the register of aliens, will mean that statistics on appeals will also become available. In UNHCR's view, the prospect of Finland being able to produce statistics on appeals in the asylum procedure is welcomed. Therefore UNHCR would like to see the question of

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<sup>22</sup> See, for instance, European Union, *Directive 95/46/EC of the European Parliament and of the Council on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data*, 24 October 1995, available at: <http://www.refworld.org/docid/3ddcc1c74.html>; Convention for the protection of individuals with regard to automatic processing of personal data (CETS No. 108), 28.1.1981; Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows (CETS No. 181), Strasbourg, 8.11.2001; Amendments to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data approved by the Committee of Ministers, in Strasbourg, on 15 June 1999, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm>; European Parliament legislative resolution of 12 March 2014 on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM(2012)0011 – C7-0025/2012 – 2012/0011(COD)); available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0212+0+DOC+XML+V0//EN>.

<sup>23</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html>. See also para. 10 of the General Comment No.16 on Art 17 of the International Covenant of Civil and Political Rights (ICCPR), available at: [http://ccprcentre.org/doc/ICCPR/General%20Comments/HRI.GEN.1.Rev.9%28Vol.I%29%28GC16%29\\_en.pdf](http://ccprcentre.org/doc/ICCPR/General%20Comments/HRI.GEN.1.Rev.9%28Vol.I%29%28GC16%29_en.pdf)

producing statistics on second instance decisions explicitly included in the

**UNHCR recommendations:**

**UNHCR recommends**

- The Finnish Government to further review whether the purpose of the data sharing is sufficiently specific, as well as whether the necessity and proportionality requirements are met.
- The Proposal to clarify how and what kind of information will be shared and to review the aspects of confidentiality of information.
- The Government of Finland to produce statistics on second instance decisions.

Proposal.

**UNHCR Regional Representation for Northern Europe**  
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