

UNHCR recommendations to Finland on strengthening refugee protection in Finland, Europe and globally

This document sets out a number of recommendations which the Representation of the United Nations High Commissioner for Refugees for Northern Europe (UNHCR) is putting forward with a view to further strengthen refugee protection in Finland, Europe and around the world. The recommendations are addressed to the Finnish Government, parliamentarians and all other relevant institutional actors and stakeholders in the country and aim at contributing to on-going discussions on improvements of the refugee protection and integration systems at national, regional and international levels.

Introduction

Finland has made important contributions to international refugee protection – including its long standing commitment to refugee resettlement, maintaining a well-established asylum and reception system and undertaking comprehensive integration efforts. Furthermore, Finland has within the EU shown solidarity in practice - through participation in the relocation scheme - and its support for joint and fair EU policies to ensure that refugees receive the protection they deserve in Europe. UNHCR is particularly grateful for Finland's strong commitment and contribution to upholding international refugee protection standards and principles. Finland is also a very important strategic partner and donor enabling UNHCR to address the critical humanitarian needs of the most vulnerable refugee populations.

I. Strengthening protection and integration policies in Finland

UNHCR acknowledges the difficult challenges Finland faced when dealing with the significant number of asylum seekers that arrived to Finland in 2015. In response to the restrictive asylum measures that were introduced through law amendments in 2016, UNHCR nevertheless expressed its concern about restrictions on family reunification and in provisions for legal aid. These concerns were expressed in UNHCR's comments submitted to the relevant ministries.¹

¹ UNHCR, *Comments by the United Nations High Commissioner for Refugees (UNHCR) Regional Representation for Northern Europe on the draft Law Proposal amending the Aliens Act of the Republic of Finland*, February 2016, available at: <https://www.refworld.org/docid/589c77ba4.html>.

UNHCR, *Comments by the UNHCR Regional Representation for Northern Europe on the draft Law Proposal amending the Aliens Act and some other laws of the Republic of Finland*, January 2016, available at: <https://www.refworld.org/docid/56991a7a4.html>.

Quality asylum and reception system

Overall, Finland has a well-established asylum and reception system, which guarantees the right for individuals to apply for asylum in the country and to have their asylum application processed individually in a fair and efficient asylum procedure.

UNHCR would recommend that the Parliament and the Government continue to ensure a sufficient allocation of resources to allow the Finnish Immigration Service to further strengthen the quality of the asylum decision making process and to support the important role performed by the Administrative Courts, thus ensuring the quality and efficiency of the Finnish asylum system.

UNHCR considers that investing in the first instance procedure, including through quality management and provision of free legal aid early in the process, will enhance the quality and timeliness of asylum decisions, which then are less likely to be overturned at second instance and may also reduce the number of appeals. This would in turn reduce the cost of reception conditions, thus saving resources and produce more efficient and fairer decisions for asylum-seekers.

UNHCR stands ready to continue to provide its support to the Finnish Migration Service in its work on quality assurance and fulfilling Finland's international obligations.

Legal aid

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.

In UNHCR's view, free legal assistance should be provided to applicants already in the first instance of the asylum procedure, ideally encompassing the preparation of procedural documents, and legal representation in the personal interview. This view is in line with the findings of the study on the legal aid system commissioned by the Ministry of Justice and published in December 2018.²

Family reunion

UNHCR strongly believes that a supported and well-managed access to family reunion enables many women and children to safely access protection. Family reunion is also a strong element in support of successful integration strategies and programs as well as an important factor in reducing mental health issues among refugees.

During the last few years, refugees' access to family reunification in Finland has become much more difficult due to the many practical obstacles which exist; high application fees, lengthy processing times, lack of access to visa-issuing Finnish Embassies, requirement of legal stay in the country where the application is being filed, as well as income requirements (if filed after three months from recognition). UNHCR is concerned that the many restrictions on access to family reunion lead to situations where especially women and children risk their lives and exposure to serious harm and risks by embarking on dangerous irregular travel routes. It is well known that the urge to reunite with family members is a key driver of irregular onward movements. This speaks to the need for effective family reunification arrangements, noting that constant worry about one's family who stayed behind has significant impact on the mental health of refugees in their everyday life.

² *Turvapaikanhakijat oikeusavun asiakkaina*, available at: <https://tietokayttoon.fi/julkaisu?pubid=28901>.

UNHCR is concerned about these developments and particularly about the fact that Finland's current legislation practically excludes beneficiaries of subsidiary protection from family reunification by conditioning it to strict income requirements from day one. While UNHCR acknowledges that EU legislation does not oblige States to grant beneficiaries of subsidiary protection the same rights, UNHCR would like to urge Finland to grant 1951 Convention refugees and beneficiaries of subsidiary protection equal access to effective family reunification. These two categories have the same protection needs, face the same integration opportunities and challenges, and also share similar return prospects. UNHCR therefore recommends that Finland only impose income requirements for persons with subsidiary protection status if the application is filed after three months, as is the case for refugees.

Integration

The importance of effective integration has been underlined by all political parties in Finland as a crucial area of focus. Fostering sustainable integration at the local level through social cohesion and equal opportunities is also a key objective of the Global Compact on Refugees (GCR). Integration requires appropriate investments of time and resources from States, local authorities, the private sector and civil society that all have a key role to play in supporting integration, in addition to the efforts required from refugees themselves. Additionally, intensifying joint efforts and increased focus on countering growing intolerance and xenophobia against asylum-seekers and refugees is required. UNHCR fully endorses the importance of integration policies with a holistic rights-based approach, based on which refugees gain access to education and labour markets, language training, civic orientation and social support as well as benefit from national services as a means to become self-reliant and contributing to local economies.

UNHCR thus recommends Finland to continue its work to ensure even more effective integration measures with a focus on labour market and social inclusion of refugees.

Statelessness

The Finnish Citizenship Act is in full compliance with the 1961 Convention on the Reduction of Statelessness (the 1961 Convention) by, inter alia, permitting children born in Finland who would be otherwise stateless to acquire Finnish nationality automatically by operation of law, which is a best practice. While statelessness may be accurately identified in the Finnish citizenship status determination procedure, the status of a stateless person as a form of international protection does not exist in Finnish legislation.

Therefore, UNHCR recommends Finland to establish a full-fledged statelessness determination procedure, including by introducing a statelessness-specific residence permit for those stateless persons who, due to their statelessness, have no country to return to, and who today receive a residence permit which does not correspond to their protection needs as a stateless person. Upon acceding to the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) in 1968, Finland made several reservations to the Convention that may now have become outdated and obsolete due to subsequent developments in Finnish legislation and policies. UNHCR therefore recommends Finland to consider to review its reservations to the 1954 Convention with a view to withdrawing them.

In October 2019 UNHCR will convene a High-Level Event on Statelessness to mark the mid-point of the #IBelong Campaign to End Statelessness by 2024. The event will provide an opportunity to showcase the meaningful contributions to end statelessness made by Finland and to make pledges to commit to address the outstanding issues with regard to statelessness in Finland.

For improved refugee protection and integration, UNHCR recommends Finland to:

1. Ensure the **quality and efficiency** of the Finnish asylum procedure, including by safeguarding the resources of the Finnish Immigration Service and the Administrative Courts, and continued commitment to quality decision making;
2. Revise the **restrictions on legal aid** in the first instance to ensure access to quality legal counselling and the effectiveness of the asylum procedure;
3. Provide **equal access to family reunification** for refugees and beneficiaries of subsidiary protection and revise resource requirements;
4. Continue working towards an **effective integration system**, with a particular focus on labour market inclusion of refugees; and
5. Introduce a **statelessness determination procedure** including the granting of a formal status, and lift reservations to the 1954 Convention relating to the status of stateless persons.

II. Finnish engagement in strengthening the EU refugee protection regime

UNHCR commends Finland's commitment to ensure that the reform of the Common European Asylum System (CEAS) is based on international standards. With the upcoming Finnish presidency of the European Union (EU), Finland assumes an important role where it will be well placed to advocate for greater solidarity and joint and fair EU solutions. During its Presidency, Finland will have the challenging responsibility of advancing work on EU asylum policies following the European Parliament elections in May 2019. While more remains to be done both in the EU itself and through the EU's engagement outside of its borders, the Global Compact on Refugees (GCR) will provide a new momentum to protect refugees better through enhanced responsibility-sharing in the EU and globally.

UNHCR urges Finland to continue to advocate for human rights, democracy and solutions as fundamental for underpinning a unified European migration policy and coordinated response. This would be the most effective and humanitarian way of reaching a sustainable solution to the unequal distribution of refugees in Europe. UNHCR considers that it is vital that the EU continues to pursue key improvements to the EU asylum rules. Despite some progress on the reform of the CEAS, a significant breakthrough on EU solidarity is still urgently needed as exemplified by recent efforts to identify safe ports for the disembarkation of refugees and migrants rescued in the Mediterranean. The establishment of an intra-EU solidarity mechanism, as well as fair and effective asylum procedures in EU Member States are necessary, as well as working towards finding a long-term arrangement for the situation in the Mediterranean with predictable disembarkation arrangements.^{3 4}

³ See the UNHCR recommendations to the Romanian presidency of the Council of the European Union: <https://www.refworld.org/docid/5c1b68684.html>.

⁴ Proposal for a regional cooperative arrangement ensuring predictable disembarkation and subsequent processing of persons rescued-at-sea: <http://www.unhcr.org/5b35e60f4>.

Internal EU solidarity must also be accompanied by continued access for people to the EU's asylum procedures, rather than shifting protection responsibilities and externalizing asylum processing to non-EU countries. UNHCR therefore encourages Finland to further emphasize effective access to EU territory, to fair and effective asylum procedures and to provide swift access to safety for those in need of international protection, including finding a long-term predictable solution for disembarkation arrangements as well as ensuring timely returns for those who are not in need of international protection.

Further, in the spirit of the GCR, it is important to reinforce the EU's external engagement, including in its neighbourhood with a view to expanding the protection space globally. This will include fostering preparedness, establishing and strengthening relevant asylum institutions and procedures, access to rights and services, integration in host communities, and identifying, registering and protecting stateless people.

To contribute to an effective EU protection regime, UNHCR recommends Finland to:

1. Support the development of a **Common European Asylum System** built on international protection standards and practices, including access to protection in the EU;
2. Support the establishment of an effective mechanism to facilitate **greater intra-EU solidarity** and responsibility sharing to support EU MS receiving a disproportionate number of asylum claims;
3. Participate in developing a **regional mechanism in the Mediterranean for disembarkation** and processing of persons rescued at sea, including solidarity measures across the region; and
4. Promote EU cooperation with countries of origin and transit to **expand the global protection space** for persons in need of international protection.

III. Finnish engagement in strengthening the global commitment for the protection of refugees

Global Refugee Compact

As mass displacement across the world continues to grow, it is usually low- and middle-income countries that shoulder much of the responsibility for refugees. Nine out of ten people flee within their own country, or to a neighboring country, with 85% of the world's refugees being hosted in developing regions.⁵

Contrary to what is often portrayed, the majority of persons forced to flee from their homes actually stay in their own or flee to the immediate neighbouring country, and not to Europe. While fewer people are coming to Europe, too many are still tragically dying at sea trying to reach safety. Pushbacks and abuses at land borders also continue, meaning many people cannot access Europe to seek protection. Meanwhile, the world's response to large-scale movements remains inadequate and underfunded leaving many refugees with a very uncertain future.

⁵ UNHCR Global Trends 2017, www.unhcr.org/globaltrends2017/.

The Global Compact on Refugees (GCR), adopted in December 2018, establishes the architecture for a stronger, more predictable and more equitable international response to large refugee situations. Although not legally binding, it guides the international community as a whole in supporting refugees and countries and communities hosting large numbers through the mobilization of political will, a broadening of the base of support, and the activation of arrangements for more equitable and predictable burden- and responsibility-sharing. The GCR calls for a number of arrangements, both at the global and national level, to translate the principle of international solidarity into concrete action. Chief among them is the organization of a Global Refugee Forum held every four years at ministerial level. The first Global Refugee Forum will be convened on 17 and 18 December 2019.

UNHCR appreciates Finland's commitment to the GCR and encourages further active engagement from the government and concerned stakeholders for its continued work and implementation. Finland can play a leading role in the effective implementation of the GCR through promoting collective, concerted and comprehensive action in support of refugees in Europe and abroad, in line with its founding values and principles and by making concrete contributions and pledges towards the four objectives of the GCR: i) ease pressures on host countries, ii) enhance refugee self-reliance, iii) expand access to third country solutions, and iv) support conditions in countries of origin for return in safety and dignity.

Resettlement

Current global forced displacement remains at unprecedented levels. With opportunities for voluntary repatriation and local integration of refugees in the current global landscape increasingly limited, resettlement is becoming an even more important tool for protection and for finding solutions for some of the world's most vulnerable refugees.

Against the backdrop of a global decrease in the number of available resettlement places and high resettlement needs, and in pursuit of the objectives of the GCR, Finland, and other States, can demonstrate their commitment to global solidarity and responsibility sharing with States hosting large numbers of refugees, by expanding resettlement programs and the range of legal pathways for refugees, which will also help to combat the business model of human smuggling and trafficking networks.

UNHCR has a long-standing partnership with Finland on resettlement. Thousands of refugees, including many women and children, have been able to find safety and restart their lives through the Finnish resettlement programme. UNHCR therefore looks forward to sustained cooperation with Finland in working together to find solutions for refugees both in Europe and globally, through increased resettlement and in seeking other alternative pathways for admission, such as private or community-based sponsorship programs, work and study visas for refugees, which could form one of the important contributions Finland can make to support a successful implementation of the GCR.

Finland's political and financial support to international refugee situations

UNHCR appreciates Finland's role in international crisis management, including mediation and peace keeping. UNHCR also wishes to highlight Finland's steadfast commitment to multilateralism and support for the UN. Finland's humanitarian policy supports protection of vulnerable groups in displacement, including vulnerable girls/women, SGBV victims and persons with disabilities. Finland also plays an important role with its support for the humanitarian – development nexus including exploring opportunities for targeting development programs in large refugee-receiving countries to meet the needs of both host communities and refugees.

Finland is one of UNHCR's most important donors providing an important part of its allocation as a flexible and unrestricted core contribution. UNHCR encourages Finland's continued commitment to predictable and increased levels of flexible funding to both humanitarian and development programs benefitting host communities and refugees as well as to finding humanitarian solutions and developing new innovative approaches to end displacement.

To enhance Finnish support to refugee protection around the world, UNHCR recommends Finland to:

1. Engage actively in placing protection of refugees at the top of the international political agenda, including in the process of the effective implementation of the **Global Compact on Refugees**, both inside and outside Europe;
2. Commit to a gradual **increase of the Finnish resettlement quota and introduction of complimentary pathways**, including community-based sponsorship programs and measures to improve access to efficient family reunification procedures, as a clear demonstration of responsibility sharing and global solidarity for refugee protection; and
3. Continue commitment to increased **predictable financial and flexible support** from both humanitarian and development funding sources to support international and local organizations as well as host countries respond to refugee situations around the world.

UNHCR Regional Representation for Northern Europe, 22 March 2019