

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:**

FINLAND

I. Background Information and Current Conditions

A. Protection Scheme

Finland acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* in 1968. Finland also acceded to the *1961 Convention on the Reduction of Statelessness* on 7 August 2008 (entry into force on 5 November 2008).

Finland has a well-established asylum system in place, with the Aliens Act containing most of the domestic legal provisions. During 2008, Finland experienced a significant increase in the number of asylum applicants. The numbers have slowly but steadily come down since the peak in the autumn of 2008. However, in 2009, the numbers remained at a high level with a record total of 5,988 asylum applications lodged that year. Prior to October 2011, a total of 2,525 applications for asylum were lodged, compared to 3,498 during the same period in 2010. Altogether, 181 persons were granted refugee status in 2010 and 1,298 asylum-seekers were granted complementary forms of protection.

Finland participates fully in the EU cooperation on home affairs, including migration and asylum. Thus, the Aliens Act has seen many amendments based on EU legislation concerning migration and asylum. In June 2009, amendments entered into force based on the Qualification Directive.¹ As a result, Finland now has two forms of complementary protection: subsidiary protection in accordance with the directive and humanitarian protection that corresponds to those parts in the earlier Finnish complementary protection which are not covered by the directive. This way Finland did not lower the scope of protection offered even if the subsidiary protection in the directive is narrower than complementary protection in the earlier Finnish legislation. Furthermore, all persons with temporary residence permits were given the right to work.

On 1 April 2011, the Finnish Aliens Act was adopted with provisions establishing the maximum period of detention of foreigners (including asylum-seekers). This amendment

¹ Council Directive 2004/83/EC of 29 April 2004 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.

was based on the Return Directive.² The amendments stipulate that a foreigner may be kept in detention for a maximum of 6 months. This term may be extended up to 18 months in exceptional cases. In case of pre-removal detention, the district courts of Finland apply a more flexible practice of releasing a person after three months of continuous detention, if deportation is not possible.

As of 1 July 2010, EU nationals are eligible to stay at the reception centers for asylum-seekers only until they receive a negative decision on their application for asylum. The changes were caused by a new phenomenon, when numerous groups of EU nationals (mainly Bulgarian and Romanian of Roma origin) started to apply for asylum in Finland in 2009. Asylum applications of EU nationals are processed in an accelerated procedure, which currently takes less than a week. Asylum-seekers from an EU country may furthermore receive reduced income support only during the period of time they stay at reception centers.

The new Integration Act was entered into force on 1 September 2011 and now concerns all immigrants to Finland, not just refugees. The focus is on the initial stages of integration. All immigrants are now provided with information about Finnish society, working life and citizens' rights and responsibilities.

At the same time, the new Act on Reception of Asylum-Seekers was entered into force. It specifies concrete standards for accommodation of unaccompanied children and establishes additional conditions for the appointment of a guardian for an unaccompanied child. It also introduces a new system of payment of allowances to asylum-seekers.

II. Achievements and Best Practices

A. Prevention of Statelessness

Finland acceded to the *1961 Convention on the Reduction of Statelessness* on 7 August 2008 (entry into force on 5 November 2008) and ratified the European Convention on Nationality on 6 August 2008 (entry into force on 1 December 2008). The national legislation has been amended to implement these instruments.

Amendments to the Citizenship Act entered into force on 1 September 2011. Former Finnish citizens can now regain their citizenship through a simple notification procedure. The required time of residence for eligibility in the naturalization process was shortened from six to five years, and person who has sufficient knowledge of either Finnish or Swedish can be naturalized after four years. In calculating the total time of residence in Finland, a person can use half of the time spent waiting for a temporary residence permit in the five year requirement. As before, if an asylum-seeker is granted asylum, the time spent as an asylum-seeker is also calculated in the total time spent in Finland.

² Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals.

In 2010, the Finnish Immigration service made 3,211 decisions in the naturalization process concerning 4,472 individuals. Finnish citizenship was granted in 93.5% of the cases. This means that 3,003 positive decisions were made concerning a total of 3,961 individuals.

B. The Action Plan for Human Rights

The Government has started preparations for the first national action plan for human rights in Finland. According to the government platform, the action plan elaborated during 2011 will be implemented during 2012 – 2013. After this, the Government intends to survey the outcome of the implementation of the action plan and submit a report to Parliament. The action plan is written in an open procedure in a dialogue with human rights organizations and other actors in the field.

C. Regional Dialogue with Refugee Women and Girls

In UNHCR's Regional Dialogue with Women and Girls in Helsinki, Finland, in May 2011, refugee and asylum-seeking women from 12 communities worked together for four days. The culmination of this work was a presentation to representatives of the Government of Finland, UNHCR staff, non-governmental organizations (NGOs) and civil society, who work to support asylum-seekers and refugees across Finland. Refugee women participated in human rights training and situational analysis, and identified key problems and issues faced by their communities. While the women discussed both pre- and post-arrival experiences, the main focus of the consultation, and of the report based thereon, was about their experiences seeking asylum and settling in Finland.

III. Challenges and Constraints

A. Detention of Asylum-Seekers

The legislation specifying the conditions for detention was passed in 2002,³ followed by the establishment of the country's first immigration detention unit in 2003. Prior to 2003, foreign nationals apprehended under aliens legislation were held in the police facilities.

Police and border guards are authorized to apprehend irregular immigrants. Detainees may be held in border guard facilities for a maximum of 48 hours and in police facilities for a maximum of 4 days, after which they are to be transferred to a detention centre in Metsälä.

UNHCR receives reports that families with children, unaccompanied children and persons with specific needs are regularly detained. The number of detained aliens in the Metsälä detention unit was 551 persons, 17 of which were children and 4 of these unaccompanied minors. In 2010, the average length of detention in the Metsälä detention unit was 26.5 days. The average length of detention has been rising and is high compared

³ Laki säilöön otettujen ulkomaalaisten kohtelusta ja säilöönottoyksiköistä

to other European countries. According to the Government's platform, detention of minors will be abolished.

UNHCR would like to note that Finnish authorities continue to maintain the practice of detaining asylum-seekers in police jails and Border Guard detention facilities. The conditions there are generally acceptable, but only for the period of police custody (i.e. up to 96 hours). However, detention in police and border guard facilities may be extended in cases where the detention centre is full. It is unclear how long the waiting lists for the detention centre are, but it is a well-known fact that Metsälä Detention Unit operates continuously at close to full capacity (40 beds total). Such a situation gives reasonable grounds to conclude that foreign nationals (including asylum-seekers) are held in police and border guard detention facilities for periods exceeding four days.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) pointed out in its report on Finland in 2009 that police premises are not suitable for holding persons detained under aliens legislation and recommended discontinuing the practice. The situation in Finland has not improved and both local police and border guards still detain asylum-seekers. According to the Finnish Refugee Advice Centre, the practice of detaining asylum-seekers has even increased in the case of Finnish Border Guard. However, there are no statistics to show exactly how widespread this practice is.

B. Family Reunification

As a reaction to the sudden increase in asylum-seekers in 2008, the Government of Finland conducted research on the differences between Finnish legislation and legislation in other Nordic countries, which led to a number of amendments to the Aliens Act that came into force in August 2010. The changes concerned family reunification, age determination and asylum-seekers' right to work. The amendments introduced stricter family reunification criteria for minors⁴, if the refugee is not yet self-reliant.

The Government platform promises a review of the effects of these amendments on the right to family reunification, but at the same time leaves open the option for new restrictions. The Ministry of Interior has started a project linked to the provisions on family reunification in the government platform and a first report is expected in February 2012.

C. Accommodations for Refugees

Finland's reception centers are struggling to find accommodation in municipalities for beneficiaries of international protection. In 2010, a plan was arranged to find 2,200 places for refugees in Finnish municipalities. This goal, however, was not reached.

⁴ The child shall still be a minor at the moment when a decision on the application for a residence permit is made (under the previous legislation the child's age at the moment of submitting the application was decisive) and the relationship must have been established before arrival in Finland

The Immigration Service's aim is for all refugees to leave reception centers within two months of being granted residence permits. In practice, some are obliged to wait as long as a year before a suitable accommodation is arranged. The system depends on municipalities' notifying the Immigration Service as to how many refugees they are prepared to voluntarily accept. The Government pays 2,100 EUR a month to the municipalities per accepted refugee for three years, or a total of 75,600 EUR per individual. This sum, which was originally set in 1993, was raised by 10 percent only twice at the beginning of 2010 and 2011. The municipalities have proposed that the reimbursement be increased by 40-50 percent from its current level in order to be equivalent to the 1993 value, accounting for inflation.

Finland has an annual resettlement quota of 750 places and has traditionally been a very strong and reliable partner for UNHCR in its resettlement activities. In recent years however, there has been a slow rate in departures of accepted cases to Finland including for urgent and emergency cases, due to the unwillingness on the part of municipalities to receive cases. This is especially concerning for emergency cases given the special need for urgent resettlement.

Despite the raise in government compensation to municipalities in 2010 and 2011, there was no immediate effect on the willingness by the municipalities to accept refugees. A generally more hostile tone against refugees in Finnish society has also negatively influenced the public debate.

D. Racism and Xenophobia

Incidents of hate crimes diminished during 2010 according to the police.⁵ However, most of these crimes were motivated by racism and xenophobia. From a broader perspective, there has been a clear increase in incidents of racist and xenophobic crimes.

Furthermore, UNHCR would like to note reports that the Finnish Police and Border Guards do not always act in a culturally sensitive and humane way when dealing with persons of concern. There have also been reports about undue harsh treatment of persons of concern. UNHCR encourages the development of internal guidelines within the border guards and police for appropriate behavior. Trainings on Finland's obligations under the 1951 Refugee Convention and other international human rights instruments should be a regular part of the training modules for police and other law enforcement officials.

E. Appeal Process

The accelerated procedure under the Aliens Act allows an extremely limited time for asylum-seekers to have their cases considered thoroughly and to exhaust all lines of appeal if their application is rejected. Although a negative decision can be appealed, it may be enforced within eight days or even immediately, depending on the situation, irrespective of an appeal, which would thus have no automatic suspensive effect.

⁵ Niemi, Jenni (2011): Poliisin tietoon tullut viharikollisuus Suomessa 2010.

This issue has already been addressed during the UPR session on Finland during the 1st cycle. There is currently no change in the Finnish legislation or practice on this point. As a matter of fact, most rejections on asylum applications by the Finnish Immigration Service are done in an accelerated procedure. Only few negative decisions are taken in the regular asylum procedure that provide with full legal safeguards, including automatic suspensive effect of appeal.

IV. Recommendations

In view of the above, we would like to suggest to the Office of the High Commissioner for Human Rights to consider referring in its compilation report the following recommendations aimed at enhancing the protection of persons of concern to UNHCR in Finland:

- Issue 1:** Reduce the use of detention with regard to persons of concern to UNHCR and apply alternatives to detention. Detention of minors should be abolished and detention of other vulnerable persons avoided. The Government should improve the detention conditions by expanding the capacity of the Detention Unit in Metsälä or establishing a new detention centre for foreigners.
- Issue 2:** Provide safeguards for the rights of family reunification for persons granted international protection. All limitations on the rights of unaccompanied children and adolescents to family reunification should be abolished.
- Issue 3:** Ensure that resettled refugees and other beneficiaries of international protection are granted a place in the municipalities in a timely manner, in order for the integration process to start without undue delay.
- Issue 4:** Strengthen governmental efforts in the fight against discrimination, racism and xenophobia and strengthen its work for tolerance and respect of foreigners and members of national, racial and ethnic minorities.
- Issue 5:** Ensure through specialized training and internal guidelines that the police and other law enforcement authorities are sufficiently aware of their obligations under international refugee and human rights law and can perform their duties with regard to persons of concern in a humane and culturally sensitive manner.
- Issue 6:** Ensure that all parts of the asylum procedure respect due process and legal safeguards for asylum-seekers, including suspensive effect of appeal.

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